LAW ENFORCEMENT MERIT SYSTEM COUNCIL
Title 13, Chapter 5, Article 1, General Provisions; Article 4, Assignments; Article 7, Discipline and Appeals

Amend: R13-5-101; R13-5-102; R13-5-402

GOVERNOR'S REGULATORY REVIEW COUNCIL
M E M O R A N D U M

MEETING DATE: September 6, 2017 **AGENDA ITEM: D-1**

TO: Members of the Governor's Regulatory Review Council ("Council")

FROM: Chris Kleminich, Staff Attorney

DATE : August 23, 2017

SUBJECT: **LAW ENFORCEMENT MERIT SYSTEM COUNCIL (R-17-0907)**
Title 13, Chapter 5, Article 1, General Provisions; Article 4, Assignments; Article 7, Discipline and Appeals

Amend: R13-5-101; R13-5-102; R13-5-402; R13-5-701; R13-5-702; R13-5-703; R13-5-704

New Section: R13-5-706

Purpose of the Agency and Summary of What the Rulemaking Does

The purpose of the Arizona Department of Public Safety (DPS) is "[t]o prevent crime, apprehend violators, train law enforcement personnel and promote public safety." Laws 2002, Ch. 92, § 3. The Law Enforcement Merit System Council (LEMSC) oversees personnel policy and procedures for employees of the DPS and the Peace Officer Standards and Training Board (POST), and has some oversight over covered peace officers in other state agencies. The LEMSC is comprised of five members who are nominated by the Governor and confirmed by the Senate.

This rulemaking amends seven rules and creates one new rule in A.A.C. Title 13, Chapter 5. The LEMSC indicates that the amendments aim to bring the rules into compliance with 2012 statutory changes. The rulemaking is intended to result in a clear distinction between the rules intended for DPS and POST employees and the rules for other state agency peace officers.

Proposed Action

- *Section 101 – Definitions*: Definitions are modified to improve the understandability of the chapter, including the addition of a definition for "covered employee" and changes to the existing definition of "employee" that improve clarity.
- *Section 102 – Law Enforcement Merit System Council*: Two clarifying changes are made.

- *Section 402 – Uncovered Appointments*: Clarifying changes are made to subsections (B) and (D).
- *Section 701 – Causes for Discipline:* Duplicative statutory language is eliminated, and Subsection (B) is added to distinguish between causes for discipline for employees and standards for discipline for covered employees.
- *Section 702 – Disciplinary Procedures*: In addition to clarifying changes, subsections (D) and (E) are modified to reflect that an agency will now have 180 days, rather than 120 days, to file a disciplinary action after it discovers or should have discovered that an employee engaged in alleged activity constituting cause for discipline.
- *Section 703 – Appeal to the Council by Employees*: In addition to clarifying changes, subsection (E), related to the effect of an appeal, has been rewritten. Also, subsection (F), related to agency action after receiving a decision or recommendation, is being added.
- *Section 704 – Rehearing of Council Decision Regarding Employees*: The words "regarding employees" are being added to the title of the rule.
- *Section 706 – Appeal to the Council by Covered Employees*: This new rule is being added to clarify the appeal process for covered employees that has been in place since the 2012 enactment of A.R.S. § 41-1830.16(A).

Exemption or Request and Approval for Exception from the Moratorium

Governor Ducey's office approved an exception from the moratorium in August 2017.

Substantive or Procedural Concerns

None.

1. Are the rules legal, consistent with legislative intent, and within the agency's statutory authority?

Yes. As general and specific authority, the LEMSC cites to A.R.S. § 41-1830.12(A)(3), under which the LEMSC is required to adopt necessary rules in specific statutorily-defined areas pursuant to recognized merit principles of public employment for DPS and POST personnel. In addition, A.R.S. § 41-1830.16(A) requires the LEMSC to adopt necessary rules for the administration of hearings and the review of appeals related to covered peace officers employed by agencies in the state personnel system.

2. Are the rules written in a manner that is clear, concise, and understandable to the general public?

Yes. The rules are clear, concise, and understandable.

3. Does the agency adequately address the comments on the proposed rules?

Yes. The LEMSC indicates that no comments have been received on the rulemaking.

4. Are the final rules a substantial change, considered as a whole, from the proposed rules?

No. No changes have been made between the proposed rulemaking and the final rulemaking.

5. Does the preamble disclose a reference to any study relevant to the rules that the agency reviewed and either did or did not rely on in the agency's evaluation of or justification for the rules?

No. The LEMSC indicates that no study was reviewed for the rulemaking.

6. Are the rules more stringent than corresponding federal law and, if so, is there statutory authority that allows the agency to exceed the requirements of federal law?

No. The rules do not correspond to any federal laws.

7. Do the rules require a permit or license and if so, does the agency use a general permit or is any exception applicable under A.R.S. § 41-1037?

No. The rules do not require issuance of a regulatory permit, license or authorization.

8. Do the rules establish a new fee or contain a fee increase?

No. The rules do not establish a new fee or contain a fee increase.

9. Conclusion

The usual 60-day delayed effective date is requested for the rules. This analyst recommends approval of the rules.

GOVERNOR'S REGULATORY REVIEW COUNCIL
M E M O R A N D U M

MEETING DATE: September 6, 2017 **AGENDA ITEM: D-1**

TO: Members of the Governor's Regulatory Review Council ("Council")

FROM: GRRC Economic Team

DATE : August 23, 2017

SUBJECT: **LAW ENFORCEMENT MERIT SYSTEM COUNCIL (R-17-0907)**
Title 13, Chapter 5, Article 1, General Provisions; Article 4, Assignments; Article 7, Discipline and Appeals

Amend: R13-5-101; R13-5-102; R13-5-402; R13-5-701; R13-5-702; R13-5-703; R13-5-704

New Section: R13-5-706

The economic analysis team has reviewed the economic, small business, and consumer impact statement (EIS) and make the following comments. These comments are made to assist the Council in its review and may be used as the Council determines.

In 2012, the legislature directed the LEMSC to adopt rules it deems necessary for the administration of hearings and the review of appeals for a covered employee in the state personnel system who is: a full authority peace office as certified by the POST is appointed to a position that requires such a certification and who has completed the employee's original probationary period of service. The rules currently cover approximately 2,051 POST and 25 POST employees. The recent Governor's personnel reform initiative added approximately 352 employees from 15 Arizona agencies other than the two agencies previously stated.

Key stakeholders are LEMSC, DPS, POST and all 15 agencies that have employees impacted by this rulemaking. The LEMSC does not anticipate the need to hire full-time employees as a result of this rulemaking.

1. <u>Costs and Benefits for:</u>

a. The implementing agency:

The LEMSC anticipates that it will incur no new costs while reducing the time it takes to locate all information due to a concise set of rules instead of tracking down individual

statutes to determine applicability. All related agencies were deemed unlikely to bear new costs.

b. Political subdivisions:

The rulemaking only applies to state agencies, and no other political subdivisions of the state. However, due to statutory changes, the courts potentially could see an increased cost if more cases are brought before the courts on appeal. This is not within the ability of LEMSC to change in this rulemaking.

c. Businesses:

Economic impacts on private-sector law firms could vary from minimal, to moderate, to substantial based on the type and length of a given case. Employees and agencies always have the right to seek legal counsel.

d. Small businesses:

The LEMSC determines that there should be no economic impact on small businesses.

e. Consumers directly affected by the rulemaking:

There is potential for reduction in research time to locate all the directives in a concise set of rules instead of disjointed statutes. This could potentially save the employee/agency when factoring hourly costs for a law firm to do the research.

2. Do the probable benefits outweigh the probable costs?

The LEMSC indicates that there will be minimal probable costs, while employees and agencies could recognize indirect benefits through time savings in finding information quicker.

3. Analysis of methods to reduce the small business impact:

There are no means to reduce the impact on small businesses in order to affect the intent of the rulemaking due to the legislature's intent to enact personnel reform.

4. The probable effect on state revenues:

There will be minimal effect on state revenues.

5. Analysis of any less intrusive or less costly alternative methods:

The LEMSC concludes that there are no less intrusive or less costly alternatives for achieving the purpose of the rulemaking due to the legislature's specific intent to enact personnel reform.

6. Whether an analysis was submitted to the agency regarding the rule's impact on the competitiveness of businesses in this state as compared to the competitiveness of businesses in other states:

No analysis was submitted that compares the rule's impact of the competitiveness of businesses in this state to the impact on businesses in other states.

7. A description of any data on which a rule is based with an explanation of how the data was obtained and why the data is acceptable data, and the methods used by the agency to evaluate the costs and benefits in the EIS.

No empirical or quantitative data were submitted for use in the EIS.

8. Conclusion:

The submitted economic, small business, and consumer impact statement is generally accurate, and contains the information required for compliance with ARS §§ 41-1035, 41-1052(D)(1-3), and 41-1055. This analyst recommends that the proposed rule amendments be approved.

Law Enforcement Merit System Council

2102 West Encanto Boulevard, Mail Drop 1290, Phoenix, AZ 85005
Phone: 602-223-2286 Fax: 602-223-2096
Website: www.azdps.gov/about/LEMSC

July 17, 2017

Ms. Nicole A. Ong Colyer, Chair
Governor's Regulatory Review Council
100 N. 15th Ave., Suite 305
Phoenix, AZ 85007

Re: Administrative Rules R13-5-101, R13-5-102, R13-5-402, R13-5-701 through R13-5-706

Dear Ms. Ong Colyer:

The Law Enforcement Merit System Council submits the accompanying final rule package for consideration by the Governor's Regulatory Review Council. The following information is provided to comply with R1-6-201(A)(1):

a. The rulemaking record closed on July 14, 2017, and no written public comments were received on these rules;
b. The rulemaking activity does not relate to a five-year review report;
c. The rulemaking does not establish a new fee;
d. The rulemaking does not increase an existing fee;
e. An immediate effective date is not requested for these rules under A.R.S. § 41-1032;
f. The preamble discloses that the Law Enforcement Merit System Council did not review any studies relevant to the rules and did not rely on any studies in its evaluation of or justification for the rules;
g. No new full-time employees are necessary to implement and enforce the rules;
h. Documents included in this final rule package are as follows:
    1. Signed cover letter;
    2. Notice of Final Rulemaking;
    3. Economic, Small Business and Consumer Impact Statement

Sincerely,

Jennifer A. Despain

Jennifer A. Despain, Captain
Law Enforcement Merit System Council, Business Manager

Enclosures

NOTICE OF PROPOSED RULEMAKING

TITLE #13. PUBLIC SAFETY

CHAPTER #5. LAW ENFORCEMENT MERIT SYSTEM COUNCIL

PREAMBLE

1. Article, Part, or Section Affected (as applicable) **Rulemaking Action**

R13-5-101	Amend
R13-5-102	Amend
R13-5-402	Amend
R13-5-701	Amend
R13-5-702	Amend
R13-5-703	Amend
R13-5-704	Amend
R13-5-706	New Section

2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):

Authorizing and Implementing statutes:

A.R.S. § 41-1830.12(A)(3) and 41-1830.16(A)

3. Citations to all related notices published in the *Register* as specified in R1-1-409(a) that pertain to the record of the proposed rule:

Notice of Rulemaking Docking Opening: 20 A.A.R. 854, April 4, 2014

4. The agency's contact person who can answer questions about the rulemaking:

Name: Jennifer Despain, Captain

Address: Law Enforcement Merit System Council
2102 West Encanto Boulevard

Mail Drop 1290
Phoenix, AZ 85009-6638

Telephone: (602) 223-2286

Fax: (602) 223-2096

E-mail: jdespain@azdps.gov

Web site: http://www.azdps.gov/About/LEMSC/

5. <u>An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:</u>

The Law Enforcement Merit System Council (LEMSC) initiates this rulemaking to amend existing rules and add new rules to reflect statutory changes, to provide a clear distinction between rules intended for employees of the Department of Public Safety and the Arizona Peace Officer Standards and Training Board and rules for other state agency peace officers, and to ensure overall that the rules are clear, concise, and understandable.

During the 2012 legislative session, the Governor enacted personnel reform for certain state employees by amending A.R.S. § 41-1830. The LEMSC previously had personnel oversight for employees of the Arizona Department of Public Safety and the Arizona Peace Officer Standards and Training Board. Under the reform, the LEMSC was given additional personnel oversight of covered peace officers in other state agencies.

On October 15, 2012, the Governor's Office issued a rulemaking moratorium waiver to the LEMSC authorizing rulemaking related to the personnel reform legislation. The LEMSC formed a rulemaking committee consisting of members of the Department of Public Safety, the Arizona Peace Officer Standards and Training Board, on February 26, 2014 to draft this Notice of Proposed Rulemaking by reviewing the legislation and existing rules. Due to numerous interconnected statute changes (A.R.S. Title 41, A.R.S. § 38-1101, A.R.S. § 41-1830.12, A.R.S. § 41-1830.13, A.R.S. § 41-1830.16, A.R.S. § 38-1110) enacted by the Legislature that affected these rules, the time necessary to complete the Notice of Proposed Rule Making was greatly extended. On October 31, 2016, the LEMSC approved the rule changes.

The statutes do provide specific instructions to LEMSC, the agencies, and the employees regarding personnel actions. However, the LEMSC determined that a consolidation of the numerous statutes and incorporated additions from the committee into a concise rule set will reduce the burden on the employees and agencies by providing a single, concise source of information. This statute-to-rule consolidation is in keeping with the consolidation employed for existing LEMSC rules.

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

Agency did not review or rely on any study relevant to the rule.

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

Not Applicable

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

Currently under A.R.S. § 41-1830.12, the Law Enforcement Merit System Council (LEMSC), adopts rules pursuant to recognized merit principles of public employment it deems necessary for Department of Public Safety and Arizona Peace Officer Standards and Training Board personnel.

Under A.R.S. § 41-1830.16, the fiftieth legislative session directed LEMSC to adopt rules it deems necessary for the administration of hearings and the review of appeals for a covered employee in the state personnel system who is a full authority peace officer as certified by the Arizona Peace Officer Standards and Training Board, is appointed to a position that requires such a certification in the covered service and who has completed the employee's original probationary period of service as provided by state personnel rules.

The statutes and rules currently cover approximately 2,106 Department of Public Safety and 23 Arizona Peace Officer Standards and Training Board employees. The recent Governor's personnel reform initiative added approximately 352 employees from agencies other than the Department of Public Safety and the Arizona Peace Officer Standards and Training Board, all of which the LEMSC sits in oversight.

The economic impact is extremely small, with the added expense being approximately $6500.00 per year to pay the council members a stipend after each council meeting/hearing. Since the personnel reform was in 2012, this amount is already in the LEMSC's current budget.

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

Name: Jennifer Despain, Captain

Address:	Law Enforcement Merit System Council 2102 West Encanto Boulevard Mail Drop 1290 Phoenix, AZ 85009-6638
Telephone:	(602) 223-2286
Fax:	(602) 223-2096
E-mail:	jdespain@azdps.gov
Web site:	http://www.azdps.gov/About/LEMSC/

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

Place:	Arizona Peace Officer Standards and Training 2643 E. University Drive Phoenix, AZ 85034
Date:	July 11, 2017
Time:	9:00 – 11:00 AM
Close of Record:	The rulemaking record will close at 5:00 pm on July 14, 2017,

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

Not Applicable

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

The rules do not require a permit.

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

Federal law is not applicable to the subject of the rules.

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

No analysis was submitted.

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

None

13. The full text of the rules follows:

ARTICLE 1. GENERAL PROVISIONS

Section

R13-5-101 Definitions

R13-5-102 Law Enforcement Merit System Council

ARTICLE 1. GENERAL PROVISIONS

R13-5-101. Definitions

In this Chapter, unless otherwise specified, the following terms mean:

"Abandonment of position" means failure of an employee to report to work for a period of five consecutive working days without authorization from the employee's supervisor or manager and without good cause.

"Abilities" means general traits or capabilities an individual possesses when beginning the performance of a task.

"Agency" means any governmental organization subject to the rules of the Law Enforcement Merit System Council.

"Agency head" means the chief executive officer or director of any agency placed under the rules of the Law Enforcement Merit System Council.

"Allocate or allocation" means the placement of a position to a classification based on the duties and responsibilities of the position.

"Annual leave" means the leave time accrued biweekly by an employee based on the number of years of state service and may include holiday leave and recognition leave.

"Appeal" means an employee's request for Council review of a disciplinary action.

"Applicant" means a person who has applied for an opportunity to compete for a position.

"Appointment" means the placement of a candidate or employee into a classified position.

"Background investigation" means an inquiry to determine the character of a potential employee and may include verification and review of identity, education, employment history, personal references, credit rating, criminal history, and driving record.

"Break-in-service" means a period of absence from agency service of more than 240 consecutive working hours resulting from an employee's resignation, retirement, suspension, layoff, or leave of absence without pay.

"Business day" means the hours between 8:00 a.m. and 5:00 p.m. Monday through Friday, excluding observed state holidays.

"Business manager" means the individual responsible for administering the affairs of the Council.

"Candidate" means an applicant who qualifies for a place on an eligibility list.

"Certified list" means the names of qualified candidates on an eligibility list who are willing to accept an appointment.

"Civilian employee" means a person who is appointed to a classification that does not require peace officer status.

"Classification" means one or more positions requiring the same minimum qualifications, knowledge, skills, and abilities that have the same title and pay range.

"Classification date" means the effective date of an employee's appointment to a classification.

"Classification specification" means the classification's title or rank, classification code, typical duties and responsibilities, essential functions, minimum qualifications, required knowledge, skills and abilities.

"Classified position" means a position that is allocated to a classification.

"Commissioned employee" means a person who is appointed to a classification that requires Arizona Peace Officer Standards and Training Board certification as a peace officer.

"Compensation" means the amount of money paid for each hour worked and paid leave taken and includes time off received for overtime and holidays worked or accrued.

"Compensatory time" means leave received for overtime worked.

"Competitor" means an applicant who has met the minimum qualifications for a classification and is competing in an employment or promotional examination.

"Contested case" has the same meaning as in A.R.S. § 41-1001 (4).

"Council" means the Arizona Law Enforcement Merit System Council.

"Covered employee" means a full authority peace officer as certified by the Arizona Peace Officer Standards and Training Board and who is appointed to a position (outside of Department of Public Safety and Arizona Peace Officers Standards and Training Board) that requires such a certification in the covered service, as defined in A.R.S. § 41-741 (5)(c)(e) and who have completed their original probationary period.

"Covered position" means any position within an agency that is not appointed by the Governor or by the agency head with the concurrence of the Governor and is subject to the rules of the Council.

"Covered service" means that employment status conferring rights of appeal as prescribed in A.R.S. § 41-782 and A.R.S. § 41-783 or A.R.S. §-41-1830.16, as applicable, as defined in A.R.S. § 41-741 (6).

"Days" means full calendar days unless otherwise specified in the text of a rule.

"Demotion" means the disciplinary appointment of an employee to a classification with a lower pay range.

~~"Disabled person"~~ "Individual with a disability" ~~means anyone who has a physical or mental impairment that substantially limits one more major life activities, or who has a record of impairment, or is regarded as having impairment.~~

"Dismissal" means an agency-initiated removal of an employee from state service.

"Duties" means actions or tasks required under the circumstances by an employee's position or classification.

"Eligibility list" means the names of candidates for a classification in descending order of their final scores in preparation for a selection process.

"Employee" means a person who is appointed to a position, subject to the terms and conditions of the appointment within the Department of Public Safety or the Arizona Peace Officers Standards and Training Board.

"Employing agency" *means the agency in the state personnel system where the covered employee is, or in the case of dismissal, was employed* as prescribed in A.R.S. § 41-

1830.16(H)(3).

"Entrance rate" means the lowest rate of pay within the pay range of a classification.

"Examination" means an evaluation or test to determine if an applicant's qualifications comply with the specifications for a classification.

"Examination plan" means a description of each phase of an examination, the weight applied to each phase of the examination, the criteria for moving from one phase of the examination to another and any limitations as to the number of names to appear on the eligibility list.

"Exempt employee" means an employee who is not subject to the overtime provisions of the Fair Labor Standards Act, Title 29 U.S.C Chapter 8.

"External employment list" means an eligibility list of candidates seeking employment with an agency.

"Fair Labor Standards Act" (FLSA) means those federal statutes at Title 29 U.S.C. 201-219 and 251-262.

"Family and Medical Leave Act FMLA leave" means a leave of absence, with or without pay, taken by an employee under a policy adopted by an agency head from options authorized in the Family and Medical Leave Act. 29 U.S.C. 2611, et. seq.

"For cause" means disciplinary action or dismissal for any reason listed in A.R.S. § 41-1830.15 or this Chapter.

"Full authority peace officer" *means a peace officer whose authority to enforce the laws of this state is not limited by the rules adopted by the Arizona Peace Officer Standards and Training Board* as prescribed in A.R.S. § 41-1830.16(H)(4).

"Full-time employee" means an employee appointed to work 40 hours a week or 160 hours in a 28 day cycle.

"Grievance" means a work-related complaint by an employee regarding classification, compensation, performance evaluation, or violation of law or Council rules.

"Holiday leave" means the leave time accrued by working a state holiday or accrued when the holiday falls on a day the employee is not scheduled to work or is on paid sick leave. Holiday leave may be included in annual leave time.

"Human Resources" means an agency department responsible for personnel administration.

"Individual with a disability" means anyone who has a physical or mental impairment that substantially limits one more major life activities, or who has a record of impairment, or is regarded as having impairment.

"Initial probation" means a probationary period required of a new employee to an agency, an employee appointed to a classification as a special limited term employee, or an employee appointed to the classification of officer who has completed the terms of a special limited term appointment.

"Intermittent appointment" means the appointment of an employee to work on an irregular basis.

"Internal list" means an eligibility list of internal candidates seeking promotional positions or reassignments.

"Just Cause" means all of the following:

The employing agency informed the employee of the possible disciplinary action resulting from the employee's conduct through agency manuals, employee handbooks, the employer's rules and regulations or other communications to the employee, or the conduct on which disciplinary action was based was such that the employee should have reasonably known disciplinary action could occur;

The disciplinary action is reasonably related to the standards of conduct for a professional law enforcement officer, the mission of the agency, the orderly, efficient or safe operation of the agency or the employee's fitness for duty;

The discipline is supported by a preponderance of the evidence establishing that the conduct on which the disciplinary action was based occurred; and

The discipline is not excessive and is reasonably related to the seriousness of the offense and the employee's service record.

"Knowledge" means a body of information, usually of a factual or procedural nature, that makes for successful performance of a task.

"Limited duty" means a short-term assignment to a physically less demanding position while the employee recovers from a temporary medical condition or disability.

"Limited-term appointment" means an appointment to a position that is designated as temporary.

"Limited-term employee" means an employee in a limited-term appointment who has not

achieved the status of a regular-employee.

"Manifest error" means an erroneous act or failure to act in administering the provisions of Article 3 of this Chapter.

"Non-exempt employee" means an employee who is subject to the overtime provisions of the Fair Labor Standards Act, Title 29 U.S.C Chapter 8.

"Original probationary period" *means the specified period following initial appointment to covered service* as defined in A.R.S. § 41-741 (10).

"Overtime" means time worked by a non-exempt employee in excess of 40 hours in a work week or in excess of 160 hours in a 28-day cycle.

"Part-time appointment" means the appointment of an employee to work a schedule of less than 40 hours per week.

"Part-time employee" means an employee appointed to work less than 40 scheduled hours per week.

"Pay range" means the difference between the lowest and highest pay rates for a classification.

"Pay status" means an employee's right to receive compensation for time worked or leave taken, except when absent on leave-without-pay or suspension without pay.

"Permanent employee" means an employee who has successfully completed an initial probation with an agency.

"Permanent status" means the employment rights achieved after satisfactorily completing the probationary period for a classification.

"Personnel Rules" *means the rules adopted by the Arizona Department of Administration, human resources division* as prescribed in A.R.S. § 41-1830.16(H)(7).

"Position" means a job or function, whether occupied or vacant, that is assigned a number, classification, funding source, pay range, and location code.

"Position audit" means an examination of the duties and responsibilities of a position to determine the appropriate classification.

"Promotional Probation" means a period of 12 months established for evaluating an employee's performance to determine if the employee should be retained in a classification.

"Promotion" means the appointment of an employee to a position in another classification with a higher maximum pay level.

“Provisional appointment” means an appointment to a position in a classification for which there is no eligibility list.

“Qualifications Appraisal Board” means a group of raters who evaluate a competitor’s qualifications based upon the competitor’s written or oral responses.

“Qualifying pay period” means a pay period for qualifying service in which an employee is in pay status for at least one-half of the employee’s normally scheduled work week.

“Qualifying service” means part-time or full-time service as an employee of an agency, excluding any break-in-service.

“Reallocation” means a change in the classification of a position, based upon an analysis of the duties and responsibilities of the position.

“Reappointment” means appointment to a classification previously held by an employee who was reassigned to a different classification.

“Reassignment” means an appointment, at the employee’s request, to a position in a different classification with the same or a lower pay range.

“Recall” means the appointment of a former employee who was separated by a reduction in force.

“Reclassification” means the change in classification of an employee due to the employee’s movement to a position in a different classification or a reallocation of the employee’s position to a different classification.

“Recognition leave” means leave time given an employee under a formal awards program as an incentive for continued superior performance. Recognition leave is added to annual leave.

“Reduction in force” means an action taken by an agency head to involuntarily transfer, reclassify, or lay-off an employee as a result of a legislative or executive mandate;; reduction of funds; or decrease in the number of authorized positions, service area, or program responsibilities.

“Regular-employee” means an employee, except a limited term-employee, who achieves permanent status.

“Reinstatement” means an appointment of a former employee to the classification or a similar classification held when the employee separated from the agency.

“Rejection of probation” means an action taken by an agency head to reclassify an

employee on a promotional probation or to separate an employee on an initial probation for failure to achieve and sustain the required level of performance for the classification.

"Responsibilities" means actions or tasks for which an employee is accountable in a position or classification.

"Retirement" means a voluntary separation from an agency by an employee who is eligible for an immediate disbursement from a retirement plan.

"Separation" means the close of an employee's term of employment with an agency.

"Skill" means an individual's level of proficiency or competency in performing a specific task.

"Special duty assignment" means an employee's temporary assignment of more responsibilities or duties or an assignment to a position with special work or living requirements.

"Special limited term appointment" means an appointment to the classification of cadet officer or officer trainee pending the completion of requirements for the classification of officer.

"State" means the State of Arizona.

"Standard performance" means a rating given to an employee who meets the expected level of performance needed to accomplish the objectives of a position.

"State personnel system" *means all state agencies and employees of those agencies that are not exempted by this article* as prescribed in A.R.S. § 41-741 (17).

"Standardized scoring" means a statistical method used to ensure that the various components of a multi-phased examination receive their proper weights.

"Suspension of pay" means the disciplinary action of withholding an employee's pay for a specified period.

"Telecommuting" means an employee performing assigned work at a location other than the employee's regular work location.

"Time-in-grade" means time spent in a classification.

"Transfer" means the movement of an employee from the employee's current position to another position in the same classification.

"Uncovered appointment" means an appointment to a job or function by the Governor or by an agency head with the concurrence of the Governor.

"Uncovered employee" means an employee who serves at the pleasure of the Governor.

"Veteran" means an individual who served in the armed forces of the United States and was discharged from military service under honorable conditions after more than six months of active duty and as defined in 37 U.S.C. 101 and A.R.S. § 38-492.

"Working day" means the same as business day.

"Work week" means the 40-hour time period an employee works between Saturday and Friday, including any leave time taken.

R13-5-102. Law Enforcement Merit System Council

A. Authority. The statutory authority of the Law Enforcement Merit System Council is found in A.R.S. § 41-1830.11 through § 41-1830.~~15~~16.

B. Decisions of the business manager are subject to review by the Council.

C. Selection of officers. The Council shall select a Chair and Vice-Chair from its members at a regular meeting in November or December of even-numbered years. The Chair and Vice-Chair shall hold office for a period of two years, or until their successors are selected.

D. Meetings. The Chair, or in the Chair's absence the Vice-Chair, shall call a meeting of the Council when a meeting is needed. The Council shall hold meetings at a location convenient to the participants whenever possible. Except for the Council's executive sessions, the Council's meetings shall remain open to the public and the Chair shall give interested parties an opportunity to be heard.

E. Quorum. ~~Two~~Three members are required for a quorum, and concurring members must equal a majority of those voting in order to take action.

F. Minutes. The Council shall keep minutes of its proceedings and official actions. The Council's records and minutes are open to public review during normal business hours.

G. Council rules. An agency shall provide employees with a copy of the Council's rules.

ARTICLE 4. ASSIGNMENTS

Section

R13-5-402 Uncovered Appointments

ARTICLE 4. ASSIGNMENTS

R13-5-402. Uncovered Appointment

A. Authorization. An agency head may authorize an employee to temporarily accept an uncovered appointment within:

1. The agency,
2. Another state agency,
3. The Governor's office,
4. The Legislature, or
5. Another government agency.

B. Employee rights. ~~A~~ An ~~classified~~ employee in an uncovered appointment shall retain all employee rights ~~of a covered employee~~ except for the right to appeal removal from the uncovered appointment.

C. Returning to regular duty. Upon completion of an uncovered appointment, the agency head shall reassign the employee to the previously held position or to a similar position in the same classification.

D. Leave policy for an uncovered employee accepting a covered position: An uncovered employee of a state agency or any state budget unit may transfer accrued annual and sick leave when accepting a covered position with an agency under the jurisdiction of the Council.

1. Annual leave.

Up to 360 hours of annual leave may be transferred at the gaining agency's discretion.

Annual leave in excess of 360 hours shall be paid off by the losing agency.

An employee shall be paid for any annual leave that is not accepted by the gaining agency.

2. Sick leave. All accrued sick leave hours shall be accepted by and transferred to the agency.

ARTICLE 7. DISCIPLINE AND APPEALS

Section

R13-5-701 Causes for Discipline

R13-5-702 Disciplinary Procedures

R13-5-703 Appeal to the Council

R13-5-704 Rehearing of Council Decisions

R13-5-705 Time Limits

R13-5-706 Appeal to the Council by Covered Employees

ARTICLE 7. DISCIPLINE AND APPEALS

R13-5-701. Causes for Discipline.
~~The causes for discipline are found in A.R.S. ' 41-1830.15.~~

~~**41-1830.15.** Causes for dismissal or discipline; definitions~~

~~A. The director of the department of public safety may dismiss or discipline any classified employee based on~~

~~any of the following causes:~~

~~1. Fraud or misrepresentation in securing employment.~~

~~2. Incompetency.~~

~~3. Inefficiency.~~

~~4. Inexcusable neglect of duty or unauthorized absence.~~

~~5. Insubordination.~~

~~6. Dishonesty.~~

~~7. Physical or mental disability subject to the provisions of the Americans with disabilities act of 1990~~

~~(42 United States Code sections 12101 through 12213).~~

~~8. Unauthorized drinking on duty or drunkenness on duty.~~

~~9. Being impaired by alcohol or drugs, as provided in title 13, chapter 34, while on duty.~~

~~10. Commission of any crime classified as a felony.~~

~~11. Discourteous treatment of the public or other employees.~~

~~12. Commission of any crime involving moral turpitude.~~

~~13. Improper political activity as proscribed in section 41-772.~~

~~14. Misuse or unauthorized use of state property.~~

~~15. Addiction to the illegal use of a narcotic or dangerous drug.~~

~~16. Any other failure of good behavior or acts either during or outside of duty hours that are incompatible with~~

~~or inimical to the interest of the department of public safety.~~

~~B. For the purposes of this section:~~

~~1. "Incompetency" means the lack of ability or judgment, legal qualifications or fitness to discharge required duties.~~

~~2. "Inefficiency" means the failure to produce as required for reasons other than incompetency.~~

A. The causes for discipline for employees are found in A.R.S. § 41-1830.15.

B. The causes for discipline for covered employees are found in A.R.S. § 41-773.

R13-5-702. Disciplinary Procedures

A. Receiving a complaint. A person may file a complaint with an agency asserting that an employee engaged in activity constituting cause for discipline and requesting that the agency head take appropriate disciplinary action against the employee or covered employee.

B. Initiating disciplinary action. An agency head may take appropriate disciplinary action against an employee for any cause listed in A.R.S. § 41-1830.15 or against a covered employee for any cause listed in A.R.S. § 41-773.

C. Interview of an employee. In conducting an interview of an employee being investigated for possible disciplinary action, an agency shall comply with A.R.S. § ~~38-1101(A) and (B)~~ 38-1104.

D. Time limit for filing a disciplinary action. An agency shall not file a disciplinary action later than ~~120~~ 180 days after the date the agency discovers or should have discovered that the employee engaged in alleged activity constituting cause for discipline. The disciplinary action is deemed to be filed when the notice is filed with the Council.

E. Exceptions to the ~~120~~ 180-day rule.

1. The time limit in subsection (D) does not run:

a. During ~~a criminal investigation by a law enforcement or prosecutorial agency;~~ the time that any criminal investigation or prosecution is pending in connection with the act, omission or other allegation of misconduct; or

b. During ~~any period of time the employee who is the subject of an investigation is absent from the agency on leave, if the absence prevents the agency from proceeding with the normal investigation and disciplinary review process.~~ the period of time in which an employee or covered employee who is involved in the investigation is incapacitated or otherwise unavailable; or

c. During the period prescribed in a written waiver of the limitation by the employee or covered employee; or

d. During emergencies or natural disasters during the time period in which the governor has declared a state of emergency within the jurisdictional boundaries of the concerned employer; or

e. During a multijurisdictional investigation, the time limit may be extended for a period of time reasonably necessary to facilitate the coordination of the employers involved.

2. At the request of an agency, the Council may, upon a showing of good cause, extend the time for an agency to file a disciplinary action up to a maximum of 90 days beyond the original ~~120~~ 180-day period.

3. If a manager or supervisor is aware of an employee's alleged actions that constitute a criminal offense but fails to act, the time limit does not run during the period of the manager or supervisor's inaction if the supervisor or manager is disciplined for failure to act and:

a. The offense is a misdemeanor involving theft or moral turpitude and is discovered within ~~120~~ 180-days after the ~~120~~ 180-day period for taking disciplinary action, or

b. The offense is a felony.

4. The agency shall maintain documentation to support any exception to the ~~120~~ 180-day time limit, including the dates during which the time limit does not run.

F. Notice of disciplinary action. An agency head shall serve a written notice on the employee or covered employee within 10 days after the agency files the notice of disciplinary action with the Council. Service shall be completed in accordance with R13-5-104(D). The agency head's notice shall include:

1. A statement of the nature of the disciplinary action;
2. Any prior disciplinary action on which the current discipline is based;
3 The effective date of the action;
4. A specific statement of the causes; and
5. A statement of the employee's or covered employee's right to appeal and the time limit in which the employee or covered employee must file an appeal with the Council under ~~R13-5-703 (A), (B), and (C).~~ R13-5-703(A)(B)(C).

G. Amended notice of disciplinary action before appeal is filed. At any time before an employee or covered employee files an appeal, the agency head may file with the Council and serve the employee or covered employee or former employee or former covered employee with an amended or supplemental notice of disciplinary action.

H. Effect of dismissal. An employee's or covered employee's dismissal from the agency shall entail:
1. Dismissal from all positions held by the employee or covered employee,
2. Removal of the employee's or covered employee's name from all employment or promotional lists, and
3. Termination of the employee's or covered employee's pay on the date of dismissal.

R13-5-703. Appeal to the Council by Employees

A. Appealable actions by employees. An employee may appeal any disciplinary action that results in the employee's dismissal, demotion, suspension without pay, forfeiture of accrued leave time, or reduction of pay.

B. Form of appeal. To initiate an appeal, an employee shall submit a signed written appeal to the business manager and the agency head. The appeal must state specific facts relating directly to the charges on which the appeal is based.

C. Time for appeal. An employee shall file an appeal within 30 days after being served with the notice of disciplinary action.

D. Agency responsibility. An agency shall have the burden of going forward with the case once an appeal has been filed. An agency must prove ~~the case cause for disciplinary action~~ by a preponderance of the evidence that it had just cause to discipline the employee.

E. Effect of appeal. ~~The Council shall determine whether the cause for the disciplinary action~~

~~is supported by law and the evidence. The Council may sustain, modify or rescind the disciplinary action. If the disciplinary action is rescinded, the Council shall order the agency head to reinstate the employee and to pay the employee accumulated back pay~~ The Council shall determine whether the employing agency has proven by a preponderance of the evidence that the employing agency had just cause to discipline the employee. The Council shall reverse the decision of the agency head if the Council finds that just cause did not exist for any discipline to be imposed and, in the case of dismissal or demotion, return the employee to the same position the employee held before the dismissal or demotion with or without back pay. On a finding that the agency has not proven just cause to discipline the employee by a preponderance of the evidence, the Council may recommend a proposed disciplinary action in light of the facts proven.

F. Agency action after receiving a decision or recommendation. The agency head or the agency head's designee shall accept, modify or reverse the Council's decision or accept, modify or reject the Council's recommendation within fourteen days of receipt of the findings or recommendation from the Council. The decision of the agency head is final and binding. The agency head shall send a copy of the agency's final determination to the employee.

~~F.~~G. Amended notice of disciplinary action after employee files an appeal. If good cause exists, an agency head may file with the Council a motion to amend the notice of disciplinary action. The motion shall be filed no later than ~~30~~ fourteen days before the hearing.

~~G.~~H. Notice of hearing. The Council shall notify the parties of the time and place of the hearing.

~~H.~~I. Failure to appear. If a party, without good cause, fails to appear at the time and place set for a hearing, the Council may find in favor of the appearing party.

~~I.~~J. Conduct of hearings. The Council shall sit as a whole at a hearing, unless a Council member declares a conflict or is unable to attend. Only a Council member who was present at a hearing may participate in making the decision. Council members may administer oaths, issue subpoenas for the attendance of witnesses and the production of books or papers, and cause the depositions of witnesses residing within or outside the state to be taken in the manner prescribed by law for depositions in civil cases in the Superior Court of this state.

~~J.~~K. Witness fees. Witnesses at a hearing, other than employees, are entitled to the fees allowed

witnesses under A.R.S. § 12-303.

~~K.~~L. Payment of witness fees. If the Council subpoenas a witness on its own initiative, the Council shall pay the witness' fees and mileage. The requesting party shall pay the fees for subpoenaed witnesses. An employee appearing as a witness on duty shall receive travel expenses from the agency and shall not be entitled to witness fees.

~~L.~~M. Discovery.

1. Within three business days after receiving a written request from the employee, the agency shall provide a complete copy of the investigative file, as well as the names and home or work mailing addresses of all persons interviewed during the course of the investigation, to the employee. For the purpose of this subsection, hand-written notes substantially incorporated within a report are not considered part of the investigation file.
2. Within 20 days after receiving the investigative file, the employee shall provide all material relating to the defense of the employee to the agency head.
3. After initial discovery, each party shall provide all new material relating to the case to the other party within 10 days after receipt.
4. No later than five business days before the hearing, or if the hearing is scheduled more than 20 days after the notice of appeal was filed, no later than 10 business days before the hearing, the agency and the employee shall exchange copies of any documents that may be introduced at the hearing and that have not been previously disclosed.
5. No later than five business days before the hearing, or if the hearing is scheduled more than 20 days after the notice of appeal is filed, no later than 10 business days before the hearing, the agency and the employee shall exchange the names of all witnessed who may be called to testify. A witness may be interviewed at the discretion of the witness. The parties shall not interfere with any decision of a witness regarding whether to be interviewed. An agency shall not discipline, retaliate against, or threaten to retaliate against, any witness for agreeing or not agreeing to be interviewed or for testifying or providing evidence in the hearing.
6. No later than five business days before the hearing, or if the hearing is scheduled more than 20 days after the notice of appeal was filed, no later than 10 business

days before the hearing, the agency and the employee shall provide all documents that will be used at the hearing and a list of intended witnesses to the office of the Council.

7. If a party fails to provide material as required, the Council may preclude its use at the hearing.

~~M.~~N. Motions. All motions shall be in writing and filed no later than 20 days prior to the hearing. A response shall be filed in writing within 10 days after service of the motion. The chair may designate one or more members of the Council to hear and rule on a motion, except a motion to dispose of the case requires a vote of a majority of the Council.

~~N.~~O. Pleadings. The Council may strike a pleading not filed in accordance with this Section.

~~O.~~P. Depositions:

1. On the motion of a party, the Council may order the deposition of a witness under the following circumstances:
   a. The witness does not reside within the State or is out of state,
   b. The witness is too ill to attend the action before the Council, or
   c. The deposition is for the purpose of discovery in preparing a case before the Council.
2. The requesting party shall pay the expense of any deposition. An employee of the agency is not entitled to a witness fee for giving a deposition.
3. The deposition of a witness who is unavailable to appear at a hearing may be used in evidence by either party or the Council.

~~P.~~Q. Open hearings. The Council's hearings shall be open to the public. The Council may, upon request of a party, exclude non-testifying witnesses from the hearing. The Council may keep excluded witnesses separated and prevent them from communicating with each other until all are examined.

~~Q.~~R. Minor discipline hearings. When the Council hears appeals of suspension without pay of 24 hours or less or the deduction of 24 hours or less from an employee's annual leave balance, each party shall have no more than three hours to present evidence unless the Council allows more time to assure a fair hearing.

~~R.~~S. Legal counsel or representative. Before the hearing of any appeal, each party shall designate its legal counsel or representative for the record. The Council shall advise each

party without legal counsel that the party may obtain and be represented by counsel at the hearing. At the request of a party, the Council may postpone the hearing for a reasonable length of time to allow a party to obtain legal counsel.

~~S.~~T. Presentation of evidence. Both parties may present evidence and witnesses either personally or through a representative. The Council shall exclude evidence irrelevant to the causes set forth in the notice of disciplinary action.

~~T.~~U. Settlement of disputes. If requested by the employee, the parties shall submit the terms of settlement to the Council. If the Council approves the settlement, the settlement becomes final. If no settlement is reached, or if the proposed settlement is revoked or rejected by the Council, or withdrawn by either party, or if the settlement agreement is later vacated or reversed by a court, neither the settlement discussion nor any resulting agreement shall be admissible against the employee in any hearing before the Council on the matter.

~~U.~~V. Decision. In arriving at a decision, the Council may consider any disciplinary action taken within the previous 10 years against the employee, if the information is introduced at the hearing. The Council's decision shall contain findings of fact and its order for disposition of the case.

R13-5-704. Rehearing of Council Decision Regarding Employees

A. Motion for rehearing.

1. Except as provided in subsection (C), any party in a contested case or appealable agency action may file a written motion for rehearing within 30 days after service of the decision. The requesting party shall specify the grounds for a rehearing, as provided in subsection (B). A respondent may file a response to the motion within 15 days after service.
2. A party filing a post-hearing motion shall include references to the record where appropriate.
3. The Council may require the parties to file written memoranda upon the issues raised in the motion and may permit oral argument.
4. The Council may grant a rehearing on all or part of the issues. If a rehearing is granted, the Council shall specify the grounds for the rehearing, and the rehearing shall cover only those matters.

B. Basis for a rehearing. The Council may grant a rehearing for any of the following causes:

1. The Council acted in an arbitrary or capricious manner or abused its discretion;
2. Misconduct of the Council or the prevailing party;
3. Newly discovered material evidence which, with reasonable diligence, could not have been discovered and produced at the original hearing;
4. Error in the admission or rejection of evidence or other errors of law occurring at the hearing or during the progress of the action;
5. The decision was not supported by the evidence; or
6. The decision is contrary to law.

C. Decisions not subject to rehearing. The Council may issue a decision as final upon making a specific finding that a decision's immediate effectiveness is necessary for the preservation of the public peace, health, or safety, or that a rehearing of the decision is impractical, unnecessary, or contrary to the public interest.

R13-5-706. Appeal to the Council by Covered Employees

A. Appealable actions by covered employees. A covered employee may appeal dismissal from covered service, suspension for more than 40 working hours, or involuntary demotion resulting from disciplinary action.

B. Form of appeal. To initiate an appeal, a covered employee shall submit a signed written appeal to the business manager and the agency head. The appeal must state specific facts relating directly to the charges on which the appeal is based.

C. Time for appeal. A covered employee shall file an appeal within 10 working days after the effective date of the action.

D. Agency responsibility.

1. When a covered employee is dismissed, involuntarily demoted, or suspended for more than 40 working hours, the employing agency shall notify the Business Manager in writing of this action and provide related documentation within 5 business days.
2. An agency shall have the burden of going forward with the case once an appeal has been filed.

3. An agency must prove by a preponderance of the evidence that it had just cause to discipline the employee.

E. Effect of appeal. The Council shall determine whether the employing agency has proven by a preponderance of the evidence that the employing agency had just cause to discipline the employee. The Council shall reverse the decision of the agency head if the Council finds that just cause did not exist for any discipline to be imposed and, in the case of dismissal or demotion, return the employee to the same position the employee held before the dismissal or demotion with or without back pay. On a finding that the agency has not proven just cause to discipline the employee by a preponderance of the evidence, the Council may recommend a proposed disciplinary action in light of the facts proven.

F. Agency action after receiving a decision or recommendation. The agency head or the agency head's designee shall accept, modify or reverse the Council's decision or accept, modify or reject the Council's recommendation within fourteen days of receipt of the findings or recommendation from the Council. The decision of the agency head is final and binding. The agency head shall send a copy of the agency's final determination to the employee.

G. Notice of hearing. The Council shall notify the parties of the time and place of the hearing.

H. Failure to appear. If a party, without good cause, fails to appear at the time and place set for a hearing, the Council may find in favor of the appearing party.

I. Conduct of hearings. The Council shall hear the appeal within 30 days of the receipt of the appeal. The Council shall sit as a whole at a hearing, unless a Council member declares a conflict or is unable to attend. Only a Council member who was present at a hearing may participate in making the decision. Council members may administer oaths, issue subpoenas for the attendance of witnesses and the production of books or papers, and cause the depositions of witnesses residing within or outside the state to be taken in the manner prescribed by law for depositions in civil cases in the Superior Court of this state.

J. Witness fees. Witnesses at a hearing, other than covered employees, are entitled to the fees allowed witnesses under A.R.S. § 12-303.

K. Payment of witness fees. If the Council subpoenas a witness on its own initiative, the Council shall pay the witness' fees and mileage. The requesting party shall pay the fees for subpoenaed witnesses. A covered employee appearing as a witness on duty shall

receive travel expenses from the agency and shall not be entitled to witness fees.

L. Discovery.

1. Within three business days after receiving a written request from the covered employee, the agency shall provide a complete copy of the investigative file, as well as the names and home or work mailing addresses of all persons interviewed during the course of the investigation, to the covered employee. For the purpose of this subsection, hand-written notes substantially incorporated within a report are not considered part of the investigation file.

2. Within 20 days after receiving the investigative file, the covered employee shall provide all material relating to the defense of the covered employee to the agency head.

3. After initial discovery, each party shall provide all new material relating to the case to the other party within 10 days after receipt.

4. No later than five business days before the hearing, or if the hearing is scheduled more than 20 days after the notice of appeal was filed, no later than 10 business days before the hearing, the agency and the covered employee shall exchange copies of any documents that may be introduced at the hearing and that have not been previously disclosed.

5. No later than five business days before the hearing, or if the hearing is scheduled more than 20 days after the notice of appeal is filed, no later than 10 business days before the hearing, the agency and the covered employee shall exchange the names of all witnesses who may be called to testify. A witness may be interviewed at the discretion of the witness. The parties shall not interfere with any decision of a witness regarding whether to be interviewed. An agency shall not discipline, retaliate against, or threaten to retaliate against, any witness for agreeing or not agreeing to be interviewed or for testifying or providing evidence in the hearing.

6. No later than five business days before the hearing, or if the hearing is scheduled more than 20 days after the notice of appeal is filed, no later than 10 business days before the hearing, the agency and the covered employee shall provide all documents that will be used at the hearing and a list of intended witnesses to the office of the Council.

7. If a party fails to provide material as required, the Council may preclude its use at the hearing.

M. Motions. All motions shall be in writing and filed no later than 20 days prior to the hearing. A response shall be filed in writing within 10 days after service of the motion. The chair may designate one or more members of the Council to hear and rule on a motion, except a motion to dispose of the case requires a vote of a majority of the Council.

N. Pleadings. The Council may strike a pleading not filed in accordance with this Section.

O. Depositions:

1. On the motion of a party, the Council may order the deposition of a witness under the following circumstances:

   a. The witness does not reside within the State or is out of state,

   b. The witness is too ill to attend the action before the Council, or

   c. The deposition is for the purpose of discovery in preparing a case before the Council.

2. The requesting party shall pay the expense of any deposition. A covered employee of the agency is not entitled to a witness fee for giving a deposition.

3. The deposition of a witness who is unavailable to appear at a hearing may be used in evidence by either party or the Council.

P. Open hearings. The Council's hearings shall be open to the public. The Council may, upon request of a party, exclude non-testifying witnesses from the hearing. The Council may keep excluded witnesses separated and prevent them from communicating with each other until all are examined.

Q. Legal counsel or representative. Before the hearing of any appeal, each party shall designate its legal counsel or representative for the record. The Council shall advise each party without legal counsel that the party may obtain and be represented by counsel at the hearing. At the request of a party, the Council may postpone the hearing for a reasonable length of time to allow a party to obtain legal counsel.

R. Presentation of evidence. Both parties may present evidence and witnesses either personally or through a representative. The Council shall exclude evidence irrelevant to the causes set forth in the notice of disciplinary action.

ECONOMIC, SMALL BUSINESS AND CONSUMER IMPACT STATEMENT

Title 13 Public Safety
Chapter 5 Law Enforcement Merit System Council
Article 1, Rule R13-5-101 & 102,
Article 4, Rule R13-5-402, and
Article 7, Rules R13-5-701 through 706

Statement

1. Identification of the rulemaking

Currently under A.R.S. § 41-1830.12, the Law Enforcement Merit System Council (LEMSC), adopts rules pursuant to recognized merit principles of public employment it deems necessary for Department of Public Safety and Arizona Peace Officer Standards and Training Board personnel.

Under A.R.S. § 41-1830.16, the fiftieth legislative session directed LEMSC, to adopt rules it deems necessary for the administration of hearings and the review of appeals for a covered employee in the state personnel system who is a full authority peace officer as certified by the Arizona Peace Officer Standards and Training Board, is appointed to a position that requires such a certification in the covered service and who has completed the employee's original probationary period of service as provided by state personnel rules.

The statutes and rules currently cover approximately 2051 Department of Public Safety and 25 Arizona Peace Officer Standards and Training Board employees. The recent Governor's personnel reform initiative added approximately 352 employees from agencies other than the Department of Public Safety and the Arizona Peace Officer Standards and Training Board. These new employees represent the following other agencies:

1. Arizona Attorney General's Office
2. Arizona Corporation Commission
3. Department of Agriculture
4. Department of Corrections
5. Department of Economic Security
6. Arizona Lottery Commission
7. Department of Insurance
8. Arizona Juvenile Corrections
9. Department of Liquor Licenses and Control
10. Department of Racing
11. Department of Revenue
12. Department of Transportation
13. Department of Game and Fish

14. Arizona State Parks
15. Department of Health Services

The statutory changes enacted by the personnel reform initiative require changes to the following sections of LEMSC rules:

R13-5-101	Amend
R13-5-102(A)	Amend
R13-5-102(E)	Amend
R13-5-402(B)	Amend
R13-5-701	Amend
R13-5-702	Amend
R13-5-703	Amend
R13-5-704	Amend
R13-5-705	Amend
R13-5-706	New Section

2. An identification of the persons who will be directly affected by, bear the costs of or directly benefit from the rulemaking.

Persons or entities directly affected by, bearing the costs of, or directly benefiting from the rulemaking includes only the employees and management of the following state agencies:

- The Department of Public Safety
- Arizona Peace Officer Standards and Training Board
- Listed other agencies in Section 1.
- LEMSC

3. Cost/Benefit Analysis

The economic impact is minimal. These rules will require no new FTEs for LEMSC or the affected agencies. The agencies listed in section 1 were already essentially doing this activity, but just to the State Personnel Board. LEMSC needs no new FTEs because the additional 352 employees are not expected to generate any significant increase in personnel issues that the LEMSC normally hears in the course of a given year. It is estimated that one to three more cases per year will be heard.

A. **Cost & Benefit to Agencies**: A reduction in time being able to locate all information in a concise set of rules instead of having to track down individual statutes to determine applicability. At the LEMSC Rules Committee meetings, the

new agencies were asked if they would bear more or new costs. The agencies answered no. The paper work involved is similar, with the only change being to where it will be sent. As the statutes are specific including time frames, any additional costs are borne because of the legislature's intent to enact personnel reform.

This rulemaking applies to only the state agencies listed in Section 1 and no other political subdivisions of the state. However, due to statutory changes regarding the ability of the directors of each agency to overrule the council, the courts potentially could see an increased cost if more cases are brought to the courts on appeal. However, that is the direction of the legislature under statute and not within the ability of LEMSC to change in this rulemaking.

B. Probable costs and benefits to business:

Private-sector attorneys: Economic impact on the law firm, employee, or agency could vary from minimal, to moderate, to substantial, based on the type and length of a given case. Employees and agencies always have the right to seek legal counsel. Legal fees may arise based on the legislature's intent to enact personnel reform but also may be independent considering the alleged employee's actions that generated the case.

1. **Payroll expenditure of agencies:** Employees may be placed on paid administrative leave for part of or all of the length of the case, per department policy. The agencies have indicated that this will have no effect on revenue and minimal economic impact.

   No new FTEs are required as employees already on staff can handle the workload at the agency and LEMSC. The potential for overtime pay is low. No decrease in FTEs is expected. If the agency incurs more expenses (overtime, longer administrative leave, etc.), the agencies will generally absorb the cost increase with no fees or expenses passed to the public or other agencies. Statutory changes have provided for a daily stipend ($50 for each council member for a meeting that lasts half a day and $100 for each council member for a meeting that lasts longer than half a day) to be paid to each member of the council. The rules reflect an increase in the LEMSC budget of $6500.00, however due to changes in 2012 (personnel reform), this amount is already in the current budget. There will be no effects on the council. These costs are borne because of legislative intent.

   No qualitative data is available. Agency representatives were asked about cost/benefit during the rulewriting meetings and they responded "no additional costs" and essentially par on benefit.

2. **Cost to employee:** Economic impact would vary from minimal to substantial depending on the length of the case and any appeals. Again these costs are

borne because of legislative intent and of the alleged actions of the employee.

4. A general description of the probable impact on private and public employment in businesses, agencies, and political subdivisions of this state directly affected by the rulemaking.

There should be minimal impact, if any, on public employment in state, county, municipal or other political agencies or subdivisions directly affected by this rulemaking. Any impact is derived from the Legislature's decision to enact personnel reform. The LEMSC is only packaging the rules with minor additions to ease employee and agency time to locate all applicable statutes. Therefore, the impact is minimal, but employees and agencies would recognize an indirect cost savings through a time savings in finding the information quicker.

5. A statement of the probable impact of the rulemaking on small businesses.

(a) Small businesses subject to the rulemaking

There should be no economic impact, either positive or negative, on small businesses.

(b) Administrative and other costs required for compliance with the rulemaking

(c) Methods the agency may use to reduce the impact on small businesses.

There are no means to reduce the impact on small businesses in order to affect the intent of the rulemaking due to the legislature's intent to enact personnel reform.

(d) The probable cost benefit to private persons and consumers who are directly affected by the proposed rulemaking.

There is the potential for reduction in research time to locate all the directives in a concise set of rules instead of disjointed statutes. That time savings could theoretically save the employee/agency when factoring hourly costs for a law firm to do the research.

6. Probable effect on state revenues.

There will be minimal effect on state revenues as a result of this rulemaking.

7. A description of any less intrusive or less costly alternative methods of achieving the purpose of the rulemaking.

There are no less intrusive or less costly alternatives for achieving the purpose of the rulemaking due to the legislature's specific intent to enact personnel reform. The statutes are specific with no leeway to enact any changes by rule.

8. A description of any data on which a rule is based with a detailed explanation of how the data was obtained and why the data is acceptable data. An agency advocating that any data is acceptable data has the burden of proving that the data is acceptable. For the purposes of this paragraph, "acceptable data" means empirical, replicable and testable data as evidenced in supporting documentation, statistics, reports, studies or research.

The requested rule making changes are necessary to comply with statutory changes. There is no data provided.

A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

Section
R13-5-801. Resignation or Retirement
R13-5-802. Reduction-in-Force
R13-5-803. Disability
R13-5-804. Public Safety Personnel Retirement System Eligibility

ARTICLE 9. REPEALED

Editor's Note: Article 9, consisting of Section R13-5-50, repealed effective June 7, 1978 (Supp. 78-3).

ARTICLE 1. GENERAL PROVISIONS

Editor's Note: Former Article 1, consisting of Sections R13-5-01 through R13-5-04, repealed by final rulemaking at 6 A.A.R. 1982, effective May 10, 2000; new Article 1, consisting of Sections R13-5-101 through R13-5-104, adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-101. Definitions

In this Chapter, unless otherwise specified, the following terms mean:

"Abandonment of position" means failure of an employee to report to work for a period of five consecutive working days without authorization from the employee's supervisor or manager and without good cause.

"Abilities" means general traits or capabilities an individual possesses when beginning the performance of a task.

"Agency" means any governmental organization subject to the rules of the Law Enforcement Merit System Council.

"Agency head" means the chief executive officer of any agency placed under the rules of the Law Enforcement Merit System Council

"Allocate or allocation" means the placement of a position to a classification based on the duties and responsibilities of the position.

"Annual leave" means the leave time accrued biweekly by an employee based on the number of years of state service and may include holiday leave and recognition leave.

"Appeal" means an employee's request for Council review of a disciplinary action.

"Applicant" means a person who has applied for an opportunity to compete for a position.

"Appointment" means the placement of a candidate or employee into a classified position.

"Background investigation" means an inquiry to determine the character of a potential employee and may include verification and review of identity, education, employment history, personal references, credit rating, criminal history, and driving record.

"Break-in-service" means a period of absence from agency service of more than 240 consecutive working hours resulting from an employee's resignation, retirement, suspension, layoff, or leave of absence without pay.

"Business manager" means the individual responsible for administering the affairs of the Council.

"Candidate" means an applicant who qualifies for a place on an eligibility list.

"Certified list" means the names of qualified candidates on an eligibility list who are willing to accept an appointment.

"Civilian employee" means a person who is appointed to a classification that does not require peace officer status.

"Classification" means one or more positions requiring the same minimum qualifications, knowledge, skills, and abilities, that have the same title and pay range.

"Classification date" means the effective date of an employee's appointment to a classification.

"Classification specification" means the classification's title or rank, classification code, typical duties and responsibilities, essential functions, minimum qualifications, required knowledge, skills and abilities.

"Classified position" means a position that is allocated to a classification.

"Commissioned employee" means a person who is appointed to a classification that requires Arizona Peace Officer Standards and Training Board certification as a peace officer.

"Compensation" means the amount of money paid for each hour worked and paid leave taken and includes time off received for overtime and holidays worked or accrued.

"Compensatory time" means leave received for overtime worked.

"Competitor" means an applicant who has met the minimum qualifications for a classification and is competing in an employment or promotional examination.

"Contested case" has the same meaning as in A.R.S. § 41-1001(4).

"Council" means the Arizona Law Enforcement Merit System Council.

"Covered position" means any position within an agency that is not appointed by the Governor or by the agency head with the concurrence of the Governor and is subject to the rules of the Council.

"Days" means full calendar days unless otherwise specified in the text of a rule.

"Demotion" means the disciplinary appointment of an employee to a classification with a lower pay range.

"Disabled person" means anyone who has a physical or mental impairment that substantially limits one or more major life activities, or who has a record of an impairment, or is regarded as having an impairment.

"Dismissal" means an agency-initiated removal of an employee from state service.

"Duties" means actions or tasks required under the circumstances by an employee's position or classification.

"Eligibility list" means the names of candidates for a classification in descending order of their final scores in preparation for a selection process.

"Employee" means a person who is appointed to a position, subject to the terms and conditions of the appointment.

"Entrance rate" means the lowest rate of pay within the pay range of a classification.

"Examination" means an evaluation or test to determine if an applicant's qualifications comply with the specifications for a classification.

"Examination plan" means a description of each phase of an examination, the weight applied to each phase of the examination, the criteria for moving from one phase of the examination to another, and any limitations as to the number of names to appear on the eligibility list.

"Exempt employee" means an employee who is not subject to the overtime provisions of the Fair Labor Standards Act, Title 29 U.S.C. Chapter 8.

"External employment list" means an eligibility list of candidates seeking employment with an agency.

"Fair Labor Standards Act" (FLSA) means those federal statutes at 29 U.S.C. 201-219 and 251-262.

"Family and Medical Leave Act (FMLA) leave" means a leave of absence, with or without pay, taken by an employee under a policy adopted by an agency head from options authorized in the Family and Medical Leave Act, 29 U.S.C. 2611, et seq.

"For cause" means disciplinary action or dismissal for any reason listed in A.R.S. § 41-1830.15 or this Chapter.

"Full-time employee" means an employee appointed to work 40 hours a week.

"Grievance" means a work-related complaint by an employee, regarding classification, compensation, performance evaluation, or violation of law or Council rules.

"Holiday leave" means the leave time accrued by working a state holiday or accrued when the holiday falls on a day the employee is not scheduled to work or is on paid sick leave. Holiday leave may be included in annual leave time.

"Human Resources" means an agency department responsible for personnel administration.

"Initial probation" means a probationary period required of a new employee to an agency, an employee appointed to a classification as a special limited term employee, or an employee appointed to the classification of officer who has completed the terms of a special limited term appointment.

"Intermittent Appointment" means the appointment of an employee to work on an irregular basis.

"Internal list" means an eligibility list of internal candidates seeking promotional positions or reassignments.

"Knowledge" means a body of information, usually of a factual or procedural nature, that makes for successful performance of a task.

"Limited duty" means a short-term assignment to a physically less demanding position while the employee recovers from a temporary medical condition or disability.

"Limited-term appointment" means an appointment to a position that is designated as temporary.

"Limited-term employee" means an employee in a limited-term appointment who has not achieved the status of a regular employee.

"Manifest error" means an erroneous act or failure to act in administering the provisions of Article 3 of this Chapter.

"Non-exempt employee" means an employee who is subject to the overtime provisions of the Fair Labor Standards Act, Title 29 U.S.C Chapter 8.

"Overtime" means time worked by a non-exempt employee in excess of 40 hours in a work week or in excess of 160 hours in a 28-day cycle.

"Part-time appointment" means the appointment of an employee to work a schedule of less than 40 hours per week.

"Part-time employee" means an employee appointed to work less than 40 scheduled hours per week.

"Pay range" means the difference between the lowest and highest pay rates for a classification.

"Pay status" means an employee's right to receive compensation for time worked or leave taken, except when absent on leave-without-pay or suspension without pay.

"Permanent employee" means an employee who has successfully completed an initial probation with an agency.

"Permanent status" means the employment rights achieved after satisfactorily completing the probationary period for a classification.

"Position" means a job or function, whether occupied or vacant, that is assigned a number, classification, funding source, pay range, and location code.

"Position audit" means an examination of the duties and responsibilities of a position to determine the appropriate classification.

"Probation" means a period of 12 months established for evaluating an employee's performance to determine if the employee should be retained in a classification.

"Promotion" means the appointment of an employee to a position in another classification with a higher maximum pay level.

"Provisional appointment" means an appointment to a position in a classification for which there is no eligibility list.

"Qualifications Appraisal Board" means a group of raters who evaluate a competitor's qualifications based upon the competitor's written or oral responses.

"Qualifying pay period" means a pay period for qualifying service in which an employee is in pay status for at least one-half of the employee's normally scheduled work week.

"Qualifying service" means part-time or full-time service as an employee of an agency, excluding any break-in-service.

"Reallocation" means a change in the classification of a position, based upon an analysis of the duties and responsibilities of the position.

"Reappointment" means appointment to a classification previously held by an employee who was reassigned to a different classification.

"Reassignment" means an appointment, at the employee's request, to a position in a different classification with the same or a lower pay range.

"Recall" means the appointment of a former employee who was separated by a reduction in force.

"Reclassification" means the change in classification of an employee due to the employee's movement to a position in a different classification or a reallocation of the employee's position to a different classification.

"Recognition leave" means leave time given an employee under a formal awards program as an incentive for continued superior performance. Recognition leave is added to annual leave.

"Reduction in force" means an action taken by an agency head to involuntary transfer, reassign, or lay-off an employee as a result of a:

Legislative or executive mandate;

Reduction of funds; or

Decrease in the number of authorized positions, service area, or program responsibilities.

"Regular employee" means an employee, except a limited term-employee, who achieves permanent status.

"Reinstatement" means an appointment of a former employee to the classification or a similar classification held when the employee separated from the agency.

"Rejection of probation" means an action taken by an agency head to reassign an employee on a promotional probation or to separate an employee on an initial probation for failure to

achieve and sustain the required level of performance for the classification.

"Responsibilities" means actions or tasks for which an employee is accountable in a position or classification.

"Retirement" means a voluntary separation from an agency by an employee who is eligible for an immediate disbursement from a retirement plan.

"Separation" means the close of an employee's term of employment with an agency.

"Skill" means an individual's level of proficiency or competency in performing a specific task.

"Special duty assignment" means an employee's temporary assignment of more responsibilities or duties or an assignment to a position with special work or living requirements.

"Special limited term appointment" means an appointment to the classification of cadet officer or officer trainee pending the completion of requirements for the classification of officer.

"State" means the state of Arizona.

"Standard performance" means a rating given to an employee who meets the expected level of performance needed to accomplish the objectives of a position.

"Standardized scoring" means a statistical method used to ensure that the various components of a multi-phased examination receive their proper weights.

"Suspension of pay" means the disciplinary action of withholding an employee's pay for a specified period.

"Telecommuting" means an employee performing assigned work at a location other than the employee's regular work location.

"Time-in-grade" means time spent in a classification.

"Transfer" means the movement of an employee from the employee's current position to another position in the same classification.

"Uncovered appointment" means an appointment to a job or function by the Governor or by an agency head with the concurrence of the Governor.

"Uncovered employee" means an employee who serves at the pleasure of the Governor.

"Veteran" means an individual who served in the armed forces of the United States and was discharged from military service under honorable conditions after more than six month's of active duty and as defined in 37 U.S.C. 101 and A.R.S. § 38-492.

"Work week" means the 40-hour time period an employee works between Saturday and Friday, including any leave time taken.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 5373, effective November 6, 2001 (Supp. 01-4). Amended by final rulemaking at 9 A.A.R. 1619, effective July 5, 2003 (Supp. 03-2). Amended by emergency rulemaking at 10 A.A.R. 1163, effective March 4, 2004 (Supp. 04-1). Emergency expired after 180 days; the Section on file prior to the emergency has been restored (Supp. 05-4). Amended by final rulemaking at 12 A.A.R. 1756, effective July 2, 2006 (Supp. 06-2).

R13-5-102. Law Enforcement Merit System Council

A. Authority. The statutory authority of the Law Enforcement Merit System Council is found in A.R.S. § 41-1830.11 through 41-1830.15.

B. Decisions of the business manager are subject to review by the Council.

C. Selection of officers. The Council shall select a Chair and Vice-chair from its members at a regular meeting in November or December of even-numbered years. The Chair and Vice-chair shall hold office for a period of two years, or until their successors are selected.

D. Meetings. The Chair, or in the Chair's absence the Vice-chair, shall call a meeting of the Council when a meeting is needed. The Council shall hold meetings at a location convenient to the participants whenever possible. Except for the Council's executive sessions, the Council's meetings shall remain open to the public and the Chair shall give interested parties an opportunity to be heard.

E. Quorum. Two members are required for a quorum, and concurring members must equal a majority of those voting in order to take action.

F. Minutes. The Council shall keep minutes of its proceedings and official actions. The Council's records and minutes are open to public review during normal business hours.

G. Council rules. An agency shall provide employees with a copy of the Council's rules.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2). Amended by final rulemaking at 9 A.A.R. 1619, effective July 5, 2003 (Supp. 03-2).

R13-5-103. Personnel Administration

A. Separation of powers. The agency head shall staff and maintain a human resources function responsible for personnel administration consistent with these rules and under the jurisdiction of the Council as provided for in statute and this Chapter. The business manager shall provide oversight to Human Resources in administering this Chapter.

B. Personnel records. Human Resources shall maintain employment records on each agency employee, including the employee's:

1. Employment application;
2. Examination scores;
3. Signed oath of office;
4. Date of initial appointment;
5. Other appointment orders;
6. Performance reports;
7. Transfers;
8. Commendations;
9. Leaves-of-absence without pay;
10. Disciplinary actions;
11. Separation from the agency;
12. Reinstatement to the agency, and
13. Any other appropriate employment records.

C. Confidentiality. Human Resources shall preserve the confidentiality of personnel records. Persons authorized to access personnel records are:

1. The employee;
2. A person authorized by the employee;
3. A person with an official court order;
4. A person authorized by the agency head;
5. A person authorized by the chair of the Council; and
6. A law enforcement agency with authorized access to such records under A.R.S. § 41-1828.01.

Historical Note
New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-104. General Information

A. Delegating authority. The agency head may delegate to other agency personnel the authority and duties imposed by this Chapter upon the agency head, unless otherwise prohibited by statute or rule.

B. Reports. The agency head shall provide information requested by the Council on matters relating to this Chapter. The agency shall present the information in the format requested by the Council.

C. Restricted information. The Council shall safeguard confidential information given to the Council by any employee or former employee. The Council shall not allow inspection of such information except under conditions prescribed by the Council.

D. Service of notice. The agency or the Council shall serve notice upon an employee personally or by the U.S. Postal Service. Postal service shall be made by certified mail, return receipt requested, to an employee's last known home or business address, and is complete upon mailing. Service as provided for in this Section is required for the following:
1. Notice of an employee's rejection from probation;
2. Notice of a charge in a disciplinary proceeding;
3. Notice of an employee's suspension, layoff, or dismissal; and
4. Other notices required by these rules.

E. Proof of service. The agency shall provide proof of service by affidavit.

F. Availability of funds. Reference in these rules to employee pay is contingent upon availability of funds, as determined by the agency head.

G. Compliance with federal rules and regulations. Any federal regulation or standard governing the granting of federal funds to an agency under the Law Enforcement Merit System Council takes precedence over any of these rules which conflict with the control and expenditure of federal funds.

H. Validity and separation. If any provision or application of the rules in this Chapter is held invalid by a court of competent jurisdiction, the remainder of the rules in this Chapter and application of the rules to other persons or circumstances are not affected by the court decision.

I. Equal employment. The Council, the agency head, and agency employees shall not discriminate in any aspect of employment on the basis of race, color, religion, sex, national origin, age, disability, or pregnancy.

J. Accommodation. The Council and the agency head shall make reasonable accommodations to enable a person with a disability to use agency facilities, services, and programs. A person requesting accommodation shall notify the agency or the business manager as soon as reasonably possible in order to allow the agency time to arrange the accommodation.

Historical Note
New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

ARTICLE 2. CLASSIFICATION AND COMPENSATION

Editor's Note: Former Article 2, consisting of Sections R13-5-10 and R13-5-11, repealed by final rulemaking at 6 A.A.R. 1982, effective May 10, 2000; new Article 2, consisting of Sections R13-5-201 through R13-5-204, adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-201. Classification

A. Classification Plan. The Council shall adopt and revise the classification of positions for use by an agency. Collectively, classifications adopted by the Council comprise the classification plan of the Council. Each classification in the classification plan includes:
1. A descriptive title;
2. A description of the scope of duties, typical responsibilities, and essential functions;
3. The minimum qualifications required of an applicant; and
4. A determination of non-exempt or exempt status under the Fair Labor Standards Act.

B. Classification specifications. The business manager shall document the date of adoption and the latest revision of each classification specification, and shall maintain the master set of all approved classification specifications. Human Resources shall also maintain a set of all approved classification specifications. Copies of a classification specification are open for inspection by an employee and the public and are available on the DPS web site.

C. Allocating positions. The Council shall allocate positions to the appropriate classification in the Classification Plan. The Council shall allocate positions to the same classification when:
1. The duties and responsibilities are substantially similar;
2. The education, experience, knowledge, skills, and abilities required are substantially similar;
3. The examinations used in choosing qualified candidates are substantially similar; and
4. The pay range may be applied equitably to all positions in the classification.

D. Compensation Maintenance Review Plan: The Council shall adopt and revise guidelines for a classification and compensation maintenance review plan. An employee shall be placed in a classification in accordance with this plan.

E. Assignment. Except in an emergency, or as otherwise provided by this Chapter, an agency shall not assign an employee to perform the duties of any classification other than the classification to which the employee's position is allocated.

F. Modification. The Council may establish a new classification and revise or abolish an existing classification. The Council shall decide when a position in an affected classification needs to be reallocated, taking into account the factors in subsection (C). The Council shall also determine the probationary or permanent status of an employee affected by reallocation.

G. Reviewing allocations. An employee affected by reallocation of the employee's position shall have the opportunity to be heard by the Council under R13-5-602.

H. Changes in positions. The Council shall reallocate an existing position when a material and permanent change occurs in the duties and responsibilities of the position.
1. If an employee is in a position that is reallocated, an agency shall reclassify the employee in that position if the employee:
   a. Has been in the position at least six months;
   b. Has occupied the position during the change in duties; and
   c. Meets the minimum qualifications of the new classification.
2. A position shall not be reallocated while undergoing a classification and compensation review, except that the Council may reallocate a position that is undergoing a classification and compensation review when an agency head can show that the reallocation is necessary for the continued operation of the agency.

I. Time in grade. The Council shall credit an employee reclassified as a result of a reallocation with time-in-grade as follows:
1. The employee is credited with time-in-grade for the time spent in the position if no significant changes are made to the duties and responsibilities of the position to qualify for the higher classification and if the employee continues to perform the duties previously performed in the position.
2. Time-in-grade status is calculated on the basis of actual hours worked.

J. New positions. An agency head shall establish positions in the agency as authorized by law, subject to budgetary authorization and availability of funds. An agency head shall notify the Council when a new position is established. The Council shall allocate a new position to the appropriate classification.

K. Classification titles. An agency shall use a classification title approved by the Council in all communications regarding personnel, budget, and financial records.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2). Amended by final rulemaking at 9 A.A.R. 1619, effective July 5, 2003 (Supp. 03-2). Amended by final rulemaking at 12 A.A.R. 1756, effective July 2, 2006 (Supp. 06-2).

R13-5-202. Compensation

A. Compensation plan. The Council shall adopt compensation levels for all classifications. Collectively, compensation levels adopted by the Council comprise the compensation plan of the Council. An agency shall periodically revise the compensation plan for a covered position, based on the principle that like salaries are paid for comparable duties and responsibilities, and shall submit the agency's recommendations to the Council for approval.

B. Hearings. If an agency recommends a change in a pay range, the Council shall grant any adversely affected employee an opportunity to be heard.

C. Pay Levels. The Council shall specify all pay levels. The Council may also establish more than one pay range, hourly rate, or method of compensation for classifications and positions with unusual hours, conditions of work, or when necessary to compete with other employers.

D. Lack of Funds. If an agency lacks sufficient funds to pay an employee's salary, the agency shall consider an alternative method of reducing costs, including those described in R13-5-802(B). If an alternative method is not adequate or available, the agency shall assign an employee to a leave of absence without pay under the layoff procedure in R13-5-802. The agency shall recall the laid off employee when sufficient funds become available.

E. Entrance rate. The minimum pay rate for each classification is the entry rate, unless otherwise provided in these rules. The agency shall maintain a record of each employee's employment date and entrance into a classification.

F. Special pay adjustments. When making an appointment, promotion, reinstatement, recall, transfer, reclassification or reassignment, an agency head may authorize pay anywhere within the pay range to meet recruiting and retention needs, and to give credit for prior agency service.

G. Rate above maximum. When a position is reallocated resulting in the reclassification of an employee to a lower classification or the pay range of a classification is reduced, the agency head may authorize a pay rate for the employee above the maximum for the classification. While an employee's pay remains above the maximum rate for the employee's classification, the employee shall not receive any pay increases except those required by law.

H. Rate on movement to a classification with a lower pay range. An employee who accepts reassignment to a classification with a lower pay range may receive a rate above the minimum, if authorized by the agency head. The agency shall then establish a new classification date for the employee.

I. Rate on movement to a classification with the same range. When an employee moves to another classification with the same range, the employee shall retain the employee's current rate of pay.

J. Rate on movement to a classification with a higher pay range. When an employee moves to another classification with a higher pay range, the employee shall receive pay at the entry level of the new classification. If the employee's current pay is greater than the entry level of the new classification, the employee shall receive no less than a $500 annual increase. In no case shall an employee's salary exceed the maximum for the new classification.

K. Rate upon reinstatement. Upon reinstatement, a former employee shall receive the entrance rate for the employee's classification, unless the agency head authorizes a higher rate or as directed by the Council following a disciplinary hearing.

L. Rate upon recall. A former employee who is recalled after a layoff shall receive the same pay rate as that held before the layoff. If the Council approved a general pay adjustment or classification adjustment while the employee was on leave of absence without pay, the employee shall receive the adjustment.

M. Automatic pay adjustment. A classification pay range adjustment applies equally to all employees within the classification and does not alter an employee's classification date for a pay adjustment.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-203. Pay Administration

A. Base pay adjustment. An agency head may modify base pay by adding cost-of-living and other adjustment appropriated by the state Legislature. An agency head may also request that the Council revise the compensation plan to include other changes to base pay, as needed. After base pay adjustments are completed, an agency head may add special duty pay before computing an employee's pay rate.

B. Appropriated pay adjustment. Upon approval by the Council the agency head may apply some or all the appropriated funds to the compensation plan, if the appropriation bill does not include specific allocation instructions for an employee pay raise, or if the instructions are not applicable to the agency.

C. Special duty assignment. An agency head may supplement the base pay of an employee on a special duty assignment. Time spent on a special duty assignment counts toward an employee's length of service. An employee may receive special duty pay only for the period when the employee performs the required duties of the special duty assignment.

D. Return from special duty assignment or uncovered appointment. When an employee returns to a regular appointment from a special duty assignment or an uncovered appointment, the agency shall return the employee's pay to the employee's base pay earned before being assigned to a special duty assignment or uncovered appointment. If general pay adjustments or classification adjustments are approved while an employee is on a special duty assignment or serving in an uncovered appointment, the employee shall receive the adjustments.

E. Overtime pay. The agency head shall adopt an overtime policy and procedure consistent with federal regulations under the Fair Labor Standards Act, Arizona Revised Statutes, and this

Chapter. Compensatory leave is accrued and used as provided by R13-5-505.

Historical Note
New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-204. Work Hours and Work Options
Work hours and work breaks. An agency head may establish different working hours for certain work groups and shifts in order to meet the needs of the agency. In doing this, the agency head should consider such factors as clean air directives, telecommuting, and flexible work hours. An agency head shall establish a policy for "on-duty" and "off-duty" time consistent with federal regulations under the Fair Labor Standards Act, Arizona Revised Statutes, and this Chapter and provide procedures for recording time worked and leave taken by an employee.

Historical Note
New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

ARTICLE 3. EMPLOYMENT

Editor's Note: Former Article 3, consisting of Section R13-5-15, repealed by final rulemaking at 6 A.A.R. 1982, effective May 10, 2000; new Article 1, consisting of Sections R13-5-301 through R13-5-317, adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-301. Recruitment

A. Recruiting an external applicant. When authorized by an agency head, Human Resources shall seek qualified applicants through open recruiting and competitive employment opportunities. Human Resources shall publish and distribute job announcements that include:
1. The classification title and pay;
2. The minimum qualifications;
3. The location of the assignment, if known;
4. Special requirements, if any;
5. Location of forms; and
6. The application deadline.

B. Applications. Human Resources shall establish procedures for distributing and receiving an application. Human Resources shall screen all applications and may reject any that are incomplete, illegible, or received after the deadline.

C. Disqualifying an applicant or candidate. An agency head or the agency's Human Resources unit may disqualify any applicant or candidate based upon information in an application, statements made by the applicant's references, and a background investigation by the agency. The agency shall also disqualify any applicant who:
1. Lacks the required qualifications for the classification;
2. Was convicted of a disqualifying offense;
3. Was dismissed by a previous employer for a reason that is cause for dismissal from the agency;
4. Practiced deception or failed to give complete and accurate information; or
5. Failed to meet selection guidelines as established by the Council.

D. Reapplying. A candidate who fails any portion of the background investigation, with the exception of medical only, shall be precluded from reapplying for a period of two years from the date of disqualification.

E. Notifying an applicant. After completing a qualification review, Human Resources shall notify an applicant of the agency's acceptance or rejection of the employee's application.

F. Retaining an application. Human Resources shall retain all applications under a records retention and disposition schedule approved by the Department of Library, Archives, and Public Records.

Historical Note
New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-302. Examinations

A. Examination plan. Human Resources shall develop an examination plan for each selection process. The business manager shall review and approve each examination plan. An applicant for the examination shall be notified of the examination plan. Once an examination begins, changes will not be made to the plan. If an examination plan needs to be altered, Human Resources shall terminate the current examination and initiate a new examination.

B. Examination guidelines. Human Resources shall obtain or develop a valid examination for each classification, and establish a weight and minimum qualifying requirement for each phase of the exam. The business manager shall review and approve each examination before the examination is administered. A competitor shall achieve the minimum requirements on each phase of an examination before progressing to the next phase. A competitor shall achieve a passing score on each phase before qualifying for a classification.

C. Notifying an applicant. Human Resources shall notify a qualified applicant of the following information:
1. The date, time, and location of each examination;
2. The number of phases included in the examination;
3. Other pre-employment requirements; and
4. How to request special accommodations for persons with a disability.

D. Type and content of examination. Human Resources shall ensure that each examination is valid, non-discriminatory, and fairly and accurately measures an applicant's ability to perform the functions and duties listed in the classification specifications.

E. Conducting an examination.
1. Human Resources, or a person designated by Human Resources, shall administer the examination.
2. The business manager shall oversee all elements of, but not actively participate in, the examination process to ensure that each component is administered, scored, evaluated, and interpreted fairly and accurately.
3. Human Resources shall permanently disqualify an applicant from taking any employment or promotional examination if it has been established that the applicant is guilty of copying, collusion, unauthorized access, or other acts of dishonesty relating to an official examination.

F. Scoring an examination. Human Resources shall oversee the scoring of the examination.
1. Human Resources may use a rater for a qualifications appraisal board from within or outside of an agency to score an examination. Human Resources shall select an examination rater who is qualified to appraise the education, experience, and personal qualifications of a competitor.
2. Human Resources shall provide a rater with scoring guidelines and exam answer keys to ensure consistency of scoring, evaluation, and interpretation of test results. All phases of an examination shall have predetermined and clearly defined scoring criteria.
3. If a majority of the raters on a qualifications appraisal board give the competitor a passing score, the competitor shall receive a minimum rating of "pass" even if the com-

petitor's average score is below the passing level. If a majority of the raters on a qualifications appraisal board gives the competitor a score below the passing level, the competitor shall be disqualified, even if the competitor's average score is above the passing level.

4. Human Resources shall apply standardized scoring to a multi-phased examination when the number of competitors is five or more.

G. Validating an examination result. If Human Resources finds that an examination is incorrectly scored or that a portion of an examination is defective, Human Resources shall:

1. Correct all scoring errors, or
2. Eliminate the defective portion of an examination and revise the score of each competitor.

H. Examination results notification. Human Resources shall mail notification of examination results to each competitor.

I. Review of examinations. Any employee who has tested for promotion may request an examination review under R13-5-305(G).

J. Retaining test scores. Human Resources shall retain all examination materials and test scores under a records retention and disposition schedule approved by the Department of Library, Archives, and Public Records.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 5373, effective November 6, 2001 (Supp. 01-4). Amended by final rulemaking at 9 A.A.R. 1619, effective July 5, 2003 (Supp. 03-2). Amended by final rulemaking at 12 A.A.R. 1756, effective July 2, 2006 (Supp. 06-2).

R13-5-303. Applicant Preference Points

If an applicant receives a passing score on an examination and has qualified for placement on an employment list, Human Resources shall add the preference points authorized by A.R.S. § 38-492 to the applicant's final score, provided the applicant submits official documentation of eligibility for preference points. Preference points shall not apply to a promotional examination.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-304. Employment

A. Establishing an employment eligibility list. Human Resources shall develop, and the business manager shall establish, employment eligibility lists for various classifications, as needed. For each list, Human Resources shall arrange the names of competitors in descending order of the competitors' final examination scores.

B. Establishing a list in case of ties. If two or more competitors receive the same rating in an examination, the competitor's names shall be placed on the list according to their respective ratings on the portion of the examination with the greatest weight. If a tie still exists, the names shall be placed on the list at the same position, in alphabetical order.

C. Reviewing the employment eligibility list. Human Resources shall submit an employment eligibility list to the business manager for approval and certification.

D. Notification to candidate. When an employment eligibility list is certified by the business manager, Human Resources shall notify a candidate of the candidate's relative ranking on the list.

E. Duration of an eligibility list. Each new or merged list remains in effect for 18 months from its effective date. Before a list expires, the Council may cancel the list.

1. Restoring a list. If a need arises and a current list is not available, the Council may restore a list that expired or was canceled within the past six months.
2. Merging a list. Except for the classifications described in subsection (E)(3), if three or fewer candidates remain on an existing list, Human Resources may establish a new list and merge the existing list with the new list. When the merged list is established, Human Resources shall rearrange the names in descending order of the candidates' final scores and notify each candidate of the candidate's relative ranking. Human Resources shall remove a candidate's name from the new list on the expiration date of the candidate's original list.
3. Conducting continuous or periodic testing. If the Council determines that a classification requires continuous or periodic testing, the business manager may authorize Human Resources to conduct examinations regardless of the existence of an employment list in that classification. Human Resources shall merge the names of candidates tested with names on the existing employment list for that classification as described in subsection (E)(2).
4. Retesting a merged candidate. If another examination for the same classification is held before the prior list expires, a merged candidate from the prior list may take the examination. If the candidate passes the test, Human Resources shall place the candidate on the list according to the new score. The candidate shall remain on the list for its duration.

F. Removing a candidate. The business manager shall remove a candidate from an eligibility list for any of the following reasons:

1. Human Resources is unable to contact the candidate by phone or mail;
2. The Council abolishes the classification for which the list was developed; or
3. The candidate withdraws from the selection process.

G. Correcting a manifest error. The business manager shall correct a manifest error that occurs in developing, using, or maintaining an eligibility list. The business manager shall not change the effective date of an eligibility list to correct a manifest error discovered after posting the list.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2). Amended by final rulemaking at 6 A.A.R. 4495, effective November 7, 2000 (Supp. 00-4). Amended by final rulemaking at 7 A.A.R. 5373, effective November 6, 2001 (Supp. 01-4). Amended by final rulemaking at 9 A.A.R. 1619, effective July 5, 2003 (Supp. 03-2). Amended by final rulemaking at 12 A.A.R. 1756, effective July 2, 2006 (Supp. 06-2).

R13-5-305. Promotion

A. Announcing a promotional examination. Human Resources shall publish an agency-wide announcement when initiating development of an internal eligibility list. An announcement shall include the information in R13-5-301(A).

B. Applying for promotion. An employee may compete for a place on an internal eligibility list by submitting an internal application form to Human Resources by the application filing deadline.

1. An employee is eligible to take a promotional examination if the employee:
   a. Satisfactorily completes initial probation by the application filing deadline;
   b. Meets or exceeds the minimum qualifications for the classification; and

c. Receives a standard or above standard performance evaluation for the latest rating period.

2. An employee who participates in developing an examination for an internal classification is not eligible to take the examination for that classification.

C. Processing an application. Human Resources shall process an application consistent with the procedures in R13-5-301(B), (C), and (F).

D. Business manager review. Within 10 days after a notice of rejection of an application has been mailed to the employee, an employee may request that the business manager review a rejected application. The business manager may review and overturn or concur with the decision of Human Resources. An employee may also request that the Council review the business manager's decision.

E. Promotional examination. Human Resources shall conduct a promotional examination consistent with R13-5-302. An employee eligible to take a promotional examination shall notify the employee's supervisor of the time and date of the examination as soon as it is known. A supervisor shall authorize an employee to participate in a promotional examination while on duty.

F. Scoring and validating an examination. Human Resources shall score and validate an examination under R13-5-302(F) and (G).

G. Inspection of examination results. Within 10 days after the examination results are mailed, a competitor may file a written notice with the business manager requesting an opportunity to review the examination for the purpose of determining whether the competitor has a reason for challenging the competitive examination. A competitor requesting a review shall outline the specific areas the competitor believes are in error. The competitor shall be allowed to review the examination in the presence of the business manager or an employee authorized by the business manager to determine whether the competitor has a valid basis for a challenge to the examination.

1. The business manager or the authorized employee shall oversee the competitor's examination inspection.
2. An employee shall not copy questions or answers, nor make any alterations to the examination papers.
3. Within 10 days of a review, a competitor may file a written notice with the business manager challenging the examination results on the basis of irregularity, bias, fraud, or scoring error and explaining the basis for any challenge. The business manager shall review the competitor's challenge to determine if the challenge is valid.
4. If the business manager's review discloses an error, the business manager shall return the examination to Human Resources for correction.
5. If an error affects the scores of other competitors, Human Resources shall revise all incorrect scores.
6. If the business manager determines the error is not correctable and the defective portion of the exam is critical to the examination process, Human Resources shall re-administer that portion of the examination under guidelines provided by the business manager.
7. Only the Council, a business manager, competitor, competitor's attorney, or an agency head may inspect a competitor's examination.

H. Grievance of business manager's decision. An employee who is aggrieved by a decision of the business manager may grieve the decision to the Council. A grievance of the business manager's decision shall be filed with the Council office no later than 20 days after notice of the decision is given. The Council shall review the grievance as outlined in R13-5-602 (E).

I. Military leave. Human Resources shall allow an employee returning from military leave to take any examination that the employee could have taken if military service had not intervened. If the employee passes the examination, the business manager shall add the employee's name to the appropriate internal eligibility list based on the employee's score.

J. Establishing an internal list. Human Resources shall prepare an internal list for a promotional classification with competitor's names arranged in descending order of the competitor's final score.

K. Establishing a list in case of a tie. If two or more competitors receive the same rating in an examination, the competitor's names shall be placed on the list according to their respective ratings on the portion of the examination with the greatest weight. It a tie still exists, the names shall be placed on the list at the same position, in alphabetical order.

L. Approval of list. Human Resources shall submit the internal list to the business manager for approval and certification.

M. Notifying a candidate. When the list is certified by the business manager, Human Resources shall notify a candidate of the exam results and the candidate's relative ranking on the list.

N. Duration of a list. A list shall remain in force consistent with R13-5-304(E).

O. Removing a candidate from an internal list. The business manager shall remove a candidate from an internal list if:

1. The candidate fails to maintain required qualifications for the classification, or
2. The candidate resigns or is terminated from agency service.

P. Promotion to the classification of officer. The business manager shall reclassify an employee to the classification of officer upon certification by the Peace Officer Standards and Training Board.

Q. Promotion for a commissioned classification. An agency may establish a job-interest card system for a promotion in a commissioned classification. If a candidate submits a job-interest card indicating interest in only a specified position, that candidate shall not be considered for any other position except as outlined in this subsection.

1. An agency head shall offer a promotional position to a candidate ranking highest on the promotional eligibility list who filed a job-interest card for that position.
2. If there are no job-interest cards for a specific position, an agency head shall offer a promotional position to the candidate ranking highest on the promotional eligibility list. If the employee highest on the promotional list declines the promotion, the agency head shall offer the position to the employee next highest on the list until all candidates on the promotion list are offered the position.
3. For a location that has two or fewer positions, an agency head may appoint any promotional candidate residing in that location.
4. If a candidate declines an offer of promotion, the business manager shall move that candidate's name to the bottom of the promotional eligibility list.
5. If all candidates on a promotional eligibility list decline a promotion, an agency head shall make a second offer to all candidates on the list.
6. If all candidates on the list decline the second offer, the business manager shall cancel the list. Human Resources shall then initiate a process to create a new list for the classification.

R. Promotion for a civilian classification. Civilian promotions are conducted under R13-5-308 and R13-5-309.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 5373, effective November 6, 2001 (Supp. 01-4). Amended by final rulemaking at 12 A.A.R. 1756, effective July 2, 2006 (Supp. 06-2).

R13-5-306. Reassignment

A. Reassignment application. An employee may request reassignment to a different classification with the same or a lower pay range by submitting an application to Human Resources documenting the employee's qualifications. An application for reassignment can be obtained from Human Resources.

B. Qualification screening. Human Resources shall determine whether the employee meets the minimum qualifications of the classification. Unless the employee has previously held permanent status in a classification, Human Resources shall require the employee to pass an examination for the requested classification. Any employee required to test may request an examination review under R13-5-305(D), (F), and (H).

C. Eligibility list. If the employee qualifies, Human Resources shall place the candidate's name on an appropriate internal eligibility list under R13-5-305 (J) and (K).

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-307. Reinstatement

A. Reinstatement list. An employee may apply for reinstatement within one year from the date of separation. Upon approval of the agency head, Human Resources shall place the former employee's name at the bottom of a reinstatement list for the last classification held by the employee and any previous or closely related classifications for which the employee is qualified.

B. Duration of the list. A reinstatement list shall remain in force for a maximum of 18 months.

C. Background investigation. All candidates for reinstatement shall pass a background investigation.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2). Amended by final rulemaking at 6 A.A.R. 4495, effective November 7, 2000 (Supp. 00-4). Amended by final rulemaking at 12 A.A.R. 1756, effective July 2, 2006 (Supp. 06-2).

R13-5-308. Hiring Preference

A. Order of lists. When an agency head authorizes filling a vacant position, Human Resources shall notify the manager who is filling the vacancy of any employees requesting a transfer to the vacant position. After considering a transfer request, or if there are none, the manager may request a list of candidates for the position from available eligibility lists in the following order of preference:

1. Reappointment list,
2. Reassignment list,
3. Recall list,
4. Internal list,
5. Reinstatement list, and
6. Employment list.

B. Referring candidates. Except for the classification of cadet officer, Human Resources shall contact eligible candidates in the order of preference specified in subsection (A) to be interviewed. Candidates shall advise Human Resources if they wish to be interviewed.

1. If there is one vacant position, Human Resources shall refer the three interested candidates standing highest on each of the lists. Human Resources may refer fewer than three names if there are fewer than three candidates on the lists.
2. For multiple vacancies, Human Resources shall refer one more candidate for each additional vacant position from the lists.
3. If a list is not available, the business manager may refer candidates from lists of the same or higher level as the position being filled.

C. Referring candidates for cadet officer. Human Resources shall make a job offer conditional on passing a background investigation to as many of the highest ranking candidates on the list as Human Resources deems necessary to fill existing positions.

D. Canceling a list. If all candidates on the promotional eligibility list advise Human Resources that they are not interested in a position, Human Resources shall make a second offer to all candidates on the list. The second offer shall include a notification to each candidate that if all candidates decline the position, the list will be cancelled. If all candidates on the list decline the second offer, the business manager shall cancel the list. Human Resources shall then initiate a process to create a new list for the classification.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2). Amended by final rulemaking at 9 A.A.R. 1619, effective July 5, 2003 (Supp. 03-2).

R13-5-309. Selection

A. Selecting a candidate. The manager shall follow the interview and selection policy provided by Human Resources.

B. Interviewing. A manager who is filling a vacancy shall interview all candidates requesting a transfer, and may interview up to three candidates from each certified list.

C. Additional names. If the manager rejects all initial candidates, the manager shall document job-related reasons for their rejection and submit the interview forms to Human Resources. If Human Resources agrees with the manager's reason for rejection, Human Resources shall refer up to 3 more names from each certified list.

D. Selection of cadet officer. A candidate who receives a job offer for a position covered under R13-5-312(E) and is not disqualified during the background investigation shall be appointed to the classification by the agency head.

E. Documenting the selection. Upon making a selection, the hiring manager shall complete the documentation and return all interview and selection materials to Human Resources.

F. Record retention. Human Resources shall retain interview and selection records under a records retention and disposition schedule approved by the Department of Library, Archives, and Public Records.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2). Amended by final rulemaking at 9 A.A.R. 1619, effective July 5, 2003 (Supp. 03-2). Amended by final rulemaking at 12 A.A.R. 1756, effective July 2, 2006 (Supp. 06-2).

R13-5-310. Pre-employment Processing

A. Pre-employment screening. Before appointment to a position, a candidate shall successfully pass a background investigation and any other examination considered appropriate by the agency head.

B. Withdrawal from selection process. If a candidate elects to withdraw from the selection process, Human Resources shall document the candidate's withdrawal.

C. Failing to successfully complete an examination. If a candidate fails to successfully complete any of the requirements in subsection (A), Human Resources shall document the failure and disqualify the candidate.

D. Final processing. When a candidate passes all the pre-employment requirements, Human Resources shall prepare and submit the appropriate forms to the agency head for approval.

E. Declining position offers. Human Resources may remove from a certified list any candidate who declines an appointment offer.

F. Requesting accommodation. If a selected candidate requests a special accommodation under state or federal law, Human Resources shall confer with appropriate personnel to determine if a reasonable accommodation is possible.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-311. Appointments

A. Required oath of office. An appointee shall read the oath described in A.R.S. § 38-231(G) and agree in writing to uphold the office before the agency head, or a designee authorized to administer an oath.

B. Refusal to take oath. Any person who refuses or fails to take the oath required by this Section within the time provided shall forfeit the right to the position.

C. Filing of oath. When the oath is signed by an appointee, Human Resources shall file the oath in the employee's personnel file.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-312. Limited-Term Appointments

A. Limited-term appointment. After successfully completing initial probation, an appointee to a limited-term position obtains the rights of a permanent employee, except for the opportunity to compete for retention against regular employees in a case of layoff due to a reduction-in-force.

B. Employing a limited-term candidate. An eligible candidate is employed based upon the candidate's position on the eligibility list and the candidate's willingness to accept a limited-term appointment.

C. Separation. The agency may separate a limited-term employee at the expiration of the appointment by notifying the employee in writing. If a provisional or an intermittent employee remains employed in the same classification, the agency shall not separate a limited-term employee except for reasons listed in A.R.S. § 41-1830.15.

D. Effect of transfer or promotion.

1. A limited-term employee who transfers or promotes from a limited-term position to a non-limited-term position shall obtain the rights of a permanent employee. Time spent in a limited term position is counted as service time in cases of layoff due to a reduction-in-force.
2. An employee who transfers or promotes from a non-limited-term position to a limited-term position shall retain the rights of a permanent employee. Time spent in a limited-term position is counted as service time in case of layoff due to a reduction-in-force.

E. Special limited term. A candidate for the classification of officer may be employed in a special limited-term position as a cadet officer or officer trainee for a maximum of three years pending completion of requirements for the classification of officer.

1. Cadet officer. A candidate who is appointed to attend an agency's training academy shall be employed as a cadet officer. Upon successful completion of the training academy and certification as a peace officer by the Peace Officers Standards and Training Board, the candidate shall be reclassified to the classification of officer.
2. Officer trainee. A candidate who is not appointed to a training academy shall be employed as an officer trainee if:
   a. The candidate is between 18 and 21 years of age. If while employed as an officer trainee, the candidate reaches the age of 21 years, and has achieved a performance rating of standard or above for the prior year, the employee shall be promoted to the classification of cadet officer when an opening in the training academy is available.
   b. The candidate is 21 years of age or older, is on the employment list for the classification of cadet officer, and is waiting for an opening in the agency's training academy. The candidate shall remain on the cadet officer employment list and shall be appointed to the classification of cadet officer when an opening in the training academy is available.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 5373, effective November 6, 2001 (Supp. 01-4). Amended by final rulemaking at 12 A.A.R. 1756, effective July 2, 2006 (Supp. 06-2).

R13-5-313. Provisional appointments

A. Provisional appointment. When no employment or internal list is available, an agency head may make a provisional appointment. A provisional appointment continues only until an eligibility list is certified by the business manager.

B. Length of appointment. Within 12 months of a provisional appointment, Human Resources shall conduct an appropriate examination and establish an eligibility list for a classification with a provisional appointee.

C. Separation. Upon separation from a provisional appointment, an employee shall have no right of appeal to the Council for review of the agency head's action.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-314. Intermittent Appointment

A. Intermittent position. When an agency head needs a person to work on an intermittent or irregular basis, the agency head shall request a list of candidates for intermittent appointment. An applicant who meets the minimum qualifications and indicates willingness to accept the terms of intermittent employment shall be placed on an eligibility list for selection to an intermittent position.

B. For the purposes of this Section, an intermittent employee means an employee in an intermittent position.

C. Establishing an intermittent employment list. The business manager shall establish an intermittent employment list, as follows:

1. An employee who leaves an agency may be placed on an intermittent employment list for a classification the employee previously held. The employee shall not be required to take an examination to be placed on an intermittent employment list if the request is received within

one year from the time the employee left that classification and the employee's last evaluation in that classification was standard or above.

2. An employee who is reassigned or promoted to another classification may be placed on an intermittent employment list for the classification previously held. The employee shall not be required to take an examination to be placed on an intermittent employment list if the request is received within one year from the time the employee left that classification and the employee's last evaluation in that classification was standard or above.
3. The business manager shall establish an intermittent employment list in the same manner as an employment eligibility list.

D. Benefits for an intermittent employee. An employee in an intermittent position shall not receive the benefits afforded a full or part-time employee. An intermittent employee shall not acquire annual or sick leave benefits and shall not receive credit for time in the intermittent position for the purposes of pay adjustments in the classification.

E. Eligibility for promotion. An intermittent employee shall not compete in a promotional process.

F. Rate of pay. The agency head shall determine the rate of pay for an intermittent employee.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 5373, effective November 6, 2001 (Supp. 01-4).

R13-5-315. Employee Conduct

A. Standards of conduct. An employee shall perform the duties and responsibilities of the employee's assigned classification and position. An employee shall comply with applicable laws, rules, and agency policy. An employee shall demonstrate respect, fairness, diligence, impartiality, courtesy, efficiency, and integrity in all contacts with the public and other employees.

B. Fitness for duty. If a supervisor has reasonable doubt that an employee is psychologically or physically able to perform the essential duties of the position, the supervisor shall request the agency head's permission to have the employee evaluated by a psychologist or physician determined by the agency. Upon approval, Human Resources shall schedule an appointment, and the employee shall submit to an evaluation. The examiner shall provide the agency head with conclusions, recommendations, and other information necessary to decide whether the employee is fit for duty.

C. Political activity. An agency employee shall not violate the provisions of A.R.S. § 41-772 concerning permissible and improper political activity.

D. Conflict of interest. An agency employee shall not violate the conflict of interest provisions of A.R.S. §§ 38-501, 38-502, 38-503, and 38-504 while engaged in outside activities or employment.

E. Nepotism. An employee or candidate for employment shall not be appointed to any position in violation of A.R.S. § 38-481, nor shall an employee misuse or abuse appointment privileges.

F. Attending Council meetings. With supervisory approval, an employee may attend a meeting of the Council during working hours if the employee is an interested party in a matter scheduled for consideration. The employee may have another representative assist in the presentation before the Council.

G. Employee organization attendance at Council meetings. The agency head may authorize a recognized employee organization to send at least one representative to each Council meeting during working hours.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2). Amended by final rulemaking at 9 A.A.R. 1619, effective July 5, 2003 (Supp. 03-2).

R13-5-316. Probation

A. Initial probation. An employee shall serve an initial probationary period of 12 months. Time spent in a special limited term position does not count toward the initial probation in an officer classification.

B. Promotional probation. An employee shall serve a promotional probationary period of 12 months.

C. Effects of reclassification on probation. The probationary status of an employee reclassified as a result of a classification and compensation maintenance review under R13-5-201(H) is as follows:

1. A permanent status employee shall not be required to serve a new probationary period if the employee continues to perform the same duties previously performed in the reclassified position.
2. A probationary employee shall continue to serve the probationary period.

D. Effect of military service on probation. If a probationer is called into active military service and returns to the agency and satisfactorily completes probation, the employee's personnel record shall show that the employee achieved permanent status on the date the employee would have completed probation if military service had not intervened.

E. Extension of probation. An agency head may extend an employee's probationary period by adding a period equal to the time the employee was absent from work or when the employee's performance was below standard. If the probationary period is extended, the manager shall notify the employee of the extension before the end of the probationary period.

F. Satisfying probation. A probationer who achieves a standard or higher performance evaluation by the end of the probationary period shall obtain permanent status in the appointed classification.

G. Permanent status by default. An employee shall achieve permanent status by default if the employee's manager either fails to extend or reject the probationary period prior to the last day of the employee's probation.

H. Rejection of a probationer. An agency head may, at any time during the probationary period, reject a probationer without cause and without the right to Council review.

I. Effect of rejection of initial probationer. If an employee is rejected during initial probation the employee shall be separated from the agency.

J. Effect of rejection of promotional probationer. If a regular employee is rejected during promotional probation or probation for a different but equal classification, the agency head shall reappoint the employee to a vacant position in the employee's former classification or an equal position for which the employee is qualified. If there is no vacancy in an appropriate classification, the agency head may temporarily assign the employee until a vacancy is available.

K. Notice of rejection of probation. An agency shall notify a rejected probationer as follows:

1. The employee's manager shall prepare a notice, stating the effective date of the rejection. The manager shall ensure that this date is no later than the last day of the probationary period.

2. The employee's manager shall obtain the agency head's signature on the notice of rejection.
3. The employee's manager shall serve the probationer with the notice, either in person or by mail, on or before the effective date of rejection.
4. The employee's manager shall submit a copy of the rejection notice to the business manager within 20 days after the notice is served.

L. Review of rejection of promotional probation. Within 20 days after the employee's manager delivers or mails the notice, a rejected promotional probationer may file a written request with the Council for review of the rejection. The Council may review the procedures utilized by the agency to assure conformity with Council rules and statutes.

M. Withdrawal of rejection. At any time before the Council acts on a probationer's rejection, the agency head may withdraw the notice of rejection and restore the employee to the previous position or another position for which the employee is qualified.

N. Probation for a returning employee. If a separated employee is reinstated to a classification previously held with permanent status, the agency head may require the employee to serve a probationary period. If a separated employee is recalled or reinstated into a classification different from any classification previously held with permanent status, the employee shall serve a probationary period. If an employee is separated from an agency while serving an initial probation, the employee shall be required to serve an initial probation upon being recalled or reinstated.

O. Probation not required. If an employee is recalled or reappointed within two years after undergoing a reduction-in-force, the employee shall not be required to serve a probationary period if reappointed to the same classification previously held with permanent status. An employee shall not be required to serve another probationary period if the employee is:
1. Reinstated by the Council, or
2. Reassigned or demoted by the agency head into a classification previously held by the employee.

P. Probation for a special limited term employee. An employee in a special limited term position pending completion of requirements for the classification of officer shall serve an initial probation throughout the duration of the special limited term appointment. An employee promoted to officer from a special limited term position shall serve a one-year initial probation in the officer classification.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2). Amended by final rulemaking at 6 A.A.R. 4495, effective November 7, 2000 (Supp. 00-4). Amended by final rulemaking at 7 A.A.R. 5373, effective November 6, 2001 (Supp. 01-4). Amended by final rulemaking at 9 A.A.R. 1619, effective July 5, 2003 (Supp. 03-2).

R13-5-317. Performance Evaluations

A. Establishing a performance evaluation program. The Council shall adopt and an agency shall administer a performance evaluation program. The program shall include a rating system that informs the agency head and the employee of the employee's relative level of performance. The evaluation program shall include training on how to achieve and maintain standard performance and how to improve performance.

B. Performance evaluation manual. The Council shall provide a manual that provides clear and concise guidelines for objectively measuring and reporting employee performance. Only the Council may authorize a revision of the manual. Each employee shall receive a copy of the manual, which includes evaluation procedures and forms.

C. Frequency of evaluation. A supervisor shall evaluate and give each permanent-status employee a written performance evaluation at least one time in each 12 month period. A supervisor shall evaluate a probationary employee at least one time in each six-month period.

D. Effect of failure to evaluate. If an employee's supervisor fails to evaluate the employee, or fails to evaluate the employee by the end of the rating period, the employee shall be given no less than a standard evaluation for that period.

E. Grieving an evaluation. An employee who receives a less than standard rating may file a grievance with the agency head. If the grievance is denied by the agency head, the employee may grieve to the Council any overall rating that:
1. Is less than standard,
2. Would cause a reduction in pay, or
3. Would result in withholding or postponing a salary adjustment.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

ARTICLE 4. ASSIGNMENTS

Editor's Note: Former Article 4, consisting of Section R13-5-20, repealed by final rulemaking at 6 A.A.R. 1982, effective May 10, 2000; new Article 4, consisting of Sections R13-5-401 through R13-5-403, adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-401. Special Duty Assignment

A. General. An agency head may assign an employee to a special duty assignment in the employee's current classification or a higher classification. A special duty assignment is temporary and is not a promotion.

B. Pay and eligibility. An agency head may add special-duty pay to the employee's base pay. If the special duty assignment is for a different or higher classification, the agency head may authorize a pay rate within that classification. A special duty assignment is subject to the following conditions:
1. The assigned employee meets the minimum requirements of the special duty classification; and
2. The assigned employee performs the duties of the assigned classification.

C. Review by Council. Special duty assignments shall be biennially reviewed by the Council no later than September in even numbered years.

D. Return to regular duty. Upon completion of a special duty assignment, the agency head shall discontinue special duty pay and reassign the employee to the previously held position or to a similar position in the same classification at the employee's normal pay level.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-402. Uncovered Appointment

A. Authorization. An agency head may authorize an employee to temporarily accept an uncovered appointment within:
1. The agency,
2. Another state agency,
3. The Governor's office,
4. The Legislature, or
5. Another government agency.

B. Employee rights. A classified employee in an uncovered appointment shall retain all rights of a covered employee

except for the right to appeal removal from the uncovered appointment.

C. Returning to regular duty. Upon completion of an uncovered appointment, the agency head shall reassign the employee to the previously held position or to a similar position in the same classification.

D. Leave policy for an uncovered employee accepting a covered position: An uncovered employee of a state agency or any state budget unit, may transfer accrued annual and sick leave when accepting a covered position with an agency under the jurisdiction of the Council.

1. Annual leave.
   a. Up to 360 hours of annual leave may be transferred at the gaining agency's discretion.
   b. Annual leave in excess of 360 hours shall be paid off by the losing agency.
   c. An employee shall be paid for any annual leave that is not accepted by the gaining agency.
2. Sick leave. All accrued sick leave hours shall be accepted by and transferred to the agency.

Historical Note
New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-403. Transfer of an External Function

A. Transferring a function. If a state program is transferred into an agency, the losing agency shall pay a transferring employee for all accrued compensatory leave as of the date of the transfer. Effective on the date of transfer, the losing agency shall also transfer sufficient funds to the receiving agency to pay for accrued annual leave, recognition leave, and sick leave of a transferring employee.

B. Council action. The business manager shall determine the classification of a transferring employee and recommend that the Council adopt other classifications that need to be added or revised.

C. Transferee status. A transferee shall retain accrued annual leave, recognition leave, sick leave, and length of state service. A transferee shall also retain the transferee's current rate of pay until the Council reviews and approves a new or existing compensation schedule.

D. Appointing a transferee. An agency head shall determine the organizational placement of a transferred program and appoint each transferee to an appropriate position.

E. Probation. A transferee on probation at the time of the transfer shall complete the transferee's probationary period under R13-5-316 before obtaining permanent status.

Historical Note
New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

ARTICLE 5. EMPLOYEE LEAVE

Editor's Note: Former Article 5, consisting of Sections R13-5-25 through R13-5-28, repealed by final rulemaking at 6 A.A.R. 1982, effective May 10, 2000; new Article 5, consisting of Sections R13-5-501 through R13-5-513, adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-501. Employee Leave Guidelines

A. Accrual of leave. An employee may accrue the following types of paid leave:

1. Annual leave,
2. Holiday leave, and
3. Sick leave.

B. Accruing leave. An employee shall accrue leave for a pay period if the employee is in pay status for at least one-half of the employee's normal scheduled work week.

C. Part-time employees. A part-time employee scheduled to work 20 or more hours in a week shall accrue leave based on the percentage of full-time hours specified in the appointment. An employee scheduled to work less than 20 hours in a week shall not accrue leave.

D. Leave request. An employee shall not use leave before it is accrued. An employee shall obtain supervisory approval before taking leave. An agency may establish a policy allowing delayed notice to the employee's supervisor in emergency situations.

E. Time accounting record. An agency shall maintain a record of time worked, leave earned, leave taken, and accrued leave balances for an employee. A non-exempt employee shall report all time worked and all leave taken on a weekly basis. An exempt employee shall report leave taken as directed by agency policy.

Historical Note
New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2). Amended by final rulemaking at 12 A.A.R. 1756, effective July 2, 2006 (Supp. 06-2).

R13-5-502. Administrative Leave

An agency head may authorize administrative leave with pay:

1. During a disaster, state of emergency, or a day of mourning declared by the Governor;
2. When an employee is instructed to not report for duty, or to return home because of a hazardous condition; or
3. To temporarily relieve an employee from duty for the good of the agency or the employee.

Historical Note
New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-503. Annual Leave

A. Computing length of service. For determining an annual leave accrual rate, an employee's length of service shall begin on the first day of the first qualifying pay period of employment. Only a qualifying pay period is counted before and after a break-in-service. Previous periods of service as a state employee are counted toward annual leave accrual. Periods of military leave and active military service are included in computing annual leave if the employee meets the requirements of A.R.S. § 38-610.

B. Accruing annual leave. A full-time employee shall accrue annual leave under the following schedule:

Beginning	Completion	Biweekly accrual rate
1st year	5th year	4.62 hours
6th year	10th year	5.54 hours
11th year	20th year	6.47 hours
21st year		7.39 hours

C. Progression of annual leave. An employee shall progress to the next higher accrual rate on the first day of the pay period following completion of the required length of service.

D. Using annual leave. An employee may use accrued annual leave under state and federal law and agency policy. The employee shall schedule the use of accrued annual leave through the employee's supervisor.

E. Maximum accumulation and disposition. An employee may accumulate annual leave without limit during a year. At the

end of each year, an employee's annual leave balance shall not exceed 360 hours. It shall be the responsibility of each employee to schedule annual leave to avoid having a balance over 360 hours at the end of the year. If an employee's annual leave balance on January 1 exceeds 360 hours, the agency head may withdraw the excess and deposit the hours as sick leave in the employee's sick leave balance. The agency head may authorize a later date for conversion of excess annual leave if an employee's duty assignment, receipt of recognition leave, injury, or illness prevents timely use of annual leave.

F. Compensation for unused leave. Upon separation from agency employment, an employee is paid for any unused annual leave remaining in the employee's account at the average rate received by the employee in the last three years of the employee's employment or the employee's current rate of pay, whichever is higher.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2). Amended by final rulemaking at 6 A.A.R. 4495, effective November 7, 2000 (Supp. 00-4). Amended by emergency rulemaking at 10 A.A.R. 1163, effective March 4, 2004 (Supp. 04-1). Emergency expired after 180 days; the Section on file prior to the emergency has been restored (Supp. 05-4). Amended by final rulemaking at 12 A.A.R. 1756, effective July 2, 2006 (Supp. 06-2).

R13-5-504. Civic Duty

A. Voting. Under conditions outlined in A.R.S. § 16-402, an employee may be absent with pay for the time required to vote.

B. Jury duty. An employee shall report for jury duty as directed by a summons unless officially excused by the Jury Commissioner for reasons under A.R.S. § 21-202. When summoned, the employee shall notify or provide the immediate supervisor with a copy of the summons.

1. While on jury duty, an employee is considered absent with pay.
2. Upon receipt of a summons for jury duty, a commissioned employee shall notify the Jury Commissioner of the employee's peace officer status.

C. Witness. An employee subpoenaed as a witness is considered absent with pay, unless the subpoena is unrelated to agency business.

D. Fees. An employee paid for civic duty under this Section shall forward all jury duty or witness fees to the agency.

E. Vehicle mileage reimbursement. An employee may retain any mileage reimbursement paid by the court for the use of a privately owned vehicle. An employee shall remit to the agency any mileage reimbursement for use of a state-owned vehicle.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2). Amended by final rulemaking at 9 A.A.R. 1619, effective July 5, 2003 (Supp. 03-2).

R13-5-505. Compensatory Leave

A. Compensatory leave. An agency shall establish policies and guidelines for accruing compensatory leave under the overtime provisions of the Fair Labors Standards Act.

B. Using compensatory leave. An employee may use accrued compensatory leave under state and federal law and agency policy. The employee shall schedule the use of accrued compensatory leave through the employee's supervisor.

C. Payment upon separation. Upon separation from an agency, an employee shall be paid for any accrued compensatory leave remaining in the employee's account at the average rate received by the employee in the last three years of the employee's employment or the employee's current rate of pay, whichever is higher.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-506. Donated Annual Leave

A. Definitions for purposes of this Section:

1. "Recipient" means an employee in the same agency as a donating employee or a family member of the donating employee who is employed in another agency, department, board, or commission.
2. "Family member" means a spouse, natural child, adopted child, foster child, stepchild, natural parent, stepparent, adoptive parent, grandparent, grandchild, brother, sister, sister-in-law, brother-in-law, son-in-law, daughter-in-law, mother-in-law, or father-in-law.
3. "Immediate family" means a spouse, child, brother, sister, natural parent, stepparent, adoptive parent, or an individual for whom a recipient has legal guardianship.
4. "Extended illness or injury" means a period of at least three consecutive weeks to a maximum of six consecutive months.
5. "Seriously incapacitating" means an illness or injury that renders an employee unable to perform the employee's duties, or that confines an immediate family member to home or hospital.

B. Donating leave. An employee may donate accrued annual leave to a recipient who qualifies for donated leave under the personnel rules of the agency where the recipient is employed and who has exhausted all available leave balances. An employee may donate accrued annual leave by submitting a written notice to the Human Resources section of the donating agency with the information required under the agency's policies.

C. Qualifying for donated leave. An employee may request and use donated annual leave if the employee has a seriously incapacitating or extended illness or injury or a member of the employee's immediate family has a seriously incapacitating and extended illness or injury and the employee has exhausted all available leave balances.

1. An employee requesting donated leave shall submit a written request for donated leave under the agency's policy. An agency shall approve only those requests that qualify for donated leave under this Section.
2. Except as provided in subsection (C)(3), an employee receiving donated leave shall not use more than six consecutive months of donated leave per illness or injury.
3. If an employee who has a seriously incapacitating or extended illness or injury applies for long-term disability (LTD) insurance by the end of the fifth month of leave, the employee may continue to use donated leave until an LTD determination is made.

D. Calculating donated leave. An agency shall convert the number of hours of annual leave donated in proportion to the hourly rate of pay of the donating employee and the recipient. Donated hours are converted by multiplying the number of hours donated by the donating employee's hourly rate of pay and dividing the result by the recipient employee's hourly rate of pay. An agency shall add hours converted to the recipient's sick leave balance as needed.

E. Distributing unused leave. If a recipient separates from state service before the recipient uses all donated leave, no longer qualifies for donated leave, or otherwise no longer needs

donated leave, the agency shall return unused leave to the contributor of the donated leave on a pro-rata basis, unless a contributor gives written notice to Human Resources to deposit the unused leave into an agency "donated-leave bank" for use of other employees in the future.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 5373, effective November 6, 2001 (Supp. 01-4). Amended by final rulemaking at 9 A.A.R. 1619, effective July 5, 2003 (Supp. 03-2).

13-5-507. Holiday Leave

A. Paid holidays. An agency shall observe the holidays authorized under A.R.S. § 1-301.

B. Eligibility. To be eligible for holiday leave, a full-time employee shall be in pay status for 10 or more hours in the work week in which the holiday occurs. A part-time employee shall be in pay status for five or more hours in the work week. The holiday hours that would be accrued cannot be used to satisfy any part of this requirement.

1. If a holiday occurs on an employee's regular work day, the employee may be absent with pay for the number of hours the employee is regularly scheduled to work, up to a maximum of eight hours, unless the employee is required to work to maintain essential state services.
2. An employee required to work on a holiday shall receive pay for the time worked, and leave hours for the number of hours regularly scheduled to work on that day, up to a maximum of eight hours.
3. If a holiday occurs on a day when an employee is scheduled to work, but the employee is unable to work because of an illness or injury, the employee may take sick leave and accrue holiday leave credits as provided under subsection (C) for the number of hours regularly scheduled to work on that day, up to a maximum of eight hours.
4. An employee not scheduled to work on a holiday shall receive leave credits up to a maximum of eight hours.

C. Accruing holiday leave. An agency may credit holiday leave to the employee's annual leave balance or establish a separate balance for holiday leave. The agency shall add accrued holiday leave to an employee's annual or holiday leave balance.

D. Using holiday leave. An employee may use accrued holiday leave under state and federal law and agency policy. The employee shall schedule the use of accrued holiday leave through the employee's supervisor.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2). Amended by final rulemaking at 12 A.A.R. 1756, effective July 2, 2006 (Supp. 06-2).

R13-5-508. Industrial Leave

An agency shall establish policies and procedures to comply with statutes regulating industrial leave under A.R.S. § 23-901, et seq. and A.R.S. § 23-1043.02.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-509. Leave Amortization

An agency may provide a leave amortization plan for an employee planning to retire.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-510. Leave Without Pay

A. Short-term leave without pay.

1. An agency head shall place an employee on leave without pay when the employee is unable to report to work due to illness or non-industrial injury and the employee has no accrued or donated leave balance to cover the absence. The supervisor may require the employee to submit supporting documentation for sick leave without pay. If the absence exceeds five working days, the employee must request leave without pay as outlined in subsection (A)(2) of this Section.
2. An employee may request a leave of absence without pay of 30 working days or less by notifying the employee's manager as soon as possible and submitting a signed memorandum. The employee shall include the reason for the request and the employee's intended departure and return-to-duty dates. The agency head may approve or deny the request and may set a date for the employee's return. If the leave is approved, the employee's manager shall notify the employee in writing, including any stipulation of approval. If the employee returns on schedule, the employee shall retain the position held before the leave of absence.

B. Extended leave without pay. An employee may request an extended leave-of-absence without pay of over 30 working days by notifying the employee's manager as soon as possible and submitting a written request under the agency's policies and procedures.

1. Approval. An agency head may approve an extended leave without pay. If extended leave without pay is approved, an employee shall sign a leave of absence agreement with the agency. The leave-of-absence agreement shall outline the conditions of the leave and the employee's return to work.
2. Cancellation. An agency head may cancel a leave-of-absence without pay for any of the following reasons:
   a. The employee violates any condition of the leave-of-absence agreement, including failure to return to work on schedule;
   b. The agency head directs the employee to return to duty because of a need for the employee's services; or
   c. The employee requests to return early from the leave-of-absence.
3. Return to work. An employee shall return to duty on schedule from any approved leave of absence unless an extension is approved by the agency. When an employee returns from an extended leave without pay, the agency head shall return the employee to the same position, to another position in the same classification, or to a position in a similar classification for which the employee is qualified, provided:
   a. The employee complied with all terms of the leave-of-absence agreement, and
   b. The employee passes background screening by the agency head.

C. Disposition of accrued leave. An employee may retain annual and sick leave balances while on an extended leave-of-absence. An employee shall be paid for any unused compensatory or holiday leave balances at the beginning of an extended leave-of-absence. If an employee is granted leave without pay to accept an uncovered appointment with the Governor, the Legislature, or another state agency, the agency head shall transfer the employee's accumulated sick leave to the receiving agency. The employee's annual leave may also be transferred if the employee and both agencies agree.

Historical Note
New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-511. Military Leave of Absence

A. Privileges of military service. An employee shall receive all rights provided by state and federal law for a military leave-of-absence under A.R.S. § 26-168 and A.R.S. § 38-610.

B. Notifying the agency. An employee expecting an assignment to military duty shall notify the immediate supervisor as soon as possible. Upon receiving orders to report, the employee shall submit a copy of the orders and a written request for military leave to the employee's supervisor. The supervisor shall process the request under the agency's policy and procedure for a military leave-of-absence.

C. Extended military leave. If an employee's orders for active duty exceed the time limit for paid military leave, the employee may request to use accrued leave or leave without pay for the remainder of the military leave.

D. Returning to position. Upon return from military leave-of-absence, an agency head shall restore an employee to the position held before the military leave-of-absence, or to a similar position within the employee's classification.

E. Promotion. Upon return from a military leave-of-absence, an employee may be promoted by the agency head if the employee's name was on a promotional list at the time of activation into military service.

Historical Note
New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-512. Recognition Leave

A. Employee recognition. An agency head may grant paid time off as part of recognition given to worthy employees under a formal awards program, or as an incentive for continued superior performance. The agency shall publish recognition leave guidelines for annual nominations, selections, and awards.

B. Adding to leave balance. An employee awarded recognition leave shall receive annual leave hours added to the employee's leave balance.

Historical Note
New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-513. Sick Leave

A. Definitions. The following definitions shall apply in this Section:
1. "Family sick leave" means:
   a. Providing personal care or attending to an employee's family member who has a serious illness, injury, or temporary disability;
   b. A medical appointment for a family member or transporting of a family member to a medical appointment by a licensed health care provider; or
   c. Attendance at the death or funeral of an employee's family member.
2. "Family member" means a spouse, natural child, adopted child, foster child, stepchild, natural parent, stepparent, adoptive parent, grandparent, grandchild, brother, sister, sister-in-law, brother-in-law, son-in-law, daughter-in-law, mother-in-law, or father-in-law.

B. Accruing sick leave.
1. A full-time employee shall receive 4.62 hours of sick leave biweekly.
2. The following employees are not eligible for sick leave:
   a. A part-time employee working less than 20 hours in a week,
   b. An intern, and
   c. An intermittent employee.
3. An employee shall receive sick leave credit if the employee is in pay status for at least one-half of the employee's normally scheduled work week.
4. Sick leave may be accrued without limit.

C. Using sick leave. A supervisor shall authorize sick leave if an employee is absent because of:
1. An illness that makes the employee unable to perform official duties,
2. An appointment with a licensed health care provider, or
3. Family sick leave.

D. Family sick leave limits. Family sick leave shall not exceed 40 hours in a year. An employee may use annual leave to supplement or instead of family sick leave. If an employee has used the authorized 40 hours of family sick leave and exhausted all compensatory and annual leave, the agency head may authorize the employee to use the employee's sick leave.

E. Supervisory review of sick leave. A supervisor may require supporting documentation for any sick leave. If the employee fails to provide necessary documentation of the use of sick leave or violates any provision of this Section, the employee's supervisor may disapprove the sick leave and charge the absence to the employee's annual leave or leave without pay. When an employee has been on sick leave for five or more consecutive days, the supervisor may require the employee to submit evidence that the employee consulted a doctor.

F. Returning from sick leave. An employee shall return to duty or to limited duty as soon as the employee is able to do so with permission of the employee's physician and without posing a risk to the employee or others.

G. Medical review. If a supervisor is concerned about a returning employee's fitness for duty, the supervisor may request a medical evaluation under R13-5-315(B), or request that the employee be temporarily assigned to limited duty.

H. Forfeiture of sick leave. An employee shall forfeit accumulated sick leave upon separation from state service, unless eligible for payment under the provisions of A.R.S. § 38-615.

I. Restoring sick leave. If a former employee is recalled, reinstated, or rehired within two years, an agency shall restore the employee's previous sick leave balance. Sick leave for which the employee received compensation under A.R.S. § 38-615 is excluded from restoration.

J. Sick leave credit for Arizona state service. Upon appointment to an agency, an Arizona state employee with previously accrued sick leave may have the sick leave credit added to the employee's leave balance, provided:
1. The employee does not receive compensation for accrued sick leave upon separating from a state agency;
2. The employee is hired within two years of separating from a state agency; and
3. The employee was hired after December 31, 1996.

K. Agency leave policy. An agency shall establish a sick leave policy that complies with all of the provisions of the Family and Medical Leave Act.

Historical Note
New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2). Amended by final rulemaking at 6 A.A.R. 4495, effective November 7, 2000 (Supp. 00-4). Amended by emergency rulemaking at 10 A.A.R. 1163, effective March 4, 2004 (Supp. 04-1). Emergency expired after 180 days; the Section on file prior to the emergency has been restored (Supp. 05-4). Amended by final rulemaking at 12 A.A.R. 1756, effective July 2, 2006 (Supp. 06-2).

ARTICLE 6. GRIEVANCES

Editor's Note: Former Article 6, consisting of Sections R13-5-30 through R13-5-36, repealed by final rulemaking at 6 A.A.R. 1982, effective May 10, 2000; new Article 6, consisting of Sections R13-5-601 and R13-5-602, adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-601. Agency Grievance System

A. General. The agency shall provide a system for considering and responding to an employee grievance regarding classification, compensation, performance evaluation, and application of Council rules.

B. Denial. When an agency head denies an employee grievance regarding classification, compensation, performance evaluation, or application of Council rules, the agency head shall notify the Council.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-602. Council Review

A. General. The Council shall only review a grievance related to classification, compensation, employee appraisal system, and application of Council rules after the employee exhausts the remedies in the agency's grievance process. If the grievance remains unresolved, the employee may file a request for Council review within 20 days after the employee receives the agency's notice of denial of the grievance.

B. Procedure. An employee shall submit a written request for Council review of a grievance.
1. The employee's request shall include:
   a. The specific relief sought by the employee;
   b. The asserted factual basis for relief, and
   c. An account of the agency's response during the internal grievance process.
2. Upon receipt of the request, the Council shall send a copy of the request to the agency head.

C. Response. The agency may file a written response with the Council at any time before the Council reviews the grievance. The agency head shall send a copy of the response to the employee at least 10 days before the Council reviews the grievance. At the employee's request, the 10 days may be waived.

D. Informal dispositions. The Council may informally dispose of a grievance without further review of the merits, under any of the following methods:
1. By withdrawal, if the employee withdraws the grievance in writing or on the record at any time before a decision is issued;
2. By default to the appearing party, if the employee or the agency, fails to appear at the meeting; or
3. By stipulation, if the parties agree on the record or in writing at any time before the Council issues a decision on the grievance.

E. Council review. The Council shall review an employee's grievance in an open meeting. The Council shall allow the employee to make a statement in support of the grievance, and shall allow the agency an opportunity to respond. The Council may limit the length of the parties' statements. In its discretion, the Council may allow the employee or the agency to present testimonial or documentary evidence on the issue. If the Council allows a party to offer evidence, the Council shall allow the other party an opportunity to respond with argument or evidence. The Council may limit the time parties are allowed to present evidence.

F. Scheduling of Council review. An employee's grievance shall be scheduled for the next available business meeting of the Council but no sooner than 20 days after the grievance was received by the business manager. At the employee's request, the 20 days may be waived.

G. Representation by counsel. Both the agency and the employee may have counsel present during the Council's review of the grievance.

H. Decision. The Council shall state its decision in an open meeting. The Council shall sustain the agency's action on the grievance unless it finds the agency's denial is not supported by substantial evidence or is inconsistent with Council rules.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

ARTICLE 7. DISCIPLINE AND APPEALS

Editor's Note: Former Article 7, consisting of Sections R13-5-40 through R13-5-43, repealed by final rulemaking at 6 A.A.R. 1982, effective May 10, 2000; new Article 7, consisting of Sections R13-5-701 through R13-5-705, adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-701. Causes for Discipline.

The causes for discipline are found in A.R.S. § 41-1830.15.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-702. Disciplinary Procedures

A. Receiving a complaint. A person may file a complaint with an agency asserting that an employee engaged in activity constituting cause for discipline and requesting that the agency head take appropriate disciplinary action against the employee.

B. Initiating disciplinary action. An agency head may take appropriate disciplinary action against an employee for any cause listed in A.R.S. § 41-1830.15.

C. Interview of an employee. In conducting an interview of an employee being investigated for possible disciplinary action, an agency shall comply with A.R.S. § 38-1101(A) and (B).

D. Time limit for filing a disciplinary action. An agency shall not file a disciplinary action later than 120 days after the date the agency discovers or should have discovered that the employee engaged in alleged activity constituting cause for discipline. The disciplinary action is deemed to be filed when the notice is filed with the Council.

E. Exceptions to the 120-day rule.
1. The time limit in subsection (D) does not run:
   a. During a criminal investigation by a law enforcement or prosecutorial agency; or
   b. During any period of time the employee who is the subject of an investigation is absent from the agency on leave, if the absence prevents the agency from proceeding with the normal investigation and disciplinary review process.
2. At the request of an agency, the Council may, upon a showing of good cause, extend the time for an agency to file a disciplinary action up to a maximum of 90 days beyond the original 120-day period.
3. If a manager or supervisor is aware of an employee's alleged actions that constitute a criminal offense but fails to act, the time limit does not run during the period of the manager or supervisor's inaction if the supervisor or manager is disciplined for failure to act and:
   a. The offense is a misdemeanor involving theft or moral turpitude and is discovered within 120 days

after the end of the 120-day period for taking disciplinary action, or
b. The offense is a felony.
4. The agency shall maintain documentation to support any exception to the 120-day time limit, including the dates during which the time limit does not run.

F. Notice of disciplinary action. An agency head shall serve a written notice on the employee within 10 days after the agency files the notice of disciplinary action with the Council. Service shall be completed in accordance with R13-5-104(D). The agency head's notice shall include:
1. A statement of the nature of the disciplinary action;
2. Any prior disciplinary action on which the current discipline is based;
3. The effective date of the action;
4. A specific statement of the causes; and
5. A statement of the employee's right to appeal and the time limit in which the employee must file an appeal with the Council under R13-5-703(A), (B), and (C).

G. Amended notice of disciplinary action before appeal is filed. At any time before an employee files an appeal, the agency head may file with the Council and serve the employee or former employee with an amended or supplemental notice of disciplinary action.

H. Effect of dismissal. An employee's dismissal from the agency shall entail:
1. Dismissal from all positions held by the employee,
2. Removal of the employee's name from all employment or promotional lists, and
3. Termination of the employee's pay on the date of dismissal.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2). Amended by final rulemaking at 12 A.A.R. 1756, effective July 2, 2006 (Supp. 06-2).

R13-5-703. Appeal to the Council

A. Appealable actions. An employee may appeal any disciplinary action that results in the employee's dismissal, demotion, suspension without pay, forfeiture of accrued leave time, or reduction of pay.

B. Form of appeal. To initiate an appeal, an employee shall submit a signed written appeal to the business manager stating the specific grounds for the appeal.

C. Time for appeal. An employee shall file an appeal within 30 days after being served with the notice of disciplinary action.

D. Agency responsibility. An agency shall have the burden of going forward with the case once an appeal has been filed. An agency must prove the cause for disciplinary action by a preponderance of the evidence.

E. Effect of appeal. The Council shall determine whether the cause for the disciplinary action is supported by law and the evidence. The Council may sustain, modify, or rescind the disciplinary action. If the disciplinary action is rescinded, the Council shall order the agency head to reinstate the employee and to pay the employee accumulated back pay.

F. Amended notice of disciplinary action after employee files an appeal. If good cause exists, an agency head may file with the Council a motion to amend the notice of disciplinary action. The motion shall be filed no later than 30 days before the hearing.

G. Notice of hearing. The Council shall notify the parties of the time and place of the hearing.

H. Failure to appear. If a party, without good cause, fails to appear at the time and place set for a hearing, the Council may find in favor of the appearing party.

I. Conduct of hearings. The Council shall sit as a whole at a hearing, unless a Council member declares a conflict or is unable to attend. Only a Council member who was present at a hearing may participate in making the decision. Council members may administer oaths, issue subpoenas for the attendance of witnesses and the production of books or papers, and cause the depositions of witnesses residing within or outside the state to be taken in the manner prescribed by law for depositions in civil cases in the Superior Court of this state.

J. Witness fees. Witnesses at a hearing, other than employees, are entitled to the fees allowed witnesses under A.R.S. § 12-303.

K. Payment of witness fees. If the Council subpoenas a witness on its own initiative, the Council shall pay the witness' fees and mileage. The requesting party shall pay the fees for subpoenaed witnesses. An employee appearing as a witness on duty shall receive travel expenses from the agency and shall not be entitled to witness fees.

L. Discovery.
1. Within three business days after receiving a written request from the employee, the agency shall provide a complete copy of the investigative file, as well as the names and home or work mailing addresses of all persons interviewed during the course of the investigation, to the employee. For the purpose of this subsection, hand written notes substantially incorporated within a report are not considered part of the investigation file.
2. Within 20 days after receiving the investigative file, the employee shall provide all material relating to the defense of the employee to the agency.
3. After initial discovery, each party shall provide all new material relating to the case to the other party within 10 days after receipt.
4. No later than five business days before the hearing, or if the hearing is scheduled more than 20 days after the notice of appeal was filed, no later than 10 business days before the hearing, the agency and the employee shall exchange copies of any documents that may be introduced at the hearing and that have not been previously disclosed.
5. No later than five business days before the hearing, or if the hearing is scheduled more than 20 days after the notice of appeal was filed, no later than 10 business days before the hearing, the agency and the employee shall exchange the names of all witnesses who may be called to testify. A witness may be interviewed at the discretion of the witness. The parties shall not interfere with any decision of a witness regarding whether to be interviewed. An agency shall not discipline, retaliate against, or threaten to retaliate against, any witness for agreeing or not agreeing to be interviewed or for testifying or providing evidence in the hearing.
6. No later than five business days before the hearing, the agency and the employee shall provide all documents that will be used at the hearing and a list of intended witnesses to the office of the Council.
7. If a party fails to provide material as required, the Council may preclude its use at the hearing.

M. Motions. All motions shall be in writing and filed no later than 20 days prior to the hearing. A response shall be filed in writing within 10 days after service of the motion. The chair may designate one or more members of the Council to hear and rule on a motion, except a motion to dispose of the case requires a vote of a majority of the Council.

N. Pleadings. The Council may strike a pleading not filed in accordance with this Section.

O. Depositions:
1. On the motion of a party, the Council may order the deposition of a witness under the following circumstances:
   a. The witness does not reside within the state or is out of state,
   b. The witness is too ill to attend the action before the Council, or
   c. The deposition is for the purpose of discovery in preparing a case before the Council.
2. The requesting party shall pay the expense of any deposition. An employee of the agency is not entitled to a witness fee for giving a deposition.
3. The deposition of a witness who is unavailable to appear at a hearing may be used in evidence by either party or the Council.

P. Open hearings. The Council's hearings shall be open to the public. The Council may, upon request of a party, exclude nontestifying witnesses from the hearing. The Council may keep excluded witnesses separated and prevent them from communicating with each other until all are examined.

Q. Minor discipline hearings. When the Council hears appeals of suspension without pay of 24 hours or less or the deduction of 24 hours or less from an employee's annual leave balance, each party shall have no more than three hours to present evidence unless the Council allows more time to assure a fair hearing.

R. Legal counsel or representative. Before the hearing of any appeal, each party shall designate its legal counsel or representative for the record. The Council shall advise each party without legal counsel that the party may obtain and be represented by counsel at the hearing. At the request of a party, the Council may postpone the hearing for a reasonable length of time to allow a party to obtain legal counsel.

S. Presentation of evidence. Both parties may present evidence and witnesses either personally or through a representative. The Council shall exclude evidence irrelevant to the causes set forth in the notice of disciplinary action.

T. Settlement of disputes. If requested by the employee, the parties shall submit the terms of settlement to the Council. If the Council approves the settlement, the settlement becomes final. If no settlement is reached, or if the proposed settlement is revoked or rejected by the Council, or withdrawn by either party, or if the settlement agreement is later vacated or reversed by a court, neither the settlement discussion nor any resulting agreement shall be admissible against the employee in any hearing before the Council on the matter.

U. Decision. In arriving at a decision, the Council may consider any disciplinary action taken within the previous 10 years against the employee, if the information is introduced at the hearing. The Council's decision shall contain findings of fact and its order for disposition of the case.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2). Amended by final rulemaking at 9 A.A.R. 1619, effective July 5, 2003 (Supp. 03-2). Amended by final rulemaking at 12 A.A.R. 1756, effective July 2, 2006 (Supp. 06-2).

R13-5-704. Rehearing of Council Decision

A. Motion for rehearing.
1. Except as provided in subsection (C), any party in a contested case or appealable agency action may file a written motion for rehearing within 30 days after service of the decision. The requesting party shall specify the grounds for a rehearing, as provided in subsection (B). A respondent may file a response to the motion within 15 days after service.
2. A party filing a post-hearing motion shall include references to the record where appropriate.
3. The Council may require the parties to file written memoranda upon the issues raised in the motion and may permit oral argument.
4. The Council may grant a rehearing on all or part of the issues. If a rehearing is granted, the Council shall specify the grounds for the rehearing, and the rehearing shall cover only those matters.

B. Basis for a rehearing. The Council may grant a rehearing for any of the following causes:
1. The Council acted in an arbitrary or capricious manner or abused its discretion;
2. Misconduct of the Council or the prevailing party;
3. Newly discovered material evidence which, with reasonable diligence, could not have been discovered and produced at the original hearing;
4. Error in the admission or rejection of evidence or other errors of law occurring at the hearing or during the progress of the action;
5. The decision was not supported by the evidence; or
6. The decision is contrary to law.

C. Decisions not subject to rehearing. The Council may issue a decision as final upon making a specific finding that a decision's immediate effectiveness is necessary for the preservation of the public peace, health, or safety, or that a rehearing of the decision is impractical, unnecessary, or contrary to the public interest.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2). Amended by final rulemaking at 9 A.A.R. 1619, effective July 5, 2003 (Supp. 03-2).

R13-5-705. Time Limits

Computation of time limits. In computing any period of time prescribed or allowed by this Chapter the day of the act or event from which the designated period or time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

ARTICLE 8. SEPARATION FROM EMPLOYMENT; RETIREMENT SYSTEM ELIGIBILITY

Editor's Note: Former Article 8, consisting of Sections R13-5-45 through R13-5-48, repealed by final rulemaking at 6 A.A.R. 1982, effective May 10, 2000; new Article 8, consisting of Sections R13-5-801 through R13-5-804, adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-801. Resignation or Retirement

A. Notice of resignation or retirement. An employee shall resign or retire from the agency by submitting a letter addressed to the agency head and stating the effective date of the separation.

B. Oral resignation or retirement. If an employee resigns or retires orally rather than in writing, the employee's manager shall document the employee's stated separation date and for-

ward the notice through the chain-of-command to the agency head.

C. Abandonment of position. If an employee abandons a position, it shall be deemed to be a voluntary resignation from the agency. The employee's manager shall document the employee's failure to show up for work and forward the notice through the chain-of-command to the agency head.

D. Refusal of resignation. An agency head may refuse to accept a resignation and may dismiss an employee under R13-5-701(B).

E. Withdrawal of resignation. An employee may withdraw a resignation only by submitting to the agency head a written notice of withdrawal before the employee's separation date. If a withdrawal is not submitted before the separation date, the resignation is final unless both the agency head and the employee agree to withdraw the resignation.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-802. Reduction in Force

A. General. The agency head may conduct a reduction in force when necessary because of a decrease in authorized positions, service area, funding, program responsibilities, or because of a legislative or executive mandate. If the reduction in force involves removal of a filled position, the agency shall not re-establish the position for two years, unless removal of the position was caused by fiscal constraints, legislative action, or court order.

B. Alternate methods. An agency head may pursue alternative methods of reducing costs without reducing the number of employees. Council approval will be required when:

1. Temporarily reducing all employees' pay, or
2. Assigning all employees time off without pay.

C. Order of layoff. An employee shall be separated from an agency in the following order of preference:

1. Internship appointment,
2. Intermittent appointment,
3. Part-time appointment,
4. Provisional appointment,
5. Probationary limited-term appointment who has not established permanent status,
6. Limited-term appointment who has completed a probationary period but has not established permanent status,
7. Probationary appointment in a non-limited term position, and
8. Permanent status appointment.

D. Laying off a probationer and special duty assignee. An employee on promotional probation or special duty shall compete for retention in the highest classification for which the probationer or assignee hold permanent status.

E. Laying off a limited-term employee. A limited-term employee shall compete for retention only against other limited-term employees.

F. Laying off a permanent status employee. If it becomes necessary to reduce the number of full-time employees holding regular appointments, an agency shall use the following method:

1. An employee with the least seniority within a classification shall be the first employee reduced from that classification.
2. An employee who is declared surplus to a classification may displace only the least senior employee in other classifications in which the employee previously held seniority rights.

G. Determining seniority. Seniority within a classification shall be determined by the number of retention points of an employee. An employee with a greater number of retention points will be senior to another employee with lesser retention points within a classification.

H. Using retention points. Regular employees who have the least retention points shall be considered first for transfer, classification reduction, or separation.

I. Calculation of retention points within a classification. An employee shall receive one retention point for each month of service within the employee's classification.

J. Calculation of retention points in a classification for which the employee has established rights. If an employee is transferred to a classification previously held by the employee, the employee shall receive one retention point for each month of service in that classification and one retention point for each month of service in a higher or equal classification.

K. Eligibility for retention points. The following guidelines shall be used in determining an employee's eligibility for retention points:

1. If the employee was in pay status for at least half of the employee's working days in that month.
2. An employee shall receive credit for agency service before a separation if the separation was less than two years.
3. An employee shall receive credit for periods of military leave under 38 U.S.C. 4311.
4. An employee shall receive credit for periods of uncovered appointments with the agency.
5. An employee's prior state service in a position transferred to the agency shall be counted.
6. An employee shall not receive credit for periods constituting a break-in-service. However, periods of time before and after such break-in-service shall be counted.

L. Resolution of a tie. If employees have the same number of retention points, the agency shall resolve tied scores by applying the following tie-breakers in the following order of precedence:

1. The employee with the greatest length of qualifying service with the agency,
2. The employee with the greatest length of qualifying service with the state,
3. The employee who placed highest on the eligibility list for the classification, or
4. If a tie continues to exist, it shall be broken by a lottery system.

M. Offer of a position in a different classification. An employee who meets the qualification for a different classification but has not previously established displacement rights may be offered reassignment to a position within that classification provided that such reassignment does not displace another employee in that classification.

N. Notifying employees. An agency shall give written notice at least 20 days in advance to each employee being reassigned or separated. The Council may waive the 20 day notice upon proper justification for a reduced time limit. The agency's notice shall include the number of retention points assigned to the employee, the effective date of the action, the new job classification, the pay rate, the location of the position, the employee's right to request a review of the action, and the employee's recall rights, if applicable.

O. Employee request for review.

1. Within five days of receipt of a reassignment or separation notice, an employee may submit a written request to the agency head for a review of the procedures resulting in the employee's reassignment or separation. The employee's request shall contain information concerning any errors in the calculation of retention points and a pro-

posed resolution. The agency head shall review the request and respond to the employee within five days after receipt of the request.

2. An employee who wishes further review may submit a written request to the Council within 20 days after receiving the agency head's response. The Council shall investigate and respond to the employee and the agency head by submitting a final decision on the review within 30 days after receiving the employee's request.

P. Employee assistance. An agency shall establish a plan to assist all employees who are separated from the agency through a reduction in force.

Q. Reappointment list. If a permanent status employee is appointed to a lower classification as a result of a reduction in force or reallocation, Human Resources shall place the employee's name on a reappointment list for the last classification held and any previously held classification for which the employee is still qualified.

R. Recall list. If an employee is laid off due to a reduction in force, Human Resources shall place the former employee's name on a recall list for the last classification held and any previously held classification for which the former employee qualifies.

S. Order of names. On both recall and reappointment lists, Human Resources shall arrange the names of former employees in descending order of their retention points. If candidates have the same number of retention points, Human Resources shall resolve tied scores by applying the following tie-breakers in the following order of precedence:

1. The employee with the greatest length of qualifying service with the agency,
2. The employee with the greatest length of qualifying service with the state,
3. The employee who placed highest on the eligibility list for the classification, or
4. If a tie continues to exist, it shall be broken by a lottery system.

T. Duration of list. A former employee's name shall remain on a recall list for up to three years from the date of separation. The name of a reappointment candidate shall remain on the reappointment list until promoted or the employee separates from the agency.

U. Background screening. A candidate on a recall list shall be subject to a background screening process.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-803. Disability

An agency head shall establish policies and procedures for discontinuing the employment of an employee who becomes disabled and is unable to perform the essential functions of the job. Such policies and procedures shall comply with the applicable state and federal laws.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2).

R13-5-804. Public Safety Personnel Retirement System Eligibility

A. Membership in the Arizona Public Safety Personnel Retirement System is designated by the Council under A.R.S. § 38-842(20)(a) Commissioned employees are eligible for membership in the Public Safety Personnel Retirement System.

B. Employees who were in the following non-commissioned classifications on December 1, 1972, shall be eligible for membership in the Public Safety Personnel Retirement System:

1. Communications Technician, and
2. Radio Mechanic.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2090, effective May 10, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 5373, effective November 6, 2001 (Supp. 01-4). Amended by final rulemaking at 12 A.A.R. 1756, effective July 2, 2006 (Supp. 06-2).

ARTICLE 9. REPEALED

Editor's Note: Article 9, consisting of Section R13-5-50, repealed effective June 7, 1978 (Supp. 78-3).

41-1830.12. Law enforcement merit system council; duties; authority; rules; business manager; definitions

A. The law enforcement merit system council shall:

1. Select a chairman and vice-chairman.

2. Hold meetings that are necessary to perform its duties on the call of the chairman.

3. Adopt rules pursuant to recognized merit principles of public employment it deems necessary for establishing the following for department of public safety and Arizona peace officer standards and training board personnel:

(a) A classification and compensation plan for all covered positions and for establishing standards and qualifications for all classified positions from a list of necessary employees that is prepared by the director of the employing agency.

(b) A plan for fair and impartial selection, appointment, probation, promotion, retention and separation or removal from service by resignation, retirement, reduction in force or dismissal of all classified employees.

(c) A performance appraisal system for evaluating the work performance of employees of the agencies.

(d) Procedures for the conduct of hearings of employee grievances that are brought before the council relating to classification, compensation and the employee appraisal system.

(e) Procedures for the conduct of hearings on appeals from an order of the director of the employing agency in connection with suspension, demotion, reduction in pay, loss of accrued leave time or dismissal of a classified employee.

(f) For hours of employment, annual and sick leave and special leaves of absence, with or without pay or with reduced pay.

4. Pursuant to recognized merit principles, hear and review appeals from any order of the director of the employing agency in connection with suspension, demotion, reduction in pay, loss of accrued leave time or dismissal of a classified employee. The council's determination is subject to review by the director and appeal as provided in section 41-1830.13.

B. The council may meet with the state personnel board to discuss matters of mutual concern.

C. The rules under subsection A, paragraph 3, subdivision (f) of this section shall provide for the transfer of accumulated annual leave from one employee to another employee in the same agency and for the transfer of accumulated annual leave from one employee to another employee of another agency, department, board or commission if the employees are members of the same family. The transfers may occur if the employee to whom the leave is transferred has a seriously incapacitating and extended illness or injury or a member of the employee's immediate family has a seriously incapacitating and extended illness or injury and the employee has exhausted all available leave balances. Transferred annual leave shall be increased or reduced proportionally by the difference in the salaries of the employees as determined by council rule. For the purposes of this subsection,

"family" means spouse, natural child, adopted child, foster child, stepchild, natural parent, stepparent, adoptive parent, grandparent, grandchild, brother, sister, sister-in-law, brother-in-law, son-in-law, daughter-in-law, mother-in-law or father-in-law.

D. In hearing and reviewing an appeal from any order of the director of the employing agency, the council:

1. Shall determine whether the employing agency has proven by a preponderance of the evidence that the employing agency had just cause to discipline the employee.

2. May recommend modification of a disciplinary action if the director of the employing agency has not proven by a preponderance of the evidence that the employing agency had just cause to discipline the employee.

3. Shall reverse the decision of the director of the employing agency if the council finds that just cause did not exist for any discipline to be imposed and, in the case of dismissal or demotion, return the employee to the same position the employee held before the dismissal or demotion with or without back pay.

E. On a finding that the director of the employing agency has not proven just cause to discipline the employee by a preponderance of the evidence, the council may recommend a proposed disciplinary action in light of the facts proven.

F. Within forty-five days after the conclusion of the hearing, the council shall enter its decision or recommendation and at the same time shall send a copy of the decision or recommendation by certified mail to the employing agency and to the employee at the employee's address as given at the hearing or to a representative designated by the employee to receive a copy of the decision or recommendation.

G. The council shall select and the director of the department of public safety shall appoint a business manager who is a certified peace officer and an employee of the department of public safety but who is not a member of the council. The business manager shall perform and discharge all of the powers and duties that are vested in the council, except that adoption of rules, creation and adjustment of classifications and grades, compensation and hearing appeals for dismissal, demotion, reduction in pay, suspensions or other punitive action remain the duty of the council. Any power or duty that the council may lawfully delegate to the business manager is conclusively presumed to have been delegated to the business manager unless it is shown that the council by an affirmative vote recorded in its minutes has specifically reserved the power or duty to itself. At the request of the council, the business manager may make inquiries regarding or investigate infractions of council rules within the department of public safety. The business manager shall report the result of the inquiry or investigation to the council for appropriate action. The business manager may delegate the business manager's powers and duties to the business manager's subordinates unless by council rule or express provision of law the business manager is specifically required to act personally.

H. For the purposes of this section and section 41-1830.13:

1. "Director of the employing agency" means the director of the department of public safety with respect to employees of the department and the executive director of the Arizona peace officer standards and training board with respect to employees of the board.

2. "Just cause" has the same meaning prescribed in title 38, chapter 8, article 1.

41-1830.16. Law enforcement merit system council duties; authority; appeals of covered full authority peace officers employed by agencies in the state personnel system; definitions

A. The law enforcement merit system council shall adopt rules the council deems necessary for the administration of hearings and the review of appeals as prescribed in this section.

B. A covered employee in the state personnel system who is a full authority peace officer as certified by the Arizona peace officer standards and training board, is appointed to a position that requires such a certification in the covered service and who has completed the employee's original probationary period of service as provided by the personnel rules may appeal to the law enforcement merit system council the covered employee's dismissal from covered service, suspension for more than forty working hours or involuntary demotion resulting from disciplinary action. The covered employee shall file the appeal no later than ten working days after the effective date of the action. The covered employee shall be furnished with specified charges in writing when the action is taken. The appeal shall be in writing and must state specific facts relating directly to the charges on which the appeal is based. Notwithstanding section 41-1092.05, subsection D, the law enforcement merit system council shall hear the appeal within thirty days after the council's receipt. The law enforcement merit system council shall provide the employing agency with a copy of the appeal not less than twenty days in advance of the hearing.

C. In hearing and reviewing an appeal, the council:

1. Shall determine whether the employing agency has proven by a preponderance of the evidence that the employing agency had just cause to discipline the employee.

2. May recommend modification of a disciplinary action if the state agency head has not proven by a preponderance of the evidence that the employing agency had just cause to discipline the employee.

3. Shall reverse the decision of the state agency head if the council finds that just cause did not exist for any discipline to be imposed and, in the case of dismissal or demotion, return the employee to the same position the employee held before the dismissal or demotion with or without back pay.

D. On a finding that the state agency head has not proven just cause to discipline the employee by a preponderance of the evidence, the council may recommend a proposed disciplinary action in light of the facts proven.

E. Within forty-five days after the conclusion of the hearing, the council shall enter its decision or recommendation and shall at the same time send a copy of the decision or recommendation by certified mail to the employing agency and to the employee at the employee's address as given at the hearing or to a representative designated by the employee to receive a copy of the decision or recommendation. The state agency head or the agency head's designee shall accept, modify or reverse the council's decision or accept, modify or reject the council's recommendation within fourteen days of receipt of the findings or recommendation from the law enforcement merit system council. The state agency head or the agency head's designee shall accept the council's recommendation unless the recommendation is arbitrary or without reasonable justification. If the state agency head or the agency head's designee does not accept the council's recommendation, the state agency head or the agency head's designee shall state the reasons for rejecting the recommendation. The decision of the agency head or agency head's designee is final and binding. The agency head shall send a copy of the agency's final determination to the covered employee pursuant to this section.

F. Any party may appeal the decision of the law enforcement merit system council or the final decision of the agency pursuant to title 12, chapter 7, article 6 to the superior court in the covered employee's county of residence.

G. An appeal shall be available to the court of appeals from the order of the superior court pursuant to title 12, chapter 7, article 6 as in other civil cases.

H. For the purposes of this section:

1. "Covered employee" has the same meaning prescribed in section 41-741.

2. "Covered service" has the same meaning prescribed in section 41-741.

3. "Employing agency" means the agency in the state personnel system where the covered employee is or, in the case of dismissal, was employed.

4. "Full authority peace officer" means a peace officer whose authority to enforce the laws of this state is not limited by the rules adopted by the Arizona peace officer standards and training board.

5. "Just cause" has the same meaning prescribed in title 38, chapter 8, article 1.

6. "Original probationary period" has the same meaning prescribed in section 41-741.

7. "Personnel rules" means the rules adopted by the department of administration, human resources division.

8. "State agency head" means the chief executive officer of the employing agency.

9. "State personnel system" has the same meaning prescribed in section 41-741.

DEPARTMENT OF ECONOMIC SECURITY
Title 6, Chapter 1, Article 1, Public Participation in Rulemaking

Amend: R6-1-101; R6-1-102; R6-1-103; R6-1-104; R6-1-105; R6-1-106; R6-1-107

GOVERNOR'S REGULATORY REVIEW COUNCIL
M E M O R A N D U M

MEETING DATE: September 6, 2017 **AGENDA ITEM: D-2**

TO: Members of the Governor's Regulatory Review Council

FROM: Nicholas Young, Legal Intern

DATE: August 23, 2017

SUBJECT: **DEPARTMENT OF ECONOMIC SECURITY (R-17-0903)**
Title 6, Chapter 1, Article 1, Public Participation in Rulemaking

Amend: R6-1-101; R6-1-102; R6-1-103; R6-1-104; R6-1-105; R6-1-106; R6-1-107

General Comments

Purpose of the Agency and Summary of What the Rulemaking Does

The purpose of the Arizona Department of Economic Security (Department) is "to provide social services, welfare programs, vocational rehabilitation and employment services…" Laws 2008, Ch. 104, § 3. This rulemaking is in response to a five-year-review report, which was approved by the Council on February 4, 2014, and will amend seven rules in Article 1, related to public participation in rulemaking. The rulemaking will make the Department's procedures for public participation in the rulemaking process more clear, concise, and understandable. Additionally, the amendments will update statutory references and provide for electronic communication.

Proposed Action

The following is a non-exhaustive summary of the Department's proposed actions:

- **R6-1-101**: Language is being added that enables the Department to maintain rulemaking docket and agency rulemaking records electronically. Clarifying changes are also being made throughout the rule to make it more clear, concise, and understandable.
- **R6-1-102**: Subsections (A) through (D) are removed, and language is being added to notify the public that the Department will accept materials related to the rulemaking process in either paper or electronic form.
- **R6-1-103**: The reference to A.R.S § 41-1003 is updated to A.R.S § 41-1033. Subsection (D) is updated to inform the public that notices will be sent electronically unless otherwise specified in the petition. Clarifying changes are also being made.

- **R6-1-104:** References to fees charged for printing are being removed because information will be provided electronically.
- **R6-1-105:** Subsection (D)(7) is added, which states the presiding officer shall record an oral proceeding electronically or by other means.
- **R6-1-106:** Clarifying changes are being made throughout the rule to make it more clear, concise, and understandable. Subsection (C) is updated and now states that the Department's determination regarding a petition will be sent to the petitioner within 60 days of receipt of the petition.
- **R6-1-107:** Reference to A.R.S § 41-1054 is updated to A.R.S § 41-1056.

Exemption or Request and Approval for Exception from the Moratorium

The Department requested an exemption from the moratorium for this rulemaking which was approved by the Governor's Office on May 16, 2016.

Substantive or Procedural Concerns

None.

1. **Are the rules legal, consistent with legislative intent, and within the agency's statutory authority?**

Yes. The Department cites to A.R.S. § 41-1003 as general authority for the rules, which states, "[e]ach agency shall make rules of practice setting forth the nature and requirements of all formal procedures available to the public." In addition, the Department cites to A.R.S. § 41-1954(A)(3), which states, the Department shall, "[a]dopt rules it deems necessary or desirable to further the objectives and programs of the department."

2. **Are the rules written in a manner that is clear, concise, and understandable to the general public?**

Yes. The rules are clear, concise, and understandable.

3. **Does the agency adequately address the comments on the proposed rules and any supplemental proposals?**

Yes. The Department indicates that it did not receive any comments on the rulemaking.

4. **Are the final rules a substantial change, considered as a whole, from the proposed rules and any supplemental proposals?**

No. The final rules do not constitute a substantial change from the proposed rules.

5. **Does the preamble disclose a reference to any study relevant to the rules that the agency reviewed and either did or did not rely on in the agency's evaluation of or justification for the rules?**

No. The Department indicates that it did not review or rely upon any study for the rulemaking.

6. **Are the rules more stringent than corresponding federal law and, if so, is there statutory authority that allows the agency to exceed the requirements of federal law?**

No. The Department indicates there is not a corresponding federal law.

7. **Do the rules require a permit or license and if so, does the agency use a general permit or is any exception applicable under A.R.S. § 41-1037?**

No. The Department indicates that the rules do not require a permit or license.

8. **Do the rules establish a new fee or contain a fee increase?**

No. The rules do not establish a new fee or contain a fee increase.

Conclusion

As specified under A.R.S. § 41-1032, the rules will become effective 60 days after the Notice of Final Rulemaking is filed with the Secretary of State's Office. This analyst recommends approval of the rules.

GOVERNOR'S REGULATORY REVIEW COUNCIL
M E M O R A N D U M

MEETING DATE: September 6, 2017 **AGENDA ITEM: D-2**

TO: Members of the Governor's Regulatory Review Council

FROM: GRRC Economic Team

DATE : August 23, 2017

SUBJECT: **DEPARTMENT OF ECONOMIC SECURITY (R-17-0903)**
Title 6, Chapter 1, Article 1, Public Participation in Rulemaking

Amend: R6-1-101; R6-1-102; R6-1-103; R6-1-104; R6-1-105; R6-1-106; R6-1-107

The economic analysis team has reviewed the economic, small business, and consumer impact statement (EIS) and makes the following comments. These comments are made to assist the Council in its review and may be used as the Council determines.

In this rulemaking, the Department of Economic Security (Department) is proposing to amend the rules in Article 1. The rules in Article 1 establish the Department's procedures for accepting public participation in rulemaking. The Department promulgates rules to provide additional details that were not included in the broad mandates of authorizing statutes. This rulemaking will clarify that electronic correspondence is permitted for official documents that are involved in the public commenting aspect of the rulemaking process.

Key stakeholders are the Department and any entities that submit public comments to the Department. The Department has received two petitions for rulemakings in the past five years. Zero comments have been submitted for these rulemakings.

1. <u>Costs and Benefits for:</u>

a. The implementing agency:

The Department does not anticipate that this rulemaking will impose any additional costs on the Department.

b. Political subdivisions:

This rulemaking will only impact political subdivisions that submit public comments for Department rulemakings. These political subdivisions will benefit from the ability to utilize electronic communication mechanisms.

c. Businesses:

This rulemaking will only impact businesses that submit public comments for Department rulemakings. These businesses will benefit from the ability to utilize electronic communication mechanisms.

d. Small businesses:

This rulemaking will only impact small businesses that submit public comments for Department rulemakings. These businesses will benefit from the ability to utilize electronic communication mechanisms.

e. Consumers directly affected by the rulemaking:

This rulemaking will only impact consumers that submit public comments for Department rulemakings. These consumers will benefit from the ability to utilize electronic communication mechanisms.

2. Do the probable benefits outweigh the probable costs?

This rulemaking does not impose costs on any stakeholder. These stakeholders will benefit from the ability to use electronic communications for public comments. The benefits outweigh the costs.

3. Analysis of methods to reduce the small business impact:

This rulemaking reduces burdens for small businesses that want to participate in the public comment process for Department rulemakings. It is not feasible to reduce an impact that is already nonexistent.

4. The probable effect on state revenues:

The Department concludes that the proposed rule amendments will not have an impact on state revenues.

5. Analysis of any less intrusive or less costly alternative methods:

This rulemaking reduces burdens. There are no less costly alternatives.

6. Whether an analysis was submitted to the agency regarding the rule's impact on the competitiveness of businesses in this state as compared to the competitiveness of businesses in other states:

No analysis was submitted that compares the rule's impact of the competitiveness of businesses in this state to the impact on businesses in other states.

7. A description of any data on which a rule is based with an explanation of how the data was obtained and why the data is acceptable data, and the methods used by the agency to evaluate the costs and benefits in the EIS.

No empirical or quantitative data were submitted for use in the EIS.

8. Conclusion:

The submitted economic, small business, and consumer impact statement is generally accurate, and contains the information required for compliance with ARS §§ 41-1035, 41-1052(D)(1-3), and 41-1055. This analyst recommends that the proposed rule amendments be approved.

DEPARTMENT OF ECONOMIC SECURITY
Your Partner For A Stronger Arizona

Douglas A. Ducey
Governor

Michael Trailor
Director

JUL 11 2017

RECEIVED
JUL 11 2017
GRRC

Ms. Nicole Ong Colyer, Chairperson
Governor's Regulatory Review Council
100 North 15th Avenue, Suite 305
Phoenix, Arizona 85007

Dear Ms. Colyer:

The attached final rulemaking package is respectfully submitted for review and approval by the Council. The following information is provided for use in reviewing the rulemaking package:

1. Close of Record Date: The rulemaking record closed on May 21, 2017, following the public comment period. This rulemaking package is being submitted within the 120 days provided by A.R.S. § 41-1024(B). There was no oral proceeding request and none was held.

2. General and Specific Statutes Authorizing the Rules; Definitions of Terms Contained in Statutes or Other Rules: General statute: A.R.S. § 41-1954(A)(3). Specific statute: A.R.S. § 41-1003. No definition is used from statutes or other rules for the making of these rules.

3. Relation of the Rulemaking to a Five-year Review Report: This rulemaking is in response to a Five-year Review Report approved by the Council on February 4, 2014.

4. New Fee or Fee Increase: This rulemaking does not establish a new fee or increase an existing fee.

5. Effective Date: The Arizona Department of Economic Security (Department) is requesting an effective date 60 days from filing with the Secretary of State under A.R.S. § 41-1032(A).

6. Material Incorporated by Reference: No material is incorporated by reference in this rulemaking.

7. Certification Regarding Studies: The Department certifies that the preamble accurately discloses that no study relevant to the rules was reviewed and either relied on or not relied on in the Department's evaluation of or justification of the rule.

8. Joint Legislative Budget Committee (JLBC) Certification: The Department was not required to make a certification to JLBC because the rule does not require any new full-time employees.

9. List of Documents Enclosed:
    a. Cover letter;
    b. Notice of Final Rulemaking including preamble, table of contents for the rulemaking, and rule text;
    c. Economic Impact Statement;
    d. Current Rules;
    e. Statutes; and
    f. Governor's Office Approval.

If you have any questions about this rulemaking, please contact Anthony Hill, Lead Rules Analyst, Division of Business and Finance, at (602) 542-6555 or ahill3@azdes.gov.

Sincerely,

Michael Trailor
Director

Enclosures: Notice of Final Rulemaking
Economic Impact Statement
Arizona Administrative Code, Title 6, Chapter 1, Article 1
Arizona Revised Statutes §§ 41-1003 and 41-1954
Electronic Email of May 16, 2016

NOTICE OF FINAL RULEMAKING

TITLE 6. ECONOMIC SECURITY

CHAPTER 1. DEPARTMENT OF ECONOMIC SECURITY

PREAMBLE

1.	**Article, Part, or Section Affected (as applicable)**	**Rulemaking Action**
	R6-1-101	Amend
	R6-1-102	Amend
	R6-1-103	Amend
	R6-1-104	Amend
	R6-1-105	Amend
	R6-1-106	Amend
	R6-1-107	Amend

2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):

Authorizing statute: A.R.S. § 41-1954(A)(3)

Implementing statutes: A.R.S. § 41-1003

3. The effective date of the rules:

In accordance with A.R.S. § 41-1032, the rules will become effective 60 days after filing with the Office of Secretary of State.

a. If the agency selected a date earlier than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. §

41-1032(A)(1) through (5):

Not applicable.

b. If the agency selected a date later than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):

Not applicable.

4. Citations to all related notices published in the *Register* as specified in R1-1-409(A) that pertain to the record of the proposed rulemaking:

Notice of Rulemaking Docket Opening: 22 A.A.R. 2083, August 12, 2016

Notice of Proposed Rulemaking: 23 A.A.R. 861, April 21, 2017

5. The agency's contact person who can answer questions about the rulemaking:

Name: Anthony J. Hill

Address: Department of Economic Security

P.O. Box 6123, Mail Drop 1292

Phoenix, AZ 85005

or

Department of Economic Security

1789 W. Jefferson St., Mail Drop 1292

Phoenix, AZ 85007

Telephone: (602) 542-6555

Fax: (602) 542-6000

E-mail: ahill3@azdes.gov

6. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:

The rules in Article 1 were amended effective December 22, 1993. This rulemaking is in response to a Five-year Review Report, approved by the Governor's Regulatory Review Council on February 4, 2014. The proposed rulemaking will make the Department's procedures for public participation in the rulemaking process more clear, concise, and understandable. The proposed rulemaking will update statutory references and provide for electronic communication.

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

The Department did not review or rely on any study relevant to the rules.

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

Not applicable.

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

The economic impact of the rulemaking is expected to be minimal (less than $1,000) for all persons involved in the rulemaking process.

The rules in Article 1 have minimal economic impact on the Department, reflecting the staff time for the rulemaking. It currently distributes copies of rulemaking packages

electronically and over the Internet, so copying charges are non-existent. The rules do not have any negative financial impact upon private persons and consumers, except for the minimal costs that may be associated with their participation in the rulemaking process, if they choose to participate. The public benefits from the rules because the rules describe procedures for public participation in the rulemaking process. Small businesses are not impacted by the rules.

10. A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:

The Department has made no changes since the Notice of Proposed Rulemaking was published on April 21, 2017.

11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:

The Department received no comments on this rulemaking.

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

No other matters are prescribed.

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

The rules do not require a permit.

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

Not applicable.

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

No analysis was submitted.

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

None.

14. Whether the rule was previously made, amended or repealed as an emergency rule. If so, cite the notice published in the *Register* as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:

Not applicable.

15. The full text of the rules follows:

TITLE 6. ECONOMIC SECURITY

CHAPTER 1. DEPARTMENT OF ECONOMIC SECURITY

ARTICLE 1. PUBLIC PARTICIPATION IN RULEMAKING

Section

R6-1-101. Rulemaking Docket and Record

R6-1-102. Manner~~, Place, Time, and Form~~ of Submissions

R6-1-103. Petition ~~for Adoption of~~ to Make, Amend, or Repeal a Rule

R6-1-104. ~~Proposed~~ Request for Rulemaking~~:~~ Notices~~; Copy Fees; Fee Waiver~~

R6-1-105. Oral Proceedings; Request for; Name of

R6-1-106. Petition for Delayed Effective Date

R6-1-107. Written Criticisms of Existing Rules

ARTICLE 1. PUBLIC PARTICIPATION IN RULEMAKING

R6-1-101. Rulemaking Docket and Record

A. The Department of Economic Security ("the Department") shall maintain the official public rulemaking docket and agency rulemaking record required by A.R.S. §§ 41-1021 and 41-1029 in the office of the Department's ~~Associate Director, or that person's successor,~~ Rules Unit, in the Department's central headquarters in Phoenix. Any person may review the docket and record Monday through Friday from 8:00 a.m. to 5:00 p.m., except on state holidays.

B. The Department may electronically maintain the rulemaking docket and agency rulemaking record, and shall facilitate public review of documents stored electronically by either providing the documents in paper or electronic form.

~~**B.**~~ **C.** Any person who reviews a rulemaking docket or record shall sign a log ~~which~~ that shall ~~contain~~ include the following information:

1. The person's name, current address, ~~and~~ daytime telephone number, and e-mail address, if available;
2. The name of any partnership, corporation, association, governmental subdivision or unit of a governmental subdivision, a public or private organization of any nature, or another agency that the person is representing as a registered lobbyist or otherwise;
3. The docket or record ~~which~~ that the person is reviewing;
4. Whether the person is requesting the records for a commercial purpose;
5. The date of review; and
6. The person's signature.

R6-1-102. Manner~~, Place, Time, and Form~~ of Submissions

~~**A.** All petitions, requests, submissions, criticisms, or other materials submitted to the Department with regard to rulemaking shall be filed in original form. Copies of referenced material and material incorporated by reference may be filed pursuant to R6-1-103(B)(5).~~

~~**B.** All writings shall be legibly handwritten or typed on 8 1/2" by 11" white paper.~~

~~**C.** With the exception of writings submitted during an oral proceeding pursuant to R6-1-105(D), all documents shall be filed directly with the Division of Administrative Services.~~

~~**D.** Any document shall be deemed received when the Division of Administrative Services affixes a "received" date stamp on it.~~

A. The Department shall accept petitions, requests, submissions, criticisms, or other materials related to the rulemaking process in either paper form or electronically.

B. When submitting in paper form, the writing shall be legibly handwritten or typed on 8 1/2" by 11" white paper.

R6-1-103. Petition ~~for Adoption of~~ to Make, Amend, or Repeal a Rule

A. Any person may ask the Department to ~~adopt~~ make a new rule or to amend or repeal an existing rule pursuant to A.R.S. § ~~41-1003~~ 41-1033 by filing a written petition with the Department's Director.

B. The petition shall contain:

1. The petitioner's name, current address, ~~and~~ daytime telephone number, and e-mail address, if available;

2. The name of any partnership, corporation, association, governmental subdivision or unit of a governmental subdivision, a public or private organization of any nature, or another agency that the petitioner is representing as a registered lobbyist or otherwise;

3. The specific language of the rule ~~which~~ that the person wishes the Department to ~~adopt~~ make, amend, or repeal;

4. The ~~reasons~~ reason for the request, including the ~~reasons~~ reason why any existing rule is inadequate, unreasonable, unduly burdensome, or otherwise improper;

5. A copy of any material ~~which~~ that is referenced or otherwise incorporated in the petition; and

6. The signature of the petitioner.

C. Upon receipt of a petition, the Director's Office shall stamp the petition to indicate the date of receipt. If a petitioner submits a petition electronically, the Department shall consider the date of the electronic correspondence to be the receipt date.

D. No later than 60 days after receipt of a petition, the Department shall send the petitioner a written notice of the action taken on the petition. The Department shall send the notice electronically unless otherwise specified in the petition. The notice shall state the petitioner may appeal the Department's action under A.R.S. § 41-1033(B).

R6-1-104. ~~Proposed~~ Request for Rulemaking~~:~~ Notices~~; Copy Fees; Fee Waiver~~

A. A person who wishes to obtain a notice of the establishment of a rulemaking docket pursuant to A.R.S. § 41-1021(C), or a notice of proposed rulemaking pursuant to A.R.S. § 41-1022(C) shall file a written request for such notice with the ~~Department~~ Department's Director. The request shall contain:

1. The name ~~and~~, current address, and e-mail address, if available, of the requestor;
2. A statement describing the nature of the notice being requested, directed either to proposed rulemaking in general or to specific rules or subject matter; and
3. The signature of the requestor.

B. The ~~Office of the Department's Associate Director, or that person's successor,~~ Department's Rules Unit shall maintain a mailing list of all docket requests and requests for notice of proposed rulemaking. Requestors shall renew the request for notice by January 30 of each even-numbered year or the Department shall purge the request. ~~It shall be the responsibility of the~~ The requestor shall ~~to~~ keep current any address and information filed with the ~~Division~~ Department.

C. ~~The Department shall charge a fee of 25¢ per page to cover the actual costs of providing the requested information.~~ The Department shall send all information requested under this section electronically, unless the requestor requests a paper copy. The Department shall provide all requested documents according to the provisions of A.R.S. § 39-121 et seq.

~~**D.** The Department may waive the fee described in subsection (C) when:~~

~~1. The requestor demonstrates that payment of the fee would cause the requestor financial hardship; or~~

~~2. The Department is voluntarily providing information to a person who or an entity which has not requested it, for the purpose of receiving comment from that person or entity.~~

R6-1-105. Oral Proceedings; Request for; Nature of

A. ~~Oral proceedings scheduled pursuant to A.R.S. § 41-1023(A) shall be held~~ When requested under A.R.S. § 41-1023(C), the Department shall schedule an oral proceeding in ~~each~~ at least one of the districts established ~~pursuant to~~ under A.R.S. § 41-1961. The Department may provide internet or teleconference access to an oral proceeding.

B. A written request for an oral ~~proceedings~~ proceeding filed with the Department ~~pursuant to~~ under A.R.S. § ~~41-1023(B)~~ 41-1023(C) shall contain:

1. The name, current address, ~~and~~ daytime telephone number, and e-mail address, if available, of each requestor;
2. The name of any partnership, corporation, association, governmental subdivision or unit of a governmental subdivision, a public or private organization of any nature, or another agency that the requestor is representing as a registered lobbyist or otherwise;
3. A statement identifying the rule for which the oral proceeding is requested; and
4. The signature of each requestor.

C. ~~The petition may contain a proposed location for such proceeding.~~ A person requesting an oral proceeding may indicate a specific city or district where the person would like the proceeding to be held. If such a location is included, the petition shall also explain how

the proposed location will afford interested members of the public a reasonable opportunity to participate.

D. ~~Oral proceedings shall be conducted by a~~ The presiding officer shall conduct an oral proceeding in an informal manner ~~and without adherence to the procedures of a trial-type or evidentiary hearing,~~ as described in this subsection.

1. A person may make an oral presentation without being placed under oath or affirmation.
2. Any person who makes an oral presentation shall fill out a speaker's registration card prior to speaking.
3. The presiding officer shall conduct the proceeding in a way ~~which~~ that avoids undue repetition and assures a reliable record on any proposed rulemaking.
4. Any person may file a written submission at an oral proceeding, in addition to ~~or in lieu of~~ an oral presentation~~s~~.
5. Prior to taking oral presentations, the presiding officer shall summarize the contents of the rule under consideration and the economic impact and small business statements filed with the rule.
6. Prior to the close of the record of the oral proceeding, the presiding officer shall summarize all subsequent rulemaking steps, procedures, and time-frames.
7. The presiding officer shall record the oral proceeding by electronic or other means. At the start of the oral proceeding, the presiding officer shall announce that the proceeding is being recorded.

R6-1-106. Petition for Delayed Effective Date

A. A person ~~may petition the Department pursuant to A.R.S. § 41-1032(2)~~ who wishes to delay the effective date of a rule under A.R.S. § 41-1032(B) shall file a petition with Department's Director prior to the proposed rule's close of record.

B. A petition for delayed effective date shall contain:

1. The petitioner's name, current address, ~~and~~ daytime telephone number, and e-mail address, if available;
2. The name of any partnership, corporation, association, governmental subdivision or unit of a governmental subdivision, a public or private organization of any nature, or another agency that the petitioner is representing as a registered lobbyist or otherwise;
3. A statement describing the effect the rule may have on the petitioner, and the reason why delaying the effective date of a rule to a specified date will lessen or eliminate that effect;
4. ~~The reasons why~~ A demonstration under A.R.S. § 41-1032(B) that good cause exists for, and the public interest will not be harmed by, the later effective date; and
5. The signature of the petitioner.

C. The Department shall ~~mail~~ notify the petitioner ~~written notice~~ in writing, by mail or electronically, of the Department's determination regarding the petition within 60 days of receipt of the petition.

R6-1-107. Written Criticisms of Existing Rules

The Department shall retain written criticisms of existing rules ~~which~~ that have been filed with the Department and shall consider such writings when conducting the five-year review required by A.R.S. § ~~41-1054~~ 41-1056.

ECONOMIC, SMALL BUSINESS AND CONSUMER IMPACT STATEMENT

TITLE 6. ECONOMIC SECURITY

CHAPTER 1. DEPARTMENT OF ECONOMIC SECURITY

ARTICLE 1. PUBLIC PARTICIPATION IN RULEMAKING

1. Identification of the rulemaking:

To help reduce cost and expedite the public's participation in the rulemaking process, the Department (DES) seeks to utilize electronic correspondence as a means to send and receive required documentation. The proposed rulemaking will update statutory references and provide for electronic communication. The economic impact of the rulemaking is expected to be minimal (less than $1,000) for all parties involved in the rulemaking process.

2. Persons who will be directly affected by, bear the costs of, or directly benefit from the rulemaking:

This rulemaking will have a small postage cost savings to the public without imposing any additional costs upon the Department. Reducing the required number of locations for oral proceedings from six to one and providing internet and teleconference access to the public will reduce the Department's expense for employee travel and set-up time while providing the public a more affordable and convenient way to participate. In the last five years the Department has received two petitions for rulemaking and zero comments on any proposed rulemaking.

3. Cost-benefit analysis:

a. Costs and benefits to state agencies directly affected by the rulemaking:

There is no additional cost to the Department or other state agencies anticipated by this rulemaking.

b. Costs and benefits to political subdivisions directly affected by the rulemaking:

Political subdivisions may have reason to comment on DES rulemakings. Political subdivisions that participate in the public comment process for DES rulemakings will benefit from the ability to utilize electronic methods of communication for their comments.

c. Costs and benefits to businesses directly affected by the rulemaking:

Businesses that participate in the public comment process for DES rulemakings will benefit from the ability to utilize electronic methods of communication for their comments.

4. Impact on private and public employment:

This rulemaking is not expected to impact public and private employment.

5. Impact on small businesses:

a. Identification of the small business subject to the rulemaking:

Small businesses that participate in the public comment process for DES rulemakings will benefit from the ability to utilize electronic methods of communication for their comments.

b. Administrative and other costs required for compliance with the rulemaking:

There are no administrative or other costs required to comply with this rulemaking.

c. Description of methods that may be used to reduce the impact on small businesses:

i. Establish less costly or less stringent compliance or reporting requirements:

Not applicable

ii. Establish less costly schedules or less stringent deadlines for compliance:

Not applicable

iii. Consolidate or simplify compliance or reporting requirements:

Not applicable

iv. Establish separate performance standards:

Not applicable

v. Exempt small businesses from any or all requirements:

Not applicable

d. The probable cost and benefit to private persons and consumers who are directly affected by the rulemaking:

The proposed rulemaking will have no negative financial impact upon private persons and consumers. In fact, since an ever increasing number of people are regularly using the internet, the rulemaking may prove beneficial for these people because they will save the cost of postage when submitting requests to make, amend, or repeal a rule.

6. Probable effects on state revenues:

None

7. Less intrusive or less costly alternative methods considered:

There is no less intrusive or less costly method of achieving the objectives of the rulemaking.

a. Monetizing of the costs and benefits for each option:

Not applicable

b. Rationale for not using non-selected alternatives:

Not applicable

8. Description of any data on which the rule is based:

Not applicable

TITLE 6. ECONOMIC SECURITY

CHAPTER 1. DEPARTMENT OF ECONOMIC SECURITY

Authority: A.R.S. § 41-1954 et seq.

ARTICLE 1. PUBLIC PARTICIPATION IN RULEMAKING

Article 1 consisting of Sections R6-1-101 through R6-1-107 adopted effective September 22, 1988.

Former Article 1 renumbered as Article 2 effective September 22, 1988.

Section
R6-1-101. Rulemaking Docket and Record
R6-1-102. Manner, Place, Time, and Form of Submissions
R6-1-103. Petition for Adoption of a Rule
R6-1-104. Proposed Rulemaking: Notices; Copy Fees; Fee Waiver
R6-1-105. Oral Proceedings; Request for; Nature of
R6-1-106. Petition for Delayed Effective Date
R6-1-107. Written Criticisms of Existing Rules

ARTICLE 2. DEBT SETOFF

Former Article 1 consisting of Section R6-1-101 renumbered as Article 2, Section R6-1-201 effective September 22, 1988.

Section
R6-1-201. Request for Review
R6-1-202. Review of Debt Setoff

ARTICLE 3. EXPIRED

Article 3, consisting of R6-1-301 through R6-1-309, expired under A.R.S. § 41-1056(E) at 10 A.A.R. 1165, effective October 31, 2003 (Supp. 04-1).

Section
R6-1-301. Expired
R6-1-302. Expired
R6-1-303. Expired
R6-1-304. Expired
R6-1-305. Expired
R6-1-306. Expired
R6-1-307. Expired
R6-1-308. Expired
R6-1-309. Expired

ARTICLE 4. FINGERPRINTING

Section
R6-1-401. Definitions
R6-1-402. Provider Responsibilities
R6-1-403. Exempt Providers
R6-1-404. Effect of Certification Form Disclosures
R6-1-405. Costs
R6-1-406. Certification and Sanctions
R6-1-407. Effect of Confirmed Proscribed Criminal History
R6-1-408. Certification Expiration
R6-1-409. Subsequent Offenses

ARTICLE 5. CIVIL RIGHTS

Article 5, consisting of Section R6-1-501, recodified from R6-3-103 effective February 13, 1996 (Supp. 96-1).

Section
R6-1-501. Civil Rights

ARTICLE 1. PUBLIC PARTICIPATION IN RULEMAKING

R6-1-101. Rulemaking Docket and Record

A. The Department of Economic Security ("the Department") shall maintain the official public rulemaking docket and agency rulemaking record required by A.R.S. §§ 41-1021 and 41-1029 in the office of the Department's Associate Director, or that person's successor, in the Department's central headquarters in Phoenix. Any person may review the docket and record Monday through Friday from 8:00 a.m. to 5:00 p.m., except on state holidays.

B. Any person who reviews a rulemaking docket or record shall sign a log which shall contain the following information:
1. The person's name, current address, and daytime telephone number;
2. The name of any partnership, corporation, association, governmental subdivision or unit of a governmental subdivision, a public or private organization of any nature, or another agency that the person is representing as a registered lobbyist or otherwise;
3. The docket or record which the person is reviewing;
4. Whether the person is requesting the records for a commercial purpose;
5. The date of review; and
6. The person's signature.

Historical Note

Former Section R6-1-101 renumbered as R6-1-201; new Section R6-1-101 adopted effective September 22, 1988 (Supp. 88-3). Amended effective December 22, 1993 (Supp. 93-4).

R6-1-102. Manner, Place, Time, and Form of Submissions

A. All petitions, requests, submissions, criticisms, or other materials submitted to the Department with regard to rulemaking shall be filed in original form. Copies of referenced material and material incorporated by reference may be filed pursuant to R6-1-103(B)(5).

B. All writings shall be legibly handwritten or typed on 8 1/2" by 11" white paper.

C. With the exception of writings submitted during an oral proceeding pursuant to R6-1-105(D), all documents shall be filed directly with the Division of Administrative Services.

D. Any document shall be deemed received when the Division of Administrative Services affixes a "received" date stamp on it.

Historical Note

Adopted effective September 22, 1988 (Supp. 88-3). Amended effective December 22, 1993 (Supp. 93-4).

R6-1-103. Petition for Adoption of a Rule

A. Any person may ask the Department to adopt a new rule or to amend or repeal an existing rule pursuant to A.R.S. § 41-1003 by filing a written petition with the Department's Director.

B. The petition shall contain:
1. The petitioner's name, current address, and daytime telephone number;
2. The name of any partnership, corporation, association, governmental subdivision or unit of a governmental subdivision, a public or private organization of any nature, or another agency that the petitioner is representing as a registered lobbyist or otherwise;

3. The specific language of the rule which the person wishes the Department to adopt, amend, or repeal;
4. The reasons for the request including the reasons why any existing rule is inadequate, unreasonable, unduly burdensome, or otherwise improper;
5. A copy of any material which is referenced or otherwise incorporated in the petition; and
6. The signature of the petitioner.

C. Upon receipt of a petition, the Director's Office shall stamp the petition to indicate the date of receipt.

D. No later than 60 days after receipt of a petition, the Department shall send the petitioner written notice of the action taken on the petition.

Historical Note
Adopted effective September 22, 1988 (Supp. 88-3).
Amended effective December 22, 1993 (Supp. 93-4).

R6-1-104. Proposed Rulemaking: Notices; Copy Fees; Fee Waiver

A. A person who wishes to obtain a notice of the establishment of a rulemaking docket pursuant to A.R.S. § 41-1021(C), or a notice of proposed rulemaking pursuant to A.R.S. § 41-1022(C) shall file a written request for such notice with the Department. The request shall contain:
1. The name and address of the requestor;
2. A statement describing the nature of the notice being requested, directed either to proposed rulemaking in general or to specific rules or subject matter; and
3. The signature of the requestor.

B. The Office of the Department's Associate Director, or that person's successor, shall maintain a mailing list of all docket requests and requests for notice of proposed rulemaking. Requestors shall renew the request for notice by January 30 of each even-numbered year or the Department shall purge the request. It shall be the responsibility of the requestor to keep current any address and information filed with the Division.

C. The Department shall charge a fee of 25¢ per page to cover the actual costs of providing the requested information.

D. The Department may waive the fee described in subsection (C) when:
1. The requestor demonstrates that payment of the fee would cause the requestor financial hardship; or
2. The Department is voluntarily providing information to a person who or an entity which has not requested it, for the purpose of receiving comment from that person or entity.

Historical Note
Adopted effective September 22, 1988 (Supp. 88-3).
Amended effective December 22, 1993 (Supp. 93-4).

R6-1-105. Oral Proceedings; Request for; Nature of

A. Oral proceedings scheduled pursuant to A.R.S. § 41-1023(A) shall be held in each of the districts established pursuant to A.R.S. § 41-1961.

B. A written request for oral proceedings filed with the Department pursuant to A.R.S. § 41-1023(B) shall contain:
1. The name, current address, and daytime telephone number of each requestor;
2. The name of any partnership, corporation, association, governmental subdivision or unit of a governmental subdivision, a public or private organization of any nature, or another agency that the requestor is representing as a registered lobbyist or otherwise;
3. A statement identifying the rule for which the oral proceeding is requested; and
4. The signature of each requestor.

C. The petition may contain a proposed location for such proceeding. If such a location is included, the petition shall also explain how the proposed location will afford interested members of the public a reasonable opportunity to participate.

D. Oral proceedings shall be conducted by a presiding officer in an informal manner and without adherence to the procedures of a trial-type or evidentiary hearing, as described in this subsection.
1. A person may make an oral presentation without being placed under oath or affirmation.
2. Any person who makes an oral presentation shall fill out a speaker's registration card prior to speaking.
3. The presiding officer shall conduct the proceeding in a way which avoids undue repetition and assures a reliable record on any proposed rulemaking.
4. Any person may file a written submission at an oral proceeding, in addition to or in lieu of oral presentations.
5. Prior to taking oral presentations, the presiding officer shall summarize the contents of the rule under consideration and the economic impact and small business statements filed with the rule.
6. Prior to the close of the record of the oral proceeding, the presiding officer shall summarize all subsequent rulemaking steps, procedures, and time-frames.

Historical Note
Adopted effective September 22, 1988 (Supp. 88-3).
Amended effective December 22, 1993 (Supp. 93-4).

R6-1-106. Petition for Delayed Effective Date

A. A person may petition the Department pursuant to A.R.S. § 41-1032(2) to delay the effective date of a rule.

B. A petition for delayed effective date shall contain:
1. The petitioner's name, current address, and daytime telephone number;
2. The name of any partnership, corporation, association, governmental subdivision or unit of a governmental subdivision, a public or private organization of any nature, or another agency that the petitioner is representing as a registered lobbyist or otherwise;
3. A statement describing the effect the rule may have on the petitioner, and the reason why delaying the effective date of a rule to a specified date will lessen or eliminate that effect;
4. The reasons why the public will not be harmed by the later effective date; and
5. The signature of the petitioner.

C. The Department shall mail the petitioner written notice of the Department's determination regarding the petition.

Historical Note
Adopted effective September 22, 1988 (Supp. 88-3).
Amended effective December 22, 1993 (Supp. 93-4).

R6-1-107. Written Criticisms of Existing Rules

The Department shall retain written criticisms of existing rules which have been filed with the Department and shall consider such writings when conducting the five-year review required by A.R.S. § 41-1054.

Historical Note
Adopted effective September 22, 1988 (Supp. 88-3).
Amended effective December 22, 1993 (Supp. 93-4).

ARTICLE 2. DEBT SETOFF

R6-1-201. Request for Review

A. A person indebted to the Department of Economic Security ("the Department"), who has had all or part of the debt set off

pursuant to A.R.S. §§ 5-525(C) or 42-133(E) ("the debtor"), may request a review of the setoff.

B. The request for review shall:
1. Be in writing;
2. Be filed with the Department office which set off the debt, at the address indicated on the notice of debt setoff ("the notice"), no later than 30 days after the mailing date of the notice;
3. List any prior judicial or administrative proceedings regarding the debt;
4. Set forth all reasons why the setoff is inaccurate or improper;
5. Be signed by the debtor or the debtor's authorized representative; and
6. Have an attached copy of the notice of debt setoff.

C. As used in this Section, the date of the notice of debt setoff shall be the following dates, as applicable to the debtor:
1. The date that the State Lottery Office gives the debtor a written statement of winnings indicating the amount of the setoff; or
2. The date of the written notice generated by the Department, advising the debtor of the setoff.

D. Notwithstanding subsection (B), the Department may consider a timely request for review which does not include all the documentation listed in subsection (B) if:
1. The debtor has good cause for failing to provide the information, and
2. The lack of information does not substantially prejudice the Department's ability to evaluate the request.

Historical Note
Adopted as an emergency effective March 2, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days. Former Section R6-1-101 adopted as an emergency effective March 2, 1984 now adopted without change as a permanent rule effective April 30, 1984 (Supp. 84-2). Former Section R6-1-101 renumbered without change as R6-1-201 (Supp. 88-3). Amended and subsections (B)(2) through (C) renumbered to Section R6-1-202 effective December 22, 1993 (Supp. 93-4).

R6-1-202. Review of Debt Setoff

A. The Director of the Department of Economic Security shall appoint representatives who shall conduct the review in accordance with A.R.S. §§ 5-525 or 42-133, as applicable, and in a manner which will observe the substantial rights of the debtor.

B. The Department shall limit the scope of its review to the identity of the debtor and the amount of the debt setoff when the validity of the debt was established by judicial review in a court of competent jurisdiction, agency hearing, or final administrative decision made in accordance with the law. If it is found that the debt was not established in accordance with one of the foregoing methods listed in this subsection, the setoff action shall be stayed and remanded to the appropriate Department authority for resolution. Unless otherwise prohibited by law, the Department may correct clerical errors that have occurred in the administration of the debt setoff.

C. In reviewing the debt setoff, the Department shall consider all relevant evidence, including, without limitation, evidence submitted by the debtor and the documents and records in the Department's files.

D. The Department shall dispose of a request for review by:
1. Dismissal, if the debtor fails to state with specificity in the request for review why the debt does not exist or why the amount of debt is incorrect;
2. Withdrawal, if the debtor withdraws the request for review in writing at any time before the Department issues a decision; or
3. Decision.

E. Every decision shall be in writing and shall be mailed to the last known address of the debtor or the debtor's authorized representative.

F. The Department's decision is final unless the debtor files a petition for judicial review with the Superior Court within 35 days of the date the decision is mailed to the debtor as provided in A.R.S. § 12-904. A debtor who files a petition for review shall mail a copy to the Department office which issued the decision.

Historical Note
Renumbered from R6-1-201(B)(2) through (C) and amended effective December 22, 1993 (Supp. 93-4).

ARTICLE 3. EXPIRED

Article 3, consisting of R6-1-301 through R6-1-309, expired under A.R.S. § 41-1056(E) at 10 A.A.R. 1165, effective October 31, 2003 (Supp. 04-1).

R6-1-301. Expired

Historical Note
Adopted effective October 11, 1989 (Supp. 89-4). Amended effective December 22, 1993 (Supp. 93-4). Section expired under A.R.S. § 41-1056(E) at 10 A.A.R. 1165, effective October 31, 2003 (Supp. 04-1).

R6-1-302. Expired

Historical Note
Adopted effective October 11, 1989 (Supp. 89-4). Section expired under A.R.S. § 41-1056(E) at 10 A.A.R. 1165, effective October 31, 2003 (Supp. 04-1).

R6-1-303. Expired

Historical Note
Adopted effective October 11, 1989 (Supp. 89-4). Amended effective December 22, 1993 (Supp. 93-4). Section expired under A.R.S. § 41-1056(E) at 10 A.A.R. 1165, effective October 31, 2003 (Supp. 04-1).

R6-1-304. Expired

Historical Note
Adopted effective October 11, 1989 (Supp. 89-4). Amended effective December 22, 1993 (Supp. 93-4). Section expired under A.R.S. § 41-1056(E) at 10 A.A.R. 1165, effective October 31, 2003 (Supp. 04-1).

R6-1-305. Expired

Historical Note
Adopted effective October 11, 1989 (Supp. 89-4). Amended effective December 22, 1993 (Supp. 93-4). Section expired under A.R.S. § 41-1056(E) at 10 A.A.R. 1165, effective October 31, 2003 (Supp. 04-1).

R6-1-306. Expired

Historical Note
Adopted effective October 11, 1989 (Supp. 89-4). Amended effective December 22, 1993 (Supp. 93-4). Section expired under A.R.S. § 41-1056(E) at 10 A.A.R. 1165, effective October 31, 2003 (Supp. 04-1).

R6-1-307. Expired

Historical Note
Adopted effective October 11, 1989 (Supp. 89-4).
Amended effective December 22, 1993 (Supp. 93-4).
Section expired under A.R.S. § 41-1056(E) at 10 A.A.R. 1165, effective October 31, 2003 (Supp. 04-1).

R6-1-308. Expired

Historical Note
Adopted effective October 11, 1989 (Supp. 89-4).
Amended effective December 22, 1993 (Supp. 93-4).
Section expired under A.R.S. § 41-1056(E) at 10 A.A.R. 1165, effective October 31, 2003 (Supp. 04-1).

R6-1-309. Expired

Historical Note
Adopted effective October 11, 1989 (Supp. 89-4).
Amended effective December 22, 1993 (Supp. 93-4).
Section expired under A.R.S. § 41-1056(E) at 10 A.A.R. 1165, effective October 31, 2003 (Supp. 04-1).

ARTICLE 4. FINGERPRINTING

R6-1-401. Definitions

In this Article, unless the context otherwise requires:

1. "Certification" means a status conferred by the Department upon personnel who have submitted required materials for fingerprint clearance, and who have been accordingly cleared, permitting them to provide services either with supervision or without supervision to juveniles.
2. "Certification form" means the notarized criminal history disclosure submitted to the Department as required by A.R.S. § 46-141(D).
3. "Department" means the Arizona Department of Economic Security.
4. "Direct visual supervision" means within sight and hearing of provider personnel with full certification.
5. "Full certification" means that personnel are certified to provide service directly to juveniles without supervision.
6. "Juvenile" means an individual who is under 18 years of age.
7. "License" means the whole or part of a Department permit, certificate, registration, or similar form of permission or authorization required by law but shall not include foster home licenses, child care home certifications, adoptive home certifications or licenses for facilities for developmentally disabled persons.
8. "Provider" means a federally recognized Indian tribe, county, political subdivision, military base, person, corporation, partnership or association with whom the Department contracts, or which the Department licenses, to provide services.
9. "Provider personnel" or "personnel" means paid or unpaid persons who have direct contact with juveniles and provide direct services to juveniles for a provider, including consultants, subcontractors, volunteers, students and persons otherwise affiliated with the provider.
10. "Restricted certification" means that personnel are certified to provide services to juveniles with supervision as authorized by A.R.S. § 46-141(G).
11. "Sanction" means denial, cancellation, revocation or termination of a license or contract.
12. "Services directly to juveniles" means in-person interaction between the personnel and the juvenile client.
13. "Supervision" means within sight and hearing at all times of a supervisor with full certification when providing services of any nature directly to juveniles, including psychological, medical or any ancillary services.

Historical Note
Adopted effective December 2, 1992 (Supp. 92-4).

R6-1-402. Provider Responsibilities

A. A provider shall submit to the Department the fingerprints, the completed certification form, the processing fee and any other documents required by the Department before provider personnel are allowed or required to provide services directly to juveniles.

B. If a provider does not submit all the documents or the certification form required in subsection (A) above or submits incomplete documents, the Department shall return the documents to the provider. The provider shall prohibit personnel from providing services directly to juveniles until all the documents are completed and resubmitted to the Department.

C. If personnel have been certified by the Department of Health Services, the Supreme Court or the Department of Youth Treatment and Rehabilitation to work for the provider, the provider shall submit a copy of the certification to the Department. That certification shall satisfy the certification requirements of this Article.

D. A provider shall maintain a list of names of volunteers who will work only under direct visual supervision. The list shall be made available to the Department upon request.

Historical Note
Adopted effective December 2, 1992 (Supp. 92-4).

R6-1-403. Exempt Providers

A federally recognized Indian tribe or military base provider is exempt from the provisions of this Article except R6-1-405 if the provider certifies in accordance with A.R.S. § 46-141(H).

Historical Note
Adopted effective December 2, 1992 (Supp. 92-4).

R6-1-404. Effect of Certification Form Disclosures

A. Personnel who disclose conviction of, commission of or pending trial for an offense listed in A.R.S. § 46-141(F) shall not be allowed to provide services to juveniles.

B. Personnel who disclose a conviction of or a pending trial for an offense listed in A.R.S. § 46-141(G) shall not be allowed to provide services directly to juveniles without supervision pending completion of the criminal history verification. Services may be provided with supervision.

C. Personnel who disclose no convictions, pending trials or commission of any offenses listed in A.R.S. § 46-141(D) may provide services directly to juveniles without supervision pending completion of the criminal history verification.

Historical Note
Adopted effective December 2, 1992 (Supp. 92-4).

R6-1-405. Costs

If the Department allows the costs of fingerprint checks as an allowable cost when negotiating a contract, the provider shall not then charge the cost of fingerprinting to its personnel.

Historical Note
Adopted effective December 2, 1992 (Supp. 92-4).

R6-1-406. Certification and Sanctions

A. The Department shall grant certification to provider personnel whose criminal records check discloses no criminal history as proscribed by A.R.S. § 46-141.

B. The Department shall deny certification to personnel who disclose, or whose criminal history check shows, that they have committed, been convicted of or are awaiting trial for any offense listed in A.R.S. § 46-141(F).

C. The Department shall grant restricted certification to personnel who disclose, or whose criminal records check shows, that they have been convicted of or are awaiting trial for any offense listed in A.R.S. § 46-141(G).

D. Personnel who are awaiting trial on any of the crimes listed in A.R.S. § 46-141, and whose certification is denied or restricted as a result of the pending charges, may, upon a showing of acquittal, dismissal, or conviction of a lesser nonlisted crime, resubmit pursuant to R6-1-402.

E. The Department shall notify the provider and provider's personnel of the denial of certification or the granting of full or restricted certification. A provider which places provider personnel who have disclosed a criminal history on the certification form which would allow only a restricted certification in a job position requiring or allowing the personnel to provide services directly to juveniles without supervision shall be subject to sanction.

F. A provider which allows volunteers who are exempted from the certification requirements by A.R.S. § 46-141(I) to provide services to juveniles without direct visual supervision shall be subject to sanction.

G. A provider which fails to provide direct visual supervision at all times of volunteers exempted from the certification requirements by A.R.S. § 46-141(I) shall be subject to sanction.

H. A provider which fails to provide supervision at all times to personnel granted a restricted certification pursuant to A.R.S. § 46-141 shall be subject to sanction.

Historical Note
Adopted effective December 2, 1992 (Supp. 92-4).

R6-1-407. Effect of Confirmed Proscribed Criminal History

A. Denial: Upon notification by the Department of denial of certification, the provider shall immediately prohibit those personnel from providing services in any capacity allowing provision of direct services to juveniles, or the employer's license or contract shall be subject to sanction.

B. Restriction: Upon notification by the Department of restricted certification, the provider shall prohibit these personnel from unsupervised contact with juveniles or the provider's license or contract shall be subject to sanction.

Historical Note
Adopted effective December 2, 1992 (Supp. 92-4).

R6-1-408. Certification Expiration

A. A certification is valid for the full period of time that personnel are continuously employed by, or volunteer for, the provider unless it is revoked.

B. A certification shall be revoked if the Department receives information that provider personnel have been convicted of, committed, or are awaiting trial for an offense listed in A.R.S. § 46-141.

Historical Note
Adopted effective December 2, 1992 (Supp. 92-4).

R6-1-409. Subsequent Offenses

A. The provider shall notify the Department in writing within three working days after the provider receives information that any person who has been certified has committed, been convicted of, or is awaiting trial for any criminal offense listed in A.R.S. § 46-141(F).

1. The certification of the person shall be immediately revoked under the provisions of R6-1-408(B).
2. The provider shall immediately prohibit the person from acting in any capacity requiring or allowing contact with juveniles.

B. The provider shall notify the Department, in writing, within three working days after the provider receives information that any person who has been certified has been convicted of, or is awaiting trial for, any criminal offense listed in A.R.S. § 46-141(G).

1. The certification of the person shall be immediately revoked under the provisions of R6-1-408(B).
2. The provider shall immediately prohibit the person from acting in any capacity requiring or allowing unsupervised contact with juveniles.

C. Failure to notify the Department as required in subsections (A) and (B) above shall subject the provider to sanction.

Historical Note
Adopted effective December 2, 1992 (Supp. 92-4).

ARTICLE 5. CIVIL RIGHTS

R6-1-501. Civil Rights

A. Statement of compliance: Pursuant to the provisions of the Civil Rights Act of 1964, no person in the state of Arizona will be excluded from participation in, denied the benefits of, or subjected to discrimination under assistance payments programs on the basis of race, color, religion, sex, or national origin. The Department shall administer such programs in accordance with the laws, regulations, policies, and practices enumerated in the subsections below.

B. Definition of compliance: The Department shall follow policies and practices including, but not limited to, those described below.

1. No individual will, on the basis of race, color, religion, sex, or national origin, be denied any benefit provided under an assistance payment program, or be provided a benefit which is different, or in a different manner, from that provided to others under the same program.
2. No individual will, on the basis of race, color, religion, sex, or national origin, be subjected to segregation or separate treatment in any manner related to receipt of any benefit under an assistance payments program, nor will an individual be restricted in any way from any advantage or privilege enjoyed by others receiving benefits under the same program. This includes any distinction with respect to spaces provided for service, waiting rooms, and restrooms. Neither will separate times be set aside on the basis of race, color, religion, sex, or national origin for the provision of assistance.
3. Employees of the Department will not be assigned caseloads or clientele on the basis of race, color, religion, sex, or national origin of the persons being assisted.
4. Criteria or methods of administration shall not subject individuals to discrimination or defeat or substantially impair the objectives of an assistance payments program on the basis of the individual's race, color, religion, sex, or national origin.
5. The Department shall conduct assistance payments programs in accordance with the requirements of existing laws and regulations, which shall extend not only to those activities which are conducted directly by the Department but also to all related activities which are conducted by other agencies, institutions, organizations, political subdivisions, and vendors.
6. The Department shall maintain records and submit reports as required by federal authorities to assure compliance with regulations. During normal business hours of the Department, access will be permitted to its facili-

ties, records, and other sources of information as may be pertinent to as certain compliance with regulations.

7. The Department will make available to applicants, recipients, and public officials that information required by federal authorities to appraise such persons of the protections against discrimination assured them by the Civil Rights Act of 1964.

C. Methods of administration.

1. The Department shall inform and instruct its staff of obligations under the Civil Rights Act of 1964, existing regulations, and the Statement of Compliance by:
   a. Making copies of all pertinent documents available to the entire staff.
   b. Conducting, as a regular part of the In-service Training Program:
      i. Meetings to explain to all staff personnel the intent and meaning of such documents and to instruct them in their obligation to carry out the policies contained therein.
      ii. Orientation of new staff personnel regarding their responsibilities to comply with the Civil Rights Act of 1964.
      iii. Periodic reminders of Civil Rights Act requirements in appropriate staff meetings and memoranda or other official correspondence.
      iv. Cultural awareness training to all staff personnel concerning ethnic differences among various groups residing in Arizona who comprise the Department's clientele.
      v. Constant review of practices and policies to assure that no individual is discriminated against because of race, color, religion, sex, or natural origin.
2. The Department will inform and instruct other appropriate agencies, institutions, organizations, political subdivisions, and vendors of their obligations to comply with the Civil Rights Act of 1964, existing regulations, and the Statement of Compliance filed by the Department as a condition to their initial or continued financial participation in any assistance payments program. This will be accomplished by:
   a. Making clear the requirements of the Civil Rights Act and implementing regulations and policies to fulfill these requirements.
   b. Determining that the agency, institution, organization, political subdivision, or vendor has executed an assurance in the form prescribed by federal authorities which is currently effective and applicable to the program under which the activity is conducted. This includes the use of memoranda which verifies specific obligations and undertakings or certification of compliance on each voucher presented to the Department for payment. Regular on-the-spot checks will be made by the Department's staff to assure compliance by any other agency, institution, organization, political subdivision, or vendor participating in an assistance payments program.
   c. The Department will inform its clientele and other interested persons that financial assistance and other program benefits are provided on a non-discriminatory basis and of their right to file a complaint with the Department, the federal authorities, or both, if they believe that discrimination on the basis of race, color, religion, sex, or national origin is practiced. Informing clientele will be accomplished by furnishing a written notice and the Statement of Compliance to all clientele and other interested persons.
   d. All complaints alleging discrimination because of race, color, religion, sex, or national origin shall be filed in writing, shall describe the type of discrimination alleged, indicate when and where such alleged discrimination occurred, and describe any pertinent facts and circumstances relating to the alleged discrimination. The complaint shall be signed by the complainant. All complaints shall be addressed to the Director of the Department of Economic Security, who will initiate a thorough investigation through established procedure. After the complaint has been investigated, the Director shall determine whether or not any discriminatory practice has occurred. If appropriate, the Director will take such action as the Director deems necessary to correct past practices and prevent future recurrence of such discrimination. The Department shall cease making referrals or vendor payments to any entity which does not fully comply with the Civil Rights Act of 1964. The complainant shall be advised in writing of the Department's determination regarding the complaint.
      i. The Department will maintain a file of approved facilities, agencies, resources, and vendors who have executed Statements of Compliance with the Civil Rights Act of 1964. Verified complaints will be referred by the Department for corrective action. If, after a reasonable time, such corrective action has not been taken, the Department will advise and remove the facility, agency, or vendor from its approved list of resources.
      ii. The Department will maintain adequate records to show action taken as a result of each complaint and will make this information available to appropriate federal authorities.
      iii. Department employees who receive anonymous verbal complaints are required to report them to their supervisor. The supervisor will decide upon further action to be taken in such cases.
   e. At least once each year, or more frequently for those cases in which discriminatory practices are alleged or suspected, a representative of the Department will visit institutions, organizations, political subdivisions, or vendors who participate in a program to verify that their practices conform to the Civil Rights Act and the regulations issued pursuant thereto and as reflected in the Statement of Compliance. The Department will periodically determine if discriminatory practices are engaged in by its personnel and will take corrective action as required to ensure that actions are in compliance with the Civil Rights Act and regulations issued pursuant thereto, as reflected in the Statement of Compliance.
   f. Policies and procedures will provide effective verbal and written communication with non-English-speaking applicants and recipients. These policies and procedures will be made known to all Department employees. Supervisors will be required to ensure that their staff complies with such policies and procedures.

g. Assistance payments program information will be disseminated to the general public, using appropriate and effective media to reach minority populations.
h. Department advisory committees will include representatives of racial and ethnic minority groups to the extent feasible.
i. The Department shall provide data revealing the extent to which members of minority groups are beneficiaries of, participants in, or both, federally funded assistance payments programs.

Historical Note

R6-1-501 recodified from R6-3-103 effective February 13, 1996 (Supp. 96-1).

41-1003. Required rule making

Each agency shall make rules of practice setting forth the nature and requirements of all formal procedures available to the public.

41-1954. Powers and duties

A. In addition to the powers and duties of the agencies listed in section 41-1953, subsection E, the department shall:

1. Administer the following services:

(a) Employment services, including manpower programs and work training, field operations, technical services, unemployment compensation, community work and training and other related functions in furtherance of programs under the social security act, as amended, the Wagner-Peyser act, as amended, the federal unemployment tax act, as amended, 33 United States Code, the family support act of 1988 (P.L. 100-485) and other related federal acts and titles.

(b) Individual and family services, which shall include a section on aging, services to children, youth and adults and other related functions in furtherance of social service programs under the social security act, as amended, title IV, except parts B and E, grants to states for aid and services to needy families with children and for child-welfare services, title XX, grants to states for services, the older Americans act, as amended, the family support act of 1988 (P.L. 100-485) and other related federal acts and titles.

(c) Income maintenance services, including categorical assistance programs, special services unit, child support collection services, establishment of paternity services, maintenance and operation of a state case registry of child support orders, a state directory of new hires, a support payment clearinghouse and other related functions in furtherance of programs under the social security act, title IV, grants to states for aid and services to needy families with children and for child-welfare services, title XX, grants to states for services, as amended, and other related federal acts and titles.

(d) Rehabilitation services, including vocational rehabilitation services and sections for the blind and visually impaired, communication disorders, correctional rehabilitation and other related functions in furtherance of programs under the vocational rehabilitation act, as amended, the Randolph-Sheppard act, as amended, and other related federal acts and titles.

(e) Administrative services, including the coordination of program evaluation and research, interagency program coordination and in-service training, planning, grants, development and management, information, legislative liaison, budget, licensing and other related functions.

(f) Manpower planning, including a state manpower planning council for the purposes of the federal-state-local cooperative manpower planning system and other related functions in furtherance of programs under the comprehensive employment and training act of 1973, as amended, and other related federal acts and titles.

(g) Economic opportunity services, including the furtherance of programs prescribed under the economic opportunity act of 1967, as amended, and other related federal acts and titles.

(h) Intellectual disability and other developmental disability programs, with emphasis on referral and purchase of services. The program shall include educational, rehabilitation, treatment and training services and other related functions in furtherance of programs under the developmental disabilities services and facilities construction act, Public Law 91-517, and other related federal acts and titles.

(i) Nonmedical home and community based services and functions, including department designated case management, housekeeping services, chore services, home health aid, personal care, visiting nurse services, adult day care or adult day health, respite sitter care, attendant care, home delivered meals and other related services and functions.

2. Provide a coordinated system of initial intake, screening, evaluation and referral of persons served by the department.

3. Adopt rules it deems necessary or desirable to further the objectives and programs of the department.

4. Formulate policies, plans and programs to effectuate the missions and purposes of the department.

5. Employ and determine the conditions of employment and prescribe the duties and powers of administrative, professional, technical, secretarial, clerical and other persons subject to chapter 4, article 4 and, as applicable, article 5 of this title as may be necessary in the performance of its duties, contract for the services of outside advisors, consultants and aides as may be reasonably necessary and reimburse department volunteers, designated by the director, for expenses in transporting clients of the department on official business.

6. Make contracts and incur obligations within the general scope of its activities and operations subject to the availability of funds.

7. Contract with or assist other departments, agencies and institutions of the state, local and federal governments in the furtherance of its purposes, objectives and programs.

8. Be designated as the single state agency for the purposes of administering and in furtherance of each federally supported state plan.

9. Accept and disburse grants, matching funds and direct payments from public or private agencies for the conduct of programs that are consistent with the overall purposes and objectives of the department.

10. Provide information and advice on request by local, state and federal agencies and by private citizens, business enterprises and community organizations on matters within the scope of its duties subject to the departmental rules on the confidentiality of information.

11. Establish and maintain separate financial accounts as required by federal law or regulations.

12. Advise and make recommendations to the governor and the legislature on all matters concerning its objectives.

13. Have an official seal that shall be judicially noticed.

14. Annually estimate the current year's population of each county, city and town in this state, using the periodic census conducted by the United States department of commerce, or its successor agency, as the basis for such estimates and deliver such estimates to the economic estimates commission before December 15.

15. Estimate the population of any newly annexed areas of a political subdivision as of July 1 of the fiscal year in which the annexation occurs and deliver such estimates as promptly as is feasible after the annexation occurs to the economic estimates commission.

16. Establish and maintain a statewide program of services for persons who are both hearing impaired and visually impaired and coordinate appropriate services with other agencies and organizations to avoid duplication of these services and to increase efficiency. The department of economic security shall enter into agreements for the utilization of the personnel and facilities of the department of economic security, the department of health services and other appropriate agencies and organizations in providing these services.

17. Establish and charge fees for deposit in the department of economic security prelayoff assistance services fund to employers who voluntarily participate in the services of the department that provide job service and retraining for persons who have been or are about to be laid off from employment. The department shall charge only those fees necessary to cover the costs of administering the job service and retraining services.

18. Establish a focal point for addressing the issue of hunger in Arizona and provide coordination and assistance to public and private nonprofit organizations that aid hungry persons and families throughout this state. Specifically such activities shall include:

(a) Collecting and disseminating information regarding the location and availability of surplus food for distribution to needy persons, the availability of surplus food for donation to charity food bank organizations, and the needs of charity food bank organizations for surplus food.

(b) Coordinating the activities of federal, state, local and private nonprofit organizations that provide food assistance to the hungry.

(c) Accepting and disbursing federal monies, and any state monies appropriated by the legislature, to private nonprofit organizations in support of the collection, receipt, handling, storage and distribution of donated or surplus food items.

(d) Providing technical assistance to private nonprofit organizations that provide or intend to provide services to the hungry.

(e) Developing a state plan on hunger that, at a minimum, identifies the magnitude of the hunger problem in this state, the characteristics of the population in need, the availability and location of charity food banks and the potential sources of surplus food, assesses the effectiveness of the donated food collection and distribution network and other efforts to alleviate the hunger problem, and recommends goals and strategies to improve the status of the hungry. The state plan on hunger shall be incorporated into the department's state comprehensive plan prepared pursuant to section 41-1956.

(f) Establishing a special purpose advisory council on hunger pursuant to section 41-1981.

19. Establish an office to address the issue of homelessness and to provide coordination and assistance to public and private nonprofit organizations that prevent homelessness or aid homeless individuals and families throughout this state. These activities shall include:

(a) Promoting and participating in planning for the prevention of homelessness and the development of services to homeless persons.

(b) Identifying and developing strategies for resolving barriers in state agency service delivery systems that inhibit the provision and coordination of appropriate services to homeless persons and persons in danger of being homeless.

(c) Assisting in the coordination of the activities of federal, state and local governments and the private sector that prevent homelessness or provide assistance to homeless people.

(d) Assisting in obtaining and increasing funding from all appropriate sources to prevent homelessness or assist in alleviating homelessness.

(e) Serving as a clearinghouse on information regarding funding and services available to assist homeless persons and persons in danger of being homeless.

(f) Developing an annual state comprehensive homeless assistance plan to prevent and alleviate homelessness.

(g) Submitting an annual report to the governor, the president of the senate and the speaker of the house of representatives on the status of homelessness and efforts to prevent and alleviate homelessness.

20. Cooperate with the Arizona-Mexico commission in the governor's office and with researchers at universities in this state to collect data and conduct projects in the United States and Mexico on issues that are within the scope of the department's duties and that relate to quality of life, trade and economic development in this state in a manner that will help the Arizona-Mexico commission to assess and enhance the economic competitiveness of this state and of the Arizona-Mexico region.

21. Exchange information, including case specific information, and cooperate with the department of child safety for the administration of the department of child safety's programs.

B. If the department of economic security has responsibility for the care, custody or control of a child or is paying the cost of care for a child, it may serve as representative payee to receive and administer social security and United States department of veterans affairs benefits and other benefits payable to such child. Notwithstanding any law to the contrary, the department of economic security:

1. Shall deposit, pursuant to sections 35-146 and 35-147, such monies as it receives to be retained separate and apart from the state general fund on the books of the department of administration.

2. May use such monies to defray the cost of care and services expended by the department of economic security for the benefit, welfare and best interests of the child and invest any of the monies that the director determines are not necessary for immediate use.

3. Shall maintain separate records to account for the receipt, investment and disposition of funds received for each child.

4. On termination of the department of economic security's responsibility for the child, shall release any funds remaining to the child's credit in accordance with the requirements of the funding source or in the absence of such requirements shall release the remaining funds to:

(a) The child, if the child is at least eighteen years of age or is emancipated.

(b) The person responsible for the child if the child is a minor and not emancipated.

C. Subsection B of this section does not pertain to benefits payable to or for the benefit of a child receiving services under title 36.

D. Volunteers reimbursed for expenses pursuant to subsection A, paragraph 5 of this section are not eligible for workers' compensation under title 23, chapter 6.

E. In implementing the temporary assistance for needy families program pursuant to Public Law 104-193, the department shall provide for cash assistance to two parent families if both parents are able to work only on documented participation by both parents in work activities described in title 46, chapter 2, article 5, except that payments may be made to families who do not meet the participation requirements if:

1. It is determined on an individual case basis that they have emergency needs.

2. The family is determined to be eligible for diversion from long-term cash assistance pursuant to title 46, chapter 2, article 5.

F. The department shall provide for cash assistance under temporary assistance for needy families pursuant to Public Law 104-193 to two parent families for no longer than six months if both parents are able to work, except that additional assistance may be provided on an individual

case basis to families with extraordinary circumstances. The department shall establish by rule the criteria to be used to determine eligibility for additional cash assistance.

G. The department shall adopt the following discount medical payment system for persons who the department determines are eligible and who are receiving rehabilitation services pursuant to subsection A, paragraph 1, subdivision (c) of this section:

1. For inpatient hospital admissions and outpatient hospital services the department shall reimburse a hospital according to the rates established by the Arizona health care cost containment system administration pursuant to section 36-2903.01, subsection G.

2. The department's liability for a hospital claim under this subsection is subject to availability of funds.

3. A hospital bill is considered received for purposes of paragraph 5 of this subsection on initial receipt of the legible, error-free claim form by the department if the claim includes the following error-free documentation in legible form:

(a) An admission face sheet.

(b) An itemized statement.

(c) An admission history and physical.

(d) A discharge summary or an interim summary if the claim is split.

(e) An emergency record, if admission was through the emergency room.

(f) Operative reports, if applicable.

(g) A labor and delivery room report, if applicable.

4. The department shall require that the hospital pursue other third-party payors before submitting a claim to the department. Payment received by a hospital from the department pursuant to this subsection is considered payment by the department of the department's liability for the hospital bill. A hospital may collect any unpaid portion of its bill from other third party payors or in situations covered by title 33, chapter 7, article 3.

5. For inpatient hospital admissions and outpatient hospital services rendered on and after October 1, 1997, if the department receives the claim directly from the hospital, the department shall pay a hospital's rate established according to this section subject to the following:

(a) If the hospital's bill is paid within thirty days of the date the bill was received, the department shall pay ninety-nine per cent of the rate.

(b) If the hospital's bill is paid after thirty days but within sixty days of the date the bill was received, the department shall pay one hundred per cent of the rate.

(c) If the hospital's bill is paid any time after sixty days of the date the bill was received, the department shall pay one hundred per cent of the rate plus a fee of one per cent per month for each month or portion of a month following the sixtieth day of receipt of the bill until the date of payment.

6. For medical services other than those for which a rate has been established pursuant to section 36-2903.01, subsection G, the department shall pay according to the Arizona health care cost containment system capped fee-for-service schedule adopted pursuant to section 36-2904, subsection K or any other established fee schedule the department determines reasonable.

H. The department shall not pay claims for services pursuant to this section that are submitted more than nine months after the date of service for which the payment is claimed.

I. To assist in the location of persons or assets for the purpose of establishing paternity, establishing, modifying or enforcing child support obligations and other related functions, the department has access, including automated access if the records are maintained in an automated database, to records of state and local government agencies, including:

1. Vital statistics, including records of marriage, birth and divorce.

2. State and local tax and revenue records, including information on residence address, employer, income and assets.

3. Records concerning real and titled personal property.

4. Records of occupational and professional licenses.

5. Records concerning the ownership and control of corporations, partnerships and other business entities.

6. Employment security records.

7. Records of agencies administering public assistance programs.

8. Records of the motor vehicle division of the department of transportation.

9. Records of the state department of corrections.

10. Any system used by a state agency to locate a person for motor vehicle or law enforcement purposes, including access to information contained in the Arizona criminal justice information system.

J. Notwithstanding subsection I of this section, the department or its agents shall not seek or obtain information on the assets of an individual unless paternity is presumed pursuant to section 25-814 or established.

K. Access to records of the department of revenue pursuant to subsection I of this section shall be provided in accordance with section 42-2003.

L. The department also has access to certain records held by private entities with respect to child support obligors or obligees, or individuals against whom such an obligation is sought. The information shall be obtained as follows:

1. In response to a child support subpoena issued by the department pursuant to section 25-520, the names and addresses of these persons and the names and addresses of the employers of these persons, as appearing in customer records of public utilities and cable television companies.

2. Information on these persons held by financial institutions.

M. Pursuant to department rules, the department may compromise or settle any support debt owed to the department if the director or an authorized agent determines that it is in the best interest of the state and after considering each of the following factors:

1. The obligor's financial resources.

2. The cost of further enforcement action.

3. The likelihood of recovering the full amount of the debt.

N. Notwithstanding any law to the contrary, a state or local governmental agency or private entity is not subject to civil liability for the disclosure of information made in good faith to the department pursuant to this section.

GAME AND FISH COMMISSION
Title 12, Chapter 4, Article 4, Live Wildlife

Amend: R12-4-414

GOVERNOR'S REGULATORY REVIEW COUNCIL
M E M O R A N D U M

MEETING DATE: September 6, 2017 **AGENDA ITEM: D-3**

TO: Members of the Governor's Regulatory Review Council

FROM: Justin Larson, Legal Intern

DATE: August 23, 2017

SUBJECT: **GAME AND FISH COMMISSION (R-17-0904)**
Title 12, Chapter 4, Article 4, Live Wildlife

Amend: R12-4-414

General Comments

Purpose of the Agency and Summary of What the Rulemaking Does

The purpose of the Arizona Game and Fish Commission (Commission), the Arizona Game and Fish Department (Department), and the Director of the Department is "to manage wildlife and wildlife habitat in this state as provided by law." Laws 2012, Ch. 283 § 3. "Control of the department is vested in the game and fish commission." A.R.S. § 17-201(A). The commission appoints the Director who is "the chief administrative officer of the game and fish department." A.R.S. § 17-211(A).

This rulemaking amends R12-4-414 relating to the Game Bird License. Following two rulemaking petitions, the Commission directed the Department to work with stakeholders to create rule amendments that would result in an improved process and customer friendly approach for administering Game Bird Licenses.

This rule was last amended in 2015 to combine what was previously four different Game Bird Licenses into one over-arching Game Bird rule that encompassed each of the activities authorized under the original four licenses. Under this model, the Department would stipulate the applicable activities on the license itself. Thus, the applicant would not know what kind of activities were allowed for a license type at the time of application; the applicant would have found out through the application process or at the time of license issuance what activities he or she could or could not conduct. Thus, the Commission and members of the public have stated the rule is confusing as written and should be amended to clarify the different activities allowed under each type of license.

Proposed Action

The Commission proposes to make the following amendments to R12-4-414:

- Clarifies the different license authorities by breaking each license into a subsection describing the specific activities a licensee may conduct.
- Clarifies that the Game Bird License only authorizes the license holder to use captive pen-reared game birds for any of the activities authorized under the license.
- Establishes that a person conducting activities under a Game Bird Field Training License is not required to possess a hunting license in order to take captive pen-reared game birds to increase consistency between activities authorized under the rule.
- Stipulates that the Game Bird Field Training license is valid until December 31 of the year in which it is issued.
- Removes the requirement that an applicant submit a separate application when applying for a Game Bird Shooting Preserve, Game Bird Field Training, or Game Bird Hobby License when the applicant proposes to use more than one location to conduct activities authorized under the license.
- Removes the requirement that an applicant provide the game bird supplier's Federal Tax Identification Number and the applicant's Federal Tax Identification Number on the application when the applicant will use the captive pen-reared game birds for a commercial purpose.
- Clarifies that only a person applying for a Game Bird Hobby or Game Bird Shooting Preserve License provide a detailed description or diagram of the facilities where the applicant will hold game birds and a description of how the facilities comply with the requirements established under R12-4-428 and any other captivity standards established under this section.
- Removes the requirement that a Game Bird License holder have their facility inspected by a veterinarian at least once every year.
- Removes the requirement that a Game Bird License holder retain records of copies of all federal, state, and local licenses, permits, and authorizations required for the lawful operation of the game bird activity.
- Clarifies that any activities authorized under the license may occur only at the locations and dates specified on the license and require a license holder who wishes to conduct activities authorized under the license at a new location or a different date to submit an application to the Department.

Exemption or Request and Approval for Exception from the Moratorium

The Commission requested approval for exception from the moratorium on April 10, 2017, and the request was approved on April 14, 2017.

Substantive or Procedural Concerns

None.

1. **Are the rules legal, consistent with legislative intent, and within the agency's statutory authority?**

Yes. A.R.S. § 17-231(A)(1) requires the Commission to "[a]dopt rules and establish services it deems necessary to carry out the provisions and purposes of [title 17]." Further, the Commission cites A.R.S. §§ 17-231(A)(3), 17-231(B)(8), 17-238(A), 17-306, 17-307(C), 17-332, 17-333, and 41-1005 as specific implementing authority for the rules.

2. **Are the rules written in a manner that is clear, concise, and understandable to the general public?**

Yes. The rules are clear, concise, and understandable.

3. **Does the agency adequately address the comments on the proposed rules and any supplemental proposals?**

Yes. This rulemaking comes in response to two rulemaking petitions filed by individuals affected by the rules. The petitions both stated concerns that the rules as written were overly burdensome for individuals using game birds for dog training. Further, the Commission adequately addressed the seven public comments it received on the proposed rules.[1]

4. **Are the final rules a substantial change, considered as a whole, from the proposed rules and any supplemental proposals?**

No. The final rules do not constitute a substantial change from the proposed rules. The Department made minor technical changes at the request of Council staff.

5. **Does the preamble disclose a reference to any study relevant to the rules that the agency reviewed and either did or did not rely on in the agency's evaluation of or justification for the rules?**

No. The Department indicates that it did not rely on a study.

6. **Are the rules more stringent than corresponding federal law and, if so, is there statutory authority that allows the agency to exceed the requirements of federal law?**

No. There are no federal laws applicable to these rules.

[1] A summary of the public comments and responses may be found in Item #11 of the Notice of Final Rulemaking (Pages 5-7).

7. **Do the rules require a permit or license and if so, does the agency use a general permit or is any exception applicable under A.R.S. § 41-1037?**

Yes. The Commission indicates the Game Bird License falls within the definition of "general permit" as defined under A.R.S. § 41-1001(11), and therefore complies with A.R.S § 41-1037.

8. **Do the rules establish a new fee or contain a fee increase?**

No. The rules do not establish a new fee or contain a fee increase.

Conclusion

The Commission requests that the rule becomes effective immediately upon filing with the Secretary of State's Office pursuant to A.R.S. § 41-1032(A)(4). The Commission believes this rulemaking will result in less stringent rule that decreases the burdens and costs to persons regulated by the rule and the Department. This analyst recommends approval of the rules.

GOVERNOR'S REGULATORY REVIEW COUNCIL
M E M O R A N D U M

MEETING DATE: September 6, 2017 **AGENDA ITEM: D-3**

TO: Members of the Governor's Regulatory Review Council

FROM: GRRC Economic Team

DATE : August 23, 2017

SUBJECT: **GAME AND FISH COMMISSION (R-17-0904)**
Title 12, Chapter 4, Article 4, Live Wildlife

Amend: R12-4-414

The economic analysis team has reviewed the economic, small business, and consumer impact statement (EIS) and makes the following comments. These comments are made to assist the Council in its review and may be used as the Council determines.

In this rulemaking, the Commission is proposing an amendment to R12-4-414. The objective of this rule is to establish requirements that allow a person to possess, propagate, release, and take pen-reared game birds, to include lists of game bird species that may be held under the license, the various activities authorized under the license, administrative compliance requirements, and the restrictions and prohibitions that are necessary to protect existing habitat and wildlife resources. The rule requires license holders to report on the number of birds held, released, and the locations of the release.

Key stakeholders include the Commission and persons regulated by the rules, with additional benefit going towards Arizona's wildlife and wildlife habitat.

1. <u>Costs and Benefits for:</u>

a. The implementing agency:

The Commission states the rule amendment will have little or no effect on the Commission's operations. The Commission has determined, however, that the proposed rulemaking will enhance the Commission's ability to protect the safety of native wildlife and wildlife habitat.

b. Political subdivisions:

This rulemaking does not provide any benefits or impose any costs on political subdivisions.

c. Businesses:

The Commission states that many of the amendments will not influence businesses, their revenues, or their payroll expenditures. Of the rules that the Commission anticipates may have an impact, the Commission believes the impact will be small, and the benefits will outweigh it.

d. Small businesses:

The Commission anticipates a variety of small businesses may be impacted by the proposed rulemaking; these may include persons who sell bird dogs, businesses that provide animal feed, care, and housing supplies, businesses that supply food, gas, or lodging for persons who are traveling, pet stores, and veterinarians. Since, in most instances, the rulemaking either reduces or makes no change to the current regulatory burden, the Commission anticipates persons regulated by the rule will not incur any additional costs because of the rulemaking.

e. Consumers directly affected by the rulemaking:

The Commission anticipates the proposed rulemaking will benefit private persons and consumers by clarifying the Game Bird License rule, and in doing so ensuring the continued integrity of and compliance with its rule. The Commission believes the amendments proposed will have no significant impact on persons regulated by the rule. The Commission believes the public will benefit from the proposed rulemaking through clarification of rule language governing the lawful use of captive, pen-reared game birds. The Commission anticipates persons regulated by the rule will not incur any additional costs because of the rulemaking.

2. <u>Do the probable benefits outweigh the probable costs?</u>

The Commission does not mention any significant costs to implementing these rules to clarify compensation definitions and calculations. The benefit of increased clarity will improve understanding and ease of ensuring accurate compensation. Therefore, the benefits outweigh the costs.

3. <u>Analysis of methods to reduce the small business impact:</u>

The Commission indicates that these changes do not impact businesses, therefore analysis on reducing potential impact is not mentioned.

4. The probable effect on state revenues:

The Commission states these changes will have no effect on revenue.

5. Analysis of any less intrusive or less costly alternative methods:

The Commission does not suggest any potentially less costly method of providing this benefit.

6. Whether an analysis was submitted to the agency regarding the rule's impact on the competitiveness of businesses in this state as compared to the competitiveness of businesses in other states:

No analysis was submitted that compares the rule's impact of the competitiveness of businesses in this state to the impact on businesses in other states.

7. A description of any data on which a rule is based with an explanation of how the data was obtained and why the data is acceptable data, and the methods used by the agency to evaluate the costs and benefits in the EIS.

No empirical or quantitative data were submitted for use in the EIS.

8. Conclusion:

The submitted economic, small business, and consumer impact statement is generally accurate, and contains the information required for compliance with ARS §§ 41-1035, 41-1052(D)(1-3), and 41-1055. This analyst recommends that the proposed rule amendments be approved.

THE STATE OF ARIZONA
GAME AND FISH DEPARTMENT
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July 17, 2017

Nicole Ong-Colyer, Council Chair
The Governor's Regulatory Review Council
100 North 15th Avenue, Ste. 305
Phoenix, AZ 85007

Re: A.A.C. Title 12. Natural Resources, Chapter 4. Game and Fish Commission Article 4. Live Wildlife, R12-4-414. Game Bird License

Dear Ms Ong-Colyer:

The Arizona Game and Fish Commission respectfully submit the accompanying final rule package for inclusion on the Council agenda.

In compliance with R1-6-201(A)(1), the Department provides you with the following information:

a. The rulemaking record closed on July 17, 2017.

b. This rulemaking activity is not related to the five-year-review report.

c. This rulemaking does not establish a new fee.

d. This rulemaking does not contain a fee increase.

e. An immediate effective date is requested. Under A.R.S. § 41-1032(A)(5), an agency may request an immediate effective date to adopt a rule that is less stringent than the rule that is currently in effect and that does not have an impact on the public health, safety, welfare or environment, or that does not affect the public involvement and public participation process.

f. The preamble discloses a reference to all studies relevant to the rule that the agency reviewed and either did or did not rely on in its evaluation of, or justification for, the rule.

g. The preparer of the Economic, Small Business, and Consumer Impact Statement did not notify the Joint Legislative Budget Committee of the number of new full-time employees necessary to implement and enforce the rule as the Commission determined that the implementation of the amended rule does not require any new full-time employees.

h. Items included in the rulemaking package are as follows:

- Signed cover letter
- Notice of Final Rulemaking
- Economic Impact Statement
- Written comments
- Authorizing statute: A.R.S. § 17-231(A)(1)
- Implementing statute: A.R.S. §§ 17-231(A)(3), 17-231(B)(8), 17-238(A), 17-240(A), 17-306, 17-307(C), 17-332, 17-333, and 41-1005
- Definitions of terms contained in statute or other rules and used in the rulemaking

Sincerely,

Tom Finley for

Ty Gray
Director

NOTICE OF FINAL RULEMAKING

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

PREAMBLE

1. Article, Part, or Section Affected (as applicable)	**Rulemaking Action**
R12-4-414	Amend

2. Citations to the agency's statutory authority to include the authorizing statute (general) and the implementing statute (specific):

Authorizing statute: A.R.S. § 17-231(A)(1)

Implementing statute: A.R.S. §§ 17-231(A)(3), 17-231(B)(8), 17-238(A), 17-240(A), 17-306, 17-307(C), 17-332, 17-333, and 41-1005

3. The effective date of the rules:

a. If the agency selected a date earlier than the 60 days effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):

The rule is effective immediately upon filing with the Secretary of State's office as authorized under A.R.S. § 41-1032(A)(4), which allows an immediate effective date for a rule that is less stringent than the rule that is currently in effect and that does not have an impact on the public health, safety, and welfare. The Commission believes the amendments proposed in the rulemaking will result in a rule that significantly less stringent and decreases the burdens and costs to persons regulated by the rule and the Department due to amendments that result in an improved process and customer friendly approach for administering Game Bird Field Training Licenses.

b. If the agency selected a date later than the 60 days effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(B):

Not applicable

4. Citations to all related notices published in the *Register* as specified in R1-1-409(A) that pertain to the record of the proposed rule:

Notice of Rulemaking Docket Opening: 23 A.A.R. 1489, June 2, 2017

Notice of Proposed Rulemaking: 23 A.A.R. 1472, June 2, 2017

5. The agency's contact person who can answer questions about the rulemaking:

Name: Celeste Cook, Rules and Policy Manager

Address: Arizona Game and Fish Department
5000 W. Carefree Highway
Phoenix, AZ 85086

Telephone: (623) 236-7390
Fax: (623) 236-7110
E-mail: CCook@azgfd.gov

Please visit the AZGFD website to track the progress of this rule; view the regulatory agenda and all previous Five-year Review Reports; and learn about any other agency rulemaking matters at https://www.azgfd.com/agency/rulemaking/.

6. An agency's justification and reason why the rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:

An exemption from Executive Order 2015-01 was provided for this rulemaking by Hunter Moore, Natural Resource Policy Advisor, Governor's Office, in an email dated April 14, 2017.

The objective of the rule is to establish requirements that allow a person to possess, propagate, release, and take pen-reared game birds, to include lists of game bird species that may be held under the license, the various activities authorized under the license, administrative compliance requirements, and the restrictions and prohibitions that are necessary to protect existing habitat and wildlife resources.

The rule requires license holders to report on the number of birds held, released, and the locations of the release. In part, this is to aid the Department in the detection and assessment of impacts, positive or negative, to native wildlife and habitat. The Department's Wildlife Health Program receives and responds to reports of wildlife mortality across the state. In the past 10 years, the Department has detected multiple outbreaks of trichomonas in mourning doves and pigeon paramyxovirus in Eurasian collared doves. This virus also affects mourning doves. The Department has also identified psittacosis in nonnative rosy-cheeked lovebirds in the Phoenix area. Additional diseases known to occur in captive pen-reared game birds are avian influenza, avian cholera, duck cholera, quail bronchitis, and ulcerative enteritis. The impact of the introduction of these diseases into a wild population is unknown; however, researchers have examined the impact of the introduction of nonnative species and identified disease, hybridization, and competition as risks for the native populations.

On April 7, 2017, as a result of a rulemaking petition, the Commission directed the Department to work with identified stakeholders to develop rule amendments that result in an improved process and customer friendly approach for administering game bird licenses.

The Commission proposes to amend the rule to make the rule more understandable. The last rulemaking combined four game bird licenses into one over-arching game bird rule that addressed all of the activities authorized under the original four rules: Game Bird Shooting Preserve, Game Bird Field Trial, Game Bird Field Training, and Game Bird Hobby. Members of the public and the Department have stated the rule is confusing as written and should be amended to speak more clearly to the different species of game bird and different activities allowed under each type of license.

The Commission proposes to amend the rule to clarify the Game Bird License only authorizes the license holder to use captive pen-reared game birds for any of the activities authorized under the license. As written, the rule could be interpreted to mean wild-caught game birds may be possessed under the license, which is not the intent of the rule.

The Commission proposes to amend the rule to establish a person conducting activities under a Game Bird Field Training license is not required to possess a hunting license in order to take captive pen-reared game birds to increase consistency between the activities authorized under the rule. Currently, a person taking a captive pen-reared game bird under a valid Game Bird Shooting Preserve or Game Bird Field Trial license is not required to possess a hunting license when taking a captive pen-reared game bird under the license. The Commission believes that because the taking of captive pen-reared game birds is authorized under the license, a hunting license should not be required when training dogs with captive pen-reared game birds.

The Commission proposes to amend the rule to offer a Game Bird Field Training license that is valid until December 31 of the year in which it was issued. The last rulemaking reduced the period of time in which the license was valid to ten consecutive days to increase consistency between the Game Bird Field Trial and Field Training licenses. In reviewing information provided on previous years Game Bird Field Training license applications, the ten day time-frame appeared to be consistent with the times-frames indicated on the applications. However, persons who petitioned the Commission requested the rule be amended to revert back to the December 31 expiration date.

The Commission proposes to amend the rule to remove the requirement that an applicant submit a separate application when applying for a Game Bird Shooting Preserve, Game Bird Field Training, or Game Bird Hobby license when the applicant proposes to use more than one location to conduct activities authorized under the license. The Commission anticipates revising the Game Bird License Application to allow an applicant to list multiple locations on one application. The Game Bird Field Trial license applicant will continue to submit a separate application for each location. This is because the Game Bird Field Trial license is only valid for a specific field trial event.

The Commission proposes to amend the rule to remove the requirement that an applicant provide the game bird supplier's Federal Tax Identification Number and the applicant's Federal Tax Identification Number on the application when the applicant will use the captive pen-reared game birds for a commercial purpose. The Commission has determined this information, while helpful, is not essential to the application review.

The Commission proposes to amend the rule to clarify that only a person applying for a Game Bird Hobby or Game Bird Shooting Preserve License provide a detailed description or diagram of the facilities where the applicant will hold game birds and a description of how the facilities comply with the requirements established under R12-4-428 and any other captivity standards established under this Section. Game birds possessed by Game Bird Field Trial and Training License holders are typically housed in boxes at the site where the event or training will take place and the requirements for transporting an animal humanely are addressed under R12-4-428 (Captivity Standards).

The Commission proposes to amend the rule to remove the requirement that a Game Bird License holder have their facility inspected by a veterinarian at least once every year. Because the Arizona Model Veterinary Practice Act requires a veterinarian to visit a facility regularly in order to stay within practice act rules and the captivity standards rule (R12-4-428) requires a special license holder who possesses an animal for more than one-year to have their facility inspected annually by a veterinarian licensed to practice in Arizona, the

Commission determined it is not necessary to include this requirement in the Game Bird License rule.

The Commission proposes to amend the rule to remove the requirement that a Game Bird License holder retain records of copies of all federal, state, and local licenses, permits, and authorizations required for the lawful operation of the game bird activity because having this language in rule implies the Department verifies that the applicant possesses all of the necessary approvals and/or permits in place and that those approvals and/or permits are valid. The Department believes it is the applicant's responsibility to ensure they apply for and obtain all required licenses, permits, and authorizations.

The Commission proposes to amend the rule to clarify that any activities authorized under the license may occur only at the locations and dates specified on the license and require a license holder who wishes to conduct activities authorized under the license at a new location or a different date to submit an application to the Department. Because the special license administrator needs to determine whether training a dog will conflict with other activities or projects occurring in that area, it is necessary for the applicant to submit an application providing the information required to determine whether the Game Bird License may be amended to include the new location and date.

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

The agency did not rely on any study in its evaluation of or justification for the rule.

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

Not applicable

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

The Commission's rule protects native wildlife in many ways, including preventing the spread of disease, reducing the risk of released animals competing with native wildlife, discouraging illegal trade of native wildlife, and preventing interactions between humans and wildlife that may threaten public health or safety. The Wildlife Health Program in the Department receives and responds to reports of wildlife mortality across the state. In the past 10 years, the Department has detected multiple outbreaks of trichomonas in mourning doves and pigeon paramyxovirus in Eurasian collared doves. This virus also affects mourning doves. The Department has also identified psittacosis in nonnative rosy-cheeked lovebirds in the Phoenix area. Additional diseases known to occur in captive pen-reared game birds are avian influenza, avian cholera, duck cholera, quail bronchitis, and ulcerative enteritis. The impact of introduction of these diseases into a wild population is unknown; however, researchers have examined the impact of the introduction of nonnative species and identified disease, hybridization, and competition as risks for the native populations.

The Commission anticipates the rulemaking will benefit the Department by increasing efficiency in administering game bird licenses.

The Commission anticipates the rulemaking will result in an overall benefit to the persons regulated by the rule by reducing the burdens and costs associated with the rule and providing better customer-service to persons

seeking to conduct activities with Game Birds in Arizona.

The Commission anticipates the rulemaking will result in little or no impact to political subdivisions of this state; private and public employment in businesses, agencies or political subdivisions; or state revenues.

The Commission has determined that there are no less intrusive or costly alternative methods of achieving the purpose of the rulemaking. Other than the regular cost of rulemaking, there are no costs associated with the rulemaking. Therefore, the Commission has determined that the benefits of the rulemaking outweigh any costs.

10. A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:

Not applicable

11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:

The Department posted the proposed rules to the Department's website on May 12, 2017 and the official public comment period began on June 2, 2017 and ended on July 2, 2017. The Department received 7 written public or stakeholder comments in response to the proposed rulemaking (this includes comments received prior to June 2). The written public or stakeholder comments and the agency's responses are provided below.

Written Comment: May 8, 2017. A great effort by all involved. This is a great example of partnerships at work for a good outcome.

Agency Response: The Department appreciates your participation and support.

Written Comment: May 10, 2017. As one of the people that petitioned the Department to amend the Commission rule, I support the rule changes to R12-4-414. The new rule makes it much easier to comply and eliminates a lot of unnecessary paper work for the public and the Department.

Agency Response: The Department appreciates your participation and support.

Written Comment: May 10, 2017. I like the proposed change to the field training license and recommend it be adopted. The present rule is too cumbersome and hard to understand. It puts an unneeded burden on those wanting to train their dogs and Department personnel.

Agency Response: The Department appreciates your participation and support.

Written Comment: May 10, 2017. I would like to express my support for the latest revisions on R12-4-414. Having a GPS coordinates as a general reference point will allow for the flexibility to move in the field if an unforeseen situation arises. And going back to an annual license with multiple locations will help to eliminate unnecessary processing. I can support the annual reporting requirement considering these other modifications. I

thank you and the others that work to fast track these rule changes.

Agency Response: The Department appreciates your participation and support.

Written Comment: May 10, 2017. Looks like an improvement over the original to me. I especially appreciate the "user friendly" changes and the reduction of so many restrictions. Seems to me like this could be a win-win for bird users and the native birds if it becomes the way going forward. Generating timely data serves everyone and increased participation by all will help do that. Thank you for the work you do. I have been very proud of Arizona's Game and Fish Department for a long time and this goes to show another reason why.

Agency Response: The Department appreciates your participation and support.

Written Comment: May 11, 2017. Years ago I raised chukar and bob whites; I had the hobby license and perhaps I was breaking the rules. I know I submitted my pen plans, veterinary details, and paid for the license, I had a 600 square foot aviary and raised 250 to 300 bobwhite or 150 chukar each summer. When you are training a puppy, you need birds. Perhaps there is another way or license to do it these days, but 50 birds is not going to help a guy train his dog. For a hobbyist or a dog trainer, maybe there could be a limit on the birds you keep based on a per square foot basis. Putting 50 bobwhites in a 50 square foot area might be okay, but would not work at all for 50 pheasants.

Agency Response: The hobby permit is not directly tied to the training permit and is more geared toward the person who wants to keep a few captive pen-reared game birds for personal use (meat, eggs, pets, etc.). Under your scenario, the Private Game Farm License may apply satisfy your needs as it allows a person to keep as many birds as they wish and also allows a person to sell the captive pen-reared commercially, if desired.

Written Comment: July 2, 2017: The Arizona Sportsmen for Wildlife Conservation (AZSFWC) would like to comment on the impending Rule change for R12-4-414 relative to field training dogs using live birds, like quail and chukar. AZSFWC and 21 of our member organizations support the following comments, and a list of those supporting groups follows the commentary. We understand the potential biological implications of introduced birds on the landscape, that are pen raised and possibly non-native species. However due consideration should be given to where these birds might be used in training, the season they are used in, along with the likelihood any of them would survive should they be fortunate to live through the training exercise! We have concerns with the existing rule that was going to be enforced. This rule may be needlessly onerous to the dog trainers and might be an attempt to apply a solution to a nonexistent problem. The weekend bird trainers should be distinguished from the shooting preserves or hunting clubs. Training licenses should be consistent state-wide and not Region specific. In other words, allow the weekend bird trainers to have the ability to complete one application wherever they live, applicable to any or all other Regions. If there are potentially conflicts with

native birds during certain times of the year, those issues and concerns should be spelled out and specifically addressed. If there are potential or imminent disease issues, specify what and where they might be and be specific with any limitations, issues or areas. Coordination with land management agencies can follow accordingly based on need and necessity. We believe notification to land management agencies regarding any training events should be the responsibility of the event organizer versus the Department. If the Department has concerns regarding the location and timing of such events, they could then work out any issues with the respective land managers. Finally, we believe an annual permit for amateur dog handlers should be sufficient. That would allow the Department to readily identify who has such a permit, and if there is a Region specific, or disease specific issue they need to focus on or direct attention to, they can look to those license holders accordingly. In addition, the administrative costs and handling of annual permits for these amateur trainers would not only be a benefit to them, but would eliminate any onerous administrative expenses for the Department. AZSFWC, the Department and HAWHG have all recognized the importance of small game hunting as an important recruiting tool. Simplifying the rules and regulations for training matters such of this, would go a long way in reducing regulations and unneeded barriers towards this effort. (The written comment included following list of AZSFWC Member Organizations Supporting Recommendations on Proposed Rule Changes for R12-4-414: Anglers United, AZ Bass Nation, AZ Big Game Super Raffle, AZ Chapter of NWTF, AZ Deer Association, AZ Desert Bighorn Sheep Society, AZ Elk Society, AZ Flycasters Club, AZ Houndsmen, AZ Outdoor Sports, AZ Shooting Sports Education Foundation, AZ State Council of Trout Unlimited, Christian Hunters of America, Coconino Sportsmen, Mohave Sportsmen Club, Outdoor Experience 4 All, Southwest Wildlife Foundation, SRT Outdoors, The Bass Federation, Valley of the Sun Quail Forever, and Xtreme Predator Callers).

Agency Response: The Department appreciates your support.

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

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

The Game Bird License described in the rule falls within the definition of "general permit" as defined under A.R.S. § 41-1001(11).The rule complies with A.R.S. § 41-1037.

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

Federal law is not directly applicable to the subject of the rule. The rule is based on state law.

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

The agency has not received an analysis that compares the rule's impact of competitiveness of business in

this state to the impact on business in other states.

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

Not applicable

14. Whether the rule previously made, amended, or repealed as an emergency rule. If so, cite the notice published in the *Register* as specified in R1-4-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:

The rule was not previously made, amended, or repealed as an emergency rule.

15. The full text of the rules follows:

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

ARTICLE 4. LIVE WILDLIFE

Section

R12-4-414. Game Bird License

R12-4-414. Game Bird License

A. A game bird license authorizes a person to ~~display for sale, export, give as a gift, import, offer for sale, possess, propagate, purchase, sell, trade, and transport only~~ conduct certain activities with the captive pen-reared game birds specified on the license and only at the location or locations specified on the license, as described below~~.~~ ~~A person who possesses a game bird license may conduct any of the following activities when stipulated on the person's game bird license~~:

1. ~~Year round possession of live captive reared game birds at the site specified on the license,~~ Game Bird Hobby:
   a. ~~A~~ Authorizes a license holder ~~shall possess~~ to:
      i. Possess no more than 50 captive pen-reared game birds at any one time; and
      ii. Export, gift, import, kill, possess, propagate, purchase, and transport the captive pen-reared game birds specified on the license for personal, noncommercial purposes only.
   b. The following captive pen-reared game bird species may be possessed by a Game Bird Hobby license holder:
      i. *Alectoris chukar*, Chukar;
      ii. *Callipepla californica*, California or valley quail;
      iii. *Callipepla gambelii*, Gambel's quail;
      iv. *Callipepla squamata*, Scaled quail;
      v. *Colinus virginianus*, Northern bobwhite, subject to the restriction specified under subsection (D);
      vi. *Cyrtonyx montezumae*, Montezuma or Mearn's quail; and
      vii. *Dendragapus obscurus*, Dusky grouse.
   ~~b.~~c. The Game Bird Hobby license expires on December 31 each year.
2. ~~Take of game birds by a person who may be charged a fee,~~ Game Bird Shooting Preserve:
   a. Authorizes a license holder to:
      i. Release captive pen-reared game birds for the purpose of hunting or shooting.
      ii. Export, display, gift, import, kill, offer for sale, possess, propagate, purchase, trade, and transport the captive pen-reared game birds specified on the license.
   b. The following captive pen-reared game bird species may be possessed by a Game Bird Shooting Preserve license holder:
      i. *Alectoris chukar*, Chukar;
      ii. *Anas platyrhynchos*, Mallard duck;
      iii. *Colinus virginianus*, Northern bobwhite, subject to the restriction specified under subsection (D); and
      iv. *Phasianus colchicus*, Ringneck and Whitewing pheasant.
   ~~a.~~c. ~~A~~ The license holder shall restrict the release and take of the live captive pen-reared game birds on private lands to an area not more than 1,000 acres.
   d. The license holder may charge a fee to allow persons to take captive pen-reared game birds on the

shooting preserve.

e. A person is not required to possess a hunting license when taking a captive pen-reared game bird released under the provisions of this Section.

f. A captive pen-reared game bird released under a Game Bird Shooting Preserve license may be taken with any method designated under R12-4-304.

~~b. A person is not required to possess a hunting license when taking a game bird released under a game bird license.~~

~~c.~~g. The Game Bird Shooting Preserve license expires on December 31 each year.

3. ~~Conduct a competition to test the performance of hunting dogs for no more than 10 consecutive days,~~ Game Bird Field Trial:

a. Authorizes a license holder to:

i. Release and take captive pen-reared game birds for the purpose of conducting a competition to test the performance of hunting dogs in one field trial event;

ii. Import, kill, possess, purchase within the State, and transport the captive pen-reared game birds specified on the license for one field trial event; and

iii. Export, gift, kill, or transport any captive pen-reared game bird held after the field trial event.

b. The following captive pen-reared game bird species may be possessed by a Game Bird Field Trial license holder:

i. *Alectoris chukar*, Chukar;

ii. *Anas platyrhynchos*, Mallard duck;

iii. *Colinus virginianus*, Northern bobwhite, subject to the restriction specified under subsection (D);

iv. *Phasianus colchicus*, Ringneck and Whitewing pheasant.

c. A person is not required to possess a hunting license in order to participate in a field trial event held under the provisions of this Section.

d. A captive pen-reared game bird released under a Game Bird Field Trial license may be taken with any method designated under R12-4-304.

e. The Game Bird Field Trial license is valid for no more than ten consecutive days.

4. ~~Train a dog or raptor to hunt game birds for no more than 10 consecutive days~~, Game Bird Field Training:

a. Authorizes a license holder to:

i. Release and take released live captive pen-reared game birds specified on the license for the purpose of training a dog or raptor to hunt game birds; and

ii. Import, possess, purchase within the State, and transport the captive pen-reared game birds specified on the license; and

iii. Export, gift, kill, or transport any captive pen-reared game bird possessed under the license.

b. The following captive pen-reared game bird species may be possessed by a Game Bird Field Training license holder:

i. *Alectoris chukar*, Chukar;

ii. *Anas platyrhynchos*, Mallard duck;

iii. *Colinus virginianus*, Northern bobwhite, subject to the restriction specified under subsection (D)(2)(b);

iv. *Phasianus colchicus*, Ringneck and Whitewing pheasant.

c. A person is not required to possess a hunting license when taking a captive pen-reared game bird released under the provisions of this Section.

d. A captive pen-reared game bird released under a Game Bird Field Training license may be taken with any method designated under R12-4-304.

e. The Game Bird Field Training license expires on December 31 each year.

~~**B.** A game bird license authorizes the use of the following game bird species as specified under the license:~~

~~1. Game Bird Hobby:~~

~~a. *Alectoris chukar*, Chukar;~~

~~b. *Callipepla californica*, California or valley quail;~~

~~c. *Callipepla gambelii*, Gambel's quail;~~

~~d. *Callipepla squamata*, Scaled quail;~~

~~e. *Colinus virginianus*, Northern bobwhite, subject to the restriction specified under subsection (D);~~

~~f. *Cyrtonyx montezumae*, Montezuma or Mearn's quail; and~~

~~g. *Dendragapus obscurus*, Dusky grouse.~~

~~2. Game Bird Shooting Preserve, Game Bird Field Trial, and Game Bird Field Training:~~

~~a. *Alectoris chukar*, Chukar;~~

~~b. *Anas platyrhynchos*, Mallard duck;~~

~~c. *Colinus virginianus*, Northern bobwhite, subject to the restriction specified under subsection (D);~~

~~d. *Phasianus colchicus*, Ringneck and Whitewing pheasant;~~

~~3. For the game bird species listed below, a game bird license authorizes a person to conduct only the following activities: display, export for noncommercial purposes, give as a gift, import, kill, possess, propagate, purchase, and transport:~~

~~a. *Callipepla californica*, California or valley quail;~~

~~b. *Callipepla gambelii*, Gambel's quail;~~

~~c. *Callipepla squamata*, Scaled quail;~~

~~d. *Cyrtonyx montezumae*, Montezuma or Mearn's quail; and~~

~~e. *Dendragapus obscurus*, Dusky grouse.~~

~~**C.**~~**B.** In addition to the requirements established under this Section, a game bird license holder shall comply with the special license requirements established under R12-4-409.

~~**D.**~~**C.** The license holder shall be responsible for compliance with all applicable regulatory requirements. The game bird license does not:

1. Exempt the license holder from any municipal, county, state, or federal codes, ordinances, statutes, rules, or regulations; or

2. Authorize the license holder to engage in authorized activities using federally-protected wildlife, unless the license holder possesses a valid license, permit, or other form of documentation issued by the United States authorizing the license holder to use that wildlife in a manner consistent with the special license.

~~E.~~**D.** The Department shall deny a game bird license to a person who fails to meet the requirements ~~established~~ under R12-4-409 or this Section. The Department shall provide the written notice established under R12-4-409(F)(4) to the applicant stating the reason for the denial. The person may appeal the denial to the Commission as prescribed under A.R.S. Title 41, Chapter 6, Article 10. In addition to the requirements and criteria established under R12-4-409(F)(1) through (4), the Department may deny a game bird license when:

1. The applicant proposes to release captive pen-reared game birds:
   a. At a location where an established wild population of the same species exists.
   b. During nesting periods of upland game birds or waterfowl that nest in the area.
2. The applicant requests a license:
   a. For the sole purpose described under subsection (A)(1) and proposes to possess more than 50 captive pen-reared game birds at any one time.
   b. To possess Northern bobwhites, *Colinus virginianus*, in any one of the following game management units, as described under R12-4-108; 34A, 36A, 36B, and 36C.
3. The Department determines the:
   a. Authorized activity listed under this Section may pose a threat to native wildlife, wildlife habitat, or public health or safety.
   b. Escape of any species listed on the application may pose a threat to native wildlife or public health or safety.
   c. Release of captive pen-reared game birds may interfere with a wildlife or habitat restoration program.

~~F.~~**E.** A person applying for a game bird license shall submit an application to the Department. A person applying for multiple Game Bird Field Trial licenses shall submit a separate application ~~is required for each location where the applicant proposes to use wildlife~~ for each date and location where a competition will occur. The application is furnished by the Department and is available at any Department office and ~~online at www.azgfd.gov~~ on the Department's website. An applicant shall provide the following information on the application:

1. The applicant's information:
   a. Name;
   b. Mailing address, when applicable;
   c. Physical address;
   ~~c.~~d. Telephone number; and~~,~~
   ~~d.~~e. Department ID number, when applicable;
2. ~~If the applicant will use the game birds for a commercial purpose, the applicant's business:~~
   ~~a. Name;~~
   ~~b. Federal Tax Identification Number;~~
   ~~c. Mailing address; and~~

~~d. Telephone number;~~

~~3. If the applicant will use the game birds for an activity affiliated with a sponsoring organization, the organization's:~~

~~a. Name;~~

~~b. Mailing address; and~~

~~c. Telephone number of the organization chair or local chapter;~~

~~4.~~2. For captive pen-reared game birds to be used under the license:

a. Common name of game bird species;

b. Number of animals for each species; and

c. When the applicant is renewing ~~the game bird~~ a Game Bird Hobby or Shooting Preserve license, the species and number of animals for each species currently held in captivity under the license;

~~5.~~3. ~~A description of how the applicant intends to use the game birds~~ The type of game bird license:

a. ~~For personal possession only~~ Game Bird Hobby;

b. ~~Charge a person a fee to take game birds~~ Game Bird Shooting Preserve;

c. ~~Conduct a competition to test the performance of hunting dogs~~ Game Bird Field Trial; or

d. ~~Train a dog or raptor to hunt~~ Game Bird Field Training;

~~6.~~4. For each location where captive pen-reared game birds will be ~~used~~ held, the owner's:

a. Name;

b. Mailing address, when applicable;

c. Telephone number; and

d. Physical address or general location description ~~to include the~~ and Global Positioning System location ~~or Universal Transverse Mercator coordinates~~, when available;

~~7.~~5. For each location where captive pen-reared game birds will be released, the land owner's or agency's:

a. Name;

b. Mailing address, when applicable;

c. Telephone number; and

d. Physical address or general location description ~~to include the~~ and Global Positioning System location ~~or Universal Transverse Mercator coordinates~~, when available; and

~~8. A detailed description or diagram of the facilities where the applicant will hold game birds and a description of how the facilities comply with the requirements established under R12-4-428 and any other captivity standards established under this Section;~~

~~9.~~6. For each captive pen-reared game bird supplier from whom the applicant will obtain game birds, the supplier's:

a. Name;

~~b. Federal Tax Identification Number;~~

~~c.~~b. Mailing address; and

~~d.~~c. Telephone number;

7. An applicant who is applying for a Game Bird Shooting Preserve or Field Trial license and intends to use the captive pen-reared game birds for a commercial purpose shall also provide the applicant's business:
   a. Name;
   b. Mailing address; and
   c. Telephone number;
8. An applicant who intends to use the captive pen-reared game birds for an activity affiliated with a sponsoring organization shall also provide the organization's:
   a. Name;
   b. Mailing address; and
   c. Telephone number of the organization chair or local chapter;
9. An applicant who is applying for a Game Bird Field Trial license shall also specify the range of dates within which the field trial event will take place, not to exceed a 10-day period;
10. An applicant who is applying for a Game Bird Hobby or Game Bird Shooting Preserve license shall also provide a detailed description or diagram of the facilities where the applicant will hold captive pen-reared game birds and a description of how the facilities comply with the requirements established under R12-4-428 and any other captivity standards established under this Section;

~~10.~~11. Any other information required by the Department; and

~~11.~~12. The certification required under ~~R12-4-409(C)~~ R12-4-409(B).

~~G.~~**F.** An applicant for a game bird license shall pay all applicable fees established under R12-4-412.

~~H.~~**G.** A game bird license holder shall:

1. Comply with all additional stipulations placed on the license by the Department, as authorized under R12-4-409(H).
2. Allow the Department to conduct inspections of an applicant's or license holder's facility and records at any time before or during the license period to determine compliance with the requirements of this Article.

~~3. Ensure each facility is inspected by the attending veterinarian at least once every year.~~

~~4.~~3. Possess the license or legible copy of the license while conducting any activity authorized under the game bird license and ~~presents~~ present it for inspection upon the request of any Department employee or agent.

~~5.~~4. Ensure each shipment of captive pen-reared game birds imported into the state is accompanied by a health certificate.
   a. The certificate shall be issued no more than 30 days prior to the date on which the game birds are shipped.
   b. A copy of the certificate shall be submitted to the Department prior to importation.

~~6.~~5. Provide each person ~~that~~ who transports captive pen-reared game birds taken under the game bird license with documentation that includes all of the following:
   a. Name of the game bird license holder;
   b. Game bird license number;
   c. Date the captive pen-reared game bird was ~~purchased, traded, or given as a gift~~ obtained;

d. Number of captive pen-reared game birds, by species; and

e. When the captive pen-reared game birds are being shipped:

i. Name of the person or common carrier transporting the shipment, and

ii. Name of the person receiving the shipment.

~~7.~~6. Maintain records of all captive pen-reared game birds possessed under the license for a period of three years. In addition to the information required under subsections ~~(H)(5)(a)~~ (G)(5)(a) through ~~(H)(5)(d)~~ (G)(5)(b), the records shall also include:

a. The game bird license holder's:

i. Name;

ii. Mailing address;

iii. Telephone number; and

iv. Special license number;

~~b. Copies of all federal, state, and local licenses, permits, and authorizations required for the lawful operation of the game bird activity;~~

~~c.~~b. Copies of the annual report required under subsection ~~(I)~~ (H);

~~8.~~7. Dispose of captive pen-reared game birds only as authorized under this Section or as directed by the Department.

8. Conduct license activities solely at the locations and within the timeframes approved by the Department. A Game Bird License holder may request permission to amend the license to conduct activities authorized under the license at an additional location by submitting the application required under subsection (E) to the Department.

~~I.~~**H.** A game bird license holder shall submit an annual report to the Department before January 31 of each year for the previous calendar year. The report form is furnished by the Department.

1. A report is required regardless of whether or not activities were performed during the previous year.

2. The game bird license becomes invalid if the annual report is not submitted to the Department by January 31 of each year.

3. The Department ~~will~~ shall not process the special license holder's renewal application until the annual report is received by the Department.

4. The annual report shall include all of the following information, as applicable:

a. Number of all captive pen-reared game birds, by species and the date ~~it was~~ obtained;

b. Source of all captive pen-reared game birds and the date ~~the game bird was~~ obtained;

c. Number of offspring propagated by all captive pen-reared game birds; and

d. For all captive pen-reared game birds disposed of by the license holder:

i. Number, species, and date of disposition; and

ii. Manner of disposition to include the names and addresses of persons to whom the wildlife was bartered, given, or sold, when authorized.

~~J.~~**I.** A game bird license holder shall comply with the requirements established under R12-4-428.

~~**K.** A game bird released under a game bird license may be taken with any method designated under R12-4-304.~~

~~**L.**~~**J.** A game bird released under a game bird license and found outside of the location specified on the license shall become property of the State and is subject to the requirements prescribed under A.R.S. Title 17 and 12 A.A.C. 4, Article 3.

RULE PETITION PACKET

Arizona Game and Fish Department, Director's Office

5000 W. Carefree Hwy

Phoenix, Arizona 85086

If you have any questions, please contact the Department's Rules and Risk Section by telephone at (623) 236-7390 or by e-mail at rulemaking@azgfd.gov

PETITIONING THE COMMISSION TO ADOPT, AMEND, OR REPEAL A RULE

The requirements for requesting the Arizona Game and Fish Commission to adopt, amend, or repeal a Commission rule are detailed in R12-4-601 of the Arizona Administrative Code (included in this packet page 7). Please note, a petition may address only one (1) rule.

This packet is provided by the Arizona Game and Fish Department to assist petitioners in completing petitions in accordance with 12 A.A.C. 4, Article 6.

Petitioners using this form should check all applicable boxes and complete all applicable parts. Failing to complete all applicable portions of this form may result in your petition being rejected and returned to you.

If you have any questions, please contact the Department's Rules and Risk Section by telephone at (623) 236-7390 or by e-mail at rulemaking@azgfd.gov

The original and one copy of the petition should be mailed or delivered to:

Arizona Game and Fish Department, Director's Office
5000 W. Carefree Hwy
Phoenix, Arizona 85086

Part 1. Identification of Petitioner

☑ **A. Petitioner is a private individual**

Name: TED HAMILTON

Mailing address: P.O. BOX 172
CHINO VALLEY, AZ. 86323

Telephone number: 928-713-6941

☐ **B. Petitioner is a private group or organization**

Group or organization name: _____

Group or organization address: _____

Individual designated as the representative or official contact for the petitioner:

Name: _____

Mailing address: _____

Telephone number: _____

1. Number of individuals represented by the petitioner: _____

2. Number of Arizona residents represented by the petitioner: _____

OR

3. The names and addresses of all individuals represented by the petitioner (please provide this information on a separate paper attached to this Part 1).

☐ **C. Petitioner is a public agency**

Public agency name: _____

Public agency address: _____

Public agency representative:

Name: _____

Title: _____

Telephone number: _____

Part 2. Request for Rule or for Review

☐ **A. This request is for a new rule.** Provide the heading and specific language of the proposed rule in the space below.

☑ **B. This request is for an amendment to an existing rule.** Provide all of the following information in the space below:

1. Rule number,
2. Rule heading, and
3. Existing rule language with proposed amendments. Underline new language and strikethrough deleted language (please see "How to Revise Rule Language", included in this packet page #10).

☐ **C. This request is for repeal of an existing rule.** Provide the rule number and heading of the rule in the space below.

☐ **D. This request is for review of an existing agency practice or substantive policy statement that the petitioner alleges to constitute a rule as defined under A.R.S. § 41-1001.** For a practice, provide a brief description of the practice and the practice heading, if any. For a substantive policy statement, provide the heading and a brief description of the policy subject matter.

(If necessary, you may attach additional pages to this Part 2.)

Part 3. Reason for the Petition

1. Reason the petitioner believes rulemaking or review of a policy or practice is necessary:

PLEASE SEE ATTATCHED

(If necessary, you may attach additional pages to this Part 3.)

2. Statistical data or other justification supporting the rulemaking or review of the practice or policy, with clear reference to any exhibits that are attached or included with the petition:

(If necessary, you may attach additional pages to this Part 3.)

3. Identify any individuals or special interest groups the petitioner believes would be impacted by the rule or a review of the practice or policy. Describe how they would be impacted:

(If necessary, you may attach additional pages to this Part 3.)

4. If the petitioner is a public agency, summarize the issues raised in any public meeting or hearing regarding the petition, or any written comments offered by the public:

(If necessary, you may attach additional pages to this Part 3.)

Part 4. Statutory Authority

For a petition that relates to a rule, identify any statute that authorizes the Commission to make the rule, if known.

_____

_____

_____

_____

For a petition that relates to a review of a practice or substantive policy statement, cite A.R.S. § 41-1033:

_____

Part 5. Date and Signature

Original signature of the representative or contact if the petitioner is a private individual or private group or organization named under Part 1; or

Original signature of the agency head or the agency head's designee if the petitioner is a public agency; and

The month, day, and year on which the petition is signed.

_____ _____

Signature Date

Petition to the Arizona Game and Fish Commission

PART 3

R12-4-414 , #4

Train a dog or Raptor to hunt game birds for no more than 10 consecutive days, Game bird Field Training.

R12-4-414, #7d

Physical location description to include the global Positioning System location or Universal Transverse Mercator Coordinates.

Reasons for Petition rule change to R12-4-414

#4, and #7d

As to the requirements to apply for each area(latitude and longitude)and and permit only valid for 10 days.

I find these rules to be very restrictive as to when I can train my dogs. To follow these rules, I would need to send in applications for every 10 days for any specific area I might train in, at any given time. If I have some free time and want to train my dogs, I would not be able to unless I submitted applications for the entire year, for several locations. This seems very cumbersome for me and whoever has to process these applications. There are several places within an area that I train my dogs, and since I am required to apply a separate application for each area. I would send in approximately 5 applications for each 10 days of the year, just to stay compliant to these rules. That would be 180 applications for the year! It makes no sense to me!

It seems, it would have been a good idea to consult with some of the hunting dog clubs for feed back and suggestions on these rules.

R 12-4-414

RULE PETITION PACKET

Arizona Game and Fish Department, Director's Office

5000 W. Carefree Hwy

Phoenix, Arizona 85086

If you have any questions, please contact the Department's Rules and Risk Section by telephone at (623) 236-7390 or by e-mail at rulemaking@azgfd.gov

PETITIONING THE COMMISSION TO ADOPT, AMEND, OR REPEAL A RULE

The requirements for requesting the Arizona Game and Fish Commission to adopt, amend, or repeal a Commission rule are detailed in R12-4-601 of the Arizona Administrative Code (included in this packet page 7). Please note, a petition may address only one (1) rule.

This packet is provided by the Arizona Game and Fish Department to assist petitioners in completing petitions in accordance with 12 A.A.C. 4, Article 6.

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If you have any questions, please contact the Department's Rules and Risk Section by telephone at (623) 236-7390 or by e-mail at rulemaking@azgfd.gov

The original and one copy of the petition should be mailed or delivered to:

Arizona Game and Fish Department, Director's Office
5000 W. Carefree Hwy
Phoenix, Arizona 85086

Part 1. Identification of Petitioner

☒ **A. Petitioner is a private individual**

Name: John Brent Mullen

Mailing address: 80 Brielle Ln
Sedona, AZ 86351

Telephone number: 480 606 8007

☐ **B. Petitioner is a private group or organization**

Group or organization name: _____

Group or organization address: _____

Individual designated as the representative or official contact for the petitioner:

Name: _____

Mailing address: _____

Telephone number: _____

1. Number of individuals represented by the petitioner: _____

2. Number of Arizona residents represented by the petitioner: _____

OR

3. The names and addresses of all individuals represented by the petitioner (please provide this information on a separate paper attached to this Part 1).

☐ **C. Petitioner is a public agency**

Public agency name: _____

Public agency address: _____

Public agency representative:

Name: _____

Title: _____

Telephone number: _____

Part 2. Request for Rule or for Review

☐ **A. This request is for a new rule.** Provide the heading and specific language of the proposed rule in the space below.

☒ **B. This request is for an amendment to an existing rule.** Provide all of the following information in the space below:

1. Rule number,
2. Rule heading, and
3. Existing rule language with proposed amendments. Underline new language and strikethrough deleted language (please see "How to Revise Rule Language", included in this packet page #10).

☐ **C. This request is for repeal of an existing rule.** Provide the rule number and heading of the rule in the space below.

☐ **D. This request is for review of an existing agency practice or substantive policy statement that the petitioner alleges to constitute a rule as defined under A.R.S. § 41-1001.** For a practice, provide a brief description of the practice and the practice heading, if any. For a substantive policy statement, provide the heading and a brief description of the policy subject matter.

R12-4-414 GAME BIRD LICENSE APPLICATION

See Attached

(If necessary, you may attach additional pages to this Part 2.)

Rule Petition Packet

Part 3. Reason for the Petition.

1. I train in the field with my dogs between 12 to 20 times a year. I have always filled out the one page "Application for Game Bird Field Training Permit" and received a annual permit. Now the form has grown to three pages. And it is necessary to complete the form not only each time I want to train, but also in each specific location. Instead of one annual license that covered a general area I now must have a permit for each location every 10 days. This is overly burdensome. I am requesting that individual training their dogs be allowed a annual Game Bird License.

2. Sometimes when in the field I realize the grass is not good cover for planting birds and need to relocate on the fly. I have also had to relocate due to forest fire smoke. Moving a few miles one direction or the other usually gets me out of the smoke. Previously I was allowed to put a general geographic area such as "Mormon Lake" or "Sheep Springs" . I would like to see the location allowed per hunt unit such as 6A or 5B etc. This would allow for some versatility. Additionally, I have had the situation where I arrived at a location to train only to find other people pursing different activities. I have gone to areas only to find target practice happening. I have also gone into a area to find cattle grazing in the field I was planning on using. And I have come upon campers enjoying themselves in a peaceful setting. None of these situations works to have dogs running loose and shotguns being shot. The ability to relocate within a large geographic area such as a hunt unit is crucial!

Part 3. Reason for the Petition

1. Reason the petitioner believes rulemaking or review of a policy or practice is necessary:

See Attached-

(If necessary, you may attach additional pages to this Part 3.)

2. Statistical data or other justification supporting the rulemaking or review of the practice or policy, with clear reference to any exhibits that are attached or included with the petition:

(If necessary, you may attach additional pages to this Part 3.)

3. Identify any individuals or special interest groups the petitioner believes would be impacted by the rule or a review of the practice or policy. Describe how they would be impacted:

All of The bird dog clubs in The STATE will experience the Same burdensome process, I have described in my attachment. To name A Few - North American Versatile Hunting Dog Association; Az. Pointing Dog Assoc.

(If necessary, you may attach additional pages to this Part 3.)

4. If the petitioner is a public agency, summarize the issues raised in any public meeting or hearing regarding the petition, or any written comments offered by the public:

(If necessary, you may attach additional pages to this Part 3.)

Part 4. Statutory Authority

For a petition that relates to a rule, identify any statute that authorizes the Commission to make the rule, if known.

_____

_____

_____

_____

For a petition that relates to a review of a practice or substantive policy statement, cite A.R.S. § 41-1033:

_____

Part 5. Date and Signature

Original signature of the representative or contact if the petitioner is a private individual or private group or organization named under Part 1; or

Original signature of the agency head or the agency head's designee if the petitioner is a public agency; and

The month, day, and year on which the petition is signed.

Signature

2/15/2017
Date

R12-4-601. Petition for Rule or Review of Practice or Policy

A. Any individual, including any organization or agency, requesting that the Commission make, amend, or repeal a rule, shall submit a petition as prescribed under this Section.

B. Any individual, including any organization or agency, requesting that the Commission review an existing Department practice or substantive policy that the petitioner alleges to constitute a rule under A.R.S. § 41-1033, as defined under A.R.S. § 41-1001, shall submit a petition as prescribed under this Section.

C. A petitioner shall not address more than one rule, practice, or substantive policy in the petition.

D. If the Commission has considered and denied a petition, and a petitioner submits a petition within the next year that addresses the same substantive issue, the petitioner shall provide a written statement that contains any reason not previously considered by the Commission in making a decision.

E. A petitioner shall submit an original and one copy of a petition to the Arizona Game and Fish Department, Director's Office, 5000 W. Carefree Highway, Phoenix, AZ 85086. The Commission shall render a decision on the petition as required under A.R.S. § 41-1033.

F. Within five working days after a petition is submitted, the Director shall determine whether the petition complies with this Section.

1. If the petition complies with this Section, the Director shall place the petition on a Commission open meeting agenda. The petitioner may present oral testimony at that meeting, as established under R12-4-603.
2. If a petition does not comply with subsections (G) through (L) of this Section, the Director shall return a copy of the petition as filed to the petitioner and indicate in writing why the petition does not comply with this Section. The Director shall not place the petition on a Commission agenda. The Department shall maintain the original petition on file for five years and consider the petition as a comment during the five-year review process.

G. Petitions shall be typewritten, computer or word processor printed, or legibly handwritten, and double-spaced, on 8 1/2" x 11" paper; or typewritten, computer or word processor printed, or legibly handwritten on a form provided by the Department. The title shall be centered at the top of the first page and appear as "Petition to the Arizona Game and Fish

Commission." The petition shall include the items listed in subsections (H) through (L). The items in the petition shall be presented in the order in which they are listed in this Section.

H. The title of Part 1 shall be "Identification of Petitioner." The title shall be centered at the top of the first page of this part. Part 1 shall contain:

1. If the petitioner is a private individual, the name, mailing address, and telephone number of the petitioner;
2. If the petitioner is a private group or organization, the name and address of the group or organization; the name, mailing address, and telephone number of an individual who is designated as the representative or official contact for the petitioner; the total number of individuals, and the number of Arizona residents represented by the petitioner; or the names and addresses of all individuals represented by the petitioner; or
3. If the petitioner is a public agency, the name and address of the agency and the name, title, and telephone number of the agency's representative.

I. The title of Part 2 shall be "Request for Rule" or "Request for Review," as applicable. The title shall be centered at the top of the first page of this part. Part 2 shall contain:

1. If the petition is for a new rule, a statement to this effect, followed by the heading and specific language of the proposed rule;
2. If the request is for amendment of a current rule, a statement to this effect, followed by the Arizona Administrative Code number of the current rule proposed for amendment, the heading of the rule, the specific, clearly readable language of the rule, indicating language to be deleted with strikeouts, and language to be added with underlining;
3. If the request is for repeal of a current rule, a statement to this effect, followed by the Arizona Administrative Code number of the rule proposed for repeal and the heading of the rule; or
4. If the request is for review of an existing agency practice or substantive policy statement that the petitioner alleges qualifies as a rule, as defined under A.R.S. § 41-1001, a statement to this effect, followed by the practice or policy number, if any, the practice or policy heading, if any, or a brief description of the practice or policy subject matter.

J. The title of Part 3 shall be "Reason for the Petition." The title shall be centered at the top of the first page of this part. Part 3 shall contain:

1. The reason the petitioner believes rulemaking or review of a practice or policy is

necessary;

2. Any statistical data or other justification supporting rulemaking or review of the practice or policy, with clear reference to any exhibits that are attached to or included with the petition;
3. An identification of any individuals or special interest groups the petitioner believes would be impacted by the rule or a review of the practice or policy, and how they would be impacted; and
4. If the petitioner is a public agency, a summary of issues raised in any public meeting or hearing regarding the petition, or any written comments offered by the public.

K. The title of Part 4 shall be "Statutory Authority." The title shall be centered at the top of the first page of this part. In Part 4, the petitioner shall identify any statute that authorizes the Commission to make the rule, if known, or cite A.R.S. § 41-1033 if the petition relates to review of an existing practice or substantive policy statement.

L. The title of Part 5 shall be "Date and Signature." The title shall be centered at the top of the first page of this part. Part 5 shall contain:

1. An original signature of the representative or official contact, if the petitioner is a private group or organization or private individual named under subsection (H)(1) or (2); or
2. If the petitioner is a public agency, the signature of the agency head or the agency head's designee; and
3. The month, day, and year that the petition is signed.

Historical Note

Adopted effective December 22, 1987 (Supp. 87-4). Amended by final rulemaking at 10 A.A.R. 2245, effective July 6, 2004 (Supp. 04-2). Amended by final rulemaking at 16 A.A.R. 1465, effective July 13, 2010 (Supp. 10-3).

HOW TO REVISE RULE LANGUAGE

When proposing a rule amendment, please adhere to the following guidelines:

1. Include all of the current rule language.
2. Strikethrough all rule language that you want deleted (~~strikethrough~~).
3. Underline all new rule language (underline).
4. Place new language behind stricken language. Placing the old text *in front of* new text is usually easier to understand than placing the old text *after* the new text.

   Wrong: The license ~~permit~~ fee is prescribed ~~authorized~~ under ~~by~~ A.R.S. § 17-333.

   Right: The ~~permit~~ license fee is ~~authorized by~~ prescribed under A.R.S. § 17-333.

3. When amending an entire paragraph or large block of text, strike the old text first, and then list the new, underlined text. If the changes to a subsection are extensive, it is preferable to strike or add rule language by whole paragraph.

   Wrong: The ~~Division is responsible for inspecting~~ Department shall inspect all wildlife lawfully taken on ~~an Indian Reservation~~ tribal lands.

   Right: ~~The Division is responsible for inspecting all wildlife lawfully taken on an Indian Reservation~~ The Department shall inspect all wildlife taken on tribal lands.

4. When amending portions of a word (number or citation) strike the entire word (number or citation), insert one blank space, then add and underline the new version of the word (number or citation). It can be difficult to decipher what you mean when letters are stricken within a word.

   Wrong: The ~~d~~Department.

   Right: The ~~department~~ Department

   Wrong: ~~$15~~200~~.00~~

   Right: ~~$150.00~~ $200

   Wrong: A.R.S. § 17-231~~(A)~~(B)

   Right: A.R.S. § ~~17-231(A)~~ 17-231(B)

Rule Amendment Example

The following example demonstrates the correct way to amend rule language. This is not an actual rule and is only provided to illustrate the instructions provided above.

1. Previous rule language is included.
2. Language to be deleted is stricken and language to be added is underlined.
3. Language that is new is added after language that is stricken.
4. Entire words are stricken and new language is added when only a portion of a word is to be changed.

R0-00-101. Fictional Contest Permit

A. For the purposes of this subsection, "Fictional contest director" means the individual designated by the sponsor as the person responsible for compliance with this Section.

~~A.~~**B.** ~~Application~~ An application for a fictional contest permit ~~pursuant to~~ authorized under A.R.S. § ~~00-000(A)(1)~~ 00-000(A)(2) requires ~~that~~ the applicant to submit all of the following information ~~be provided by the applicant~~ to the ~~Department~~ Department's Fictional Contests Program:

1. ~~Name, date of birth, telephone number, and mailing address.~~ Fictional contest sponsor.
2. ~~Two letters of reference for the applicant.~~ Fictional contest director's:
   a. Name,
   b. Date of birth,
   c. Telephone number; and
   d. Mailing address.
3. Fictional contest name.

~~3.~~4. ~~Contest~~ Fictional contest location and dates.

~~4.~~5. Anticipated number of fictional contest participants.

~~B.~~**C.** ~~A fictional permit shall be carried by the applicant at all times and shall be made available for inspection by Department personnel~~ The fictional contest director shall ensure the fictional contest permit is:

1. Posted at the fictional contest location throughout the entire event, and
2. Available for inspection upon request by Department personnel.

~~C.~~**D.** This ~~rule~~ Section is effective January 1, ~~1995~~ 2010.

ARIZONA GAME AND FISH DEPARTMENT

GAME BIRD LICENSE APPLICATION
R12-4-414

FOR DEPARTMENT USE ONLY

☐ Inspection completed
☐ Annual report received

Date Received _____ Region: _____

Date Review Complete _____ Approved: _____ Denied: _____

Valid From: _____ To: _____

Approved By: _____ Date: _____

[PLEASE PRINT OR TYPE]

Calendar Year _____

☐ NEW ☐ RENEWAL

License Type

CHECK ONE:

☐ Hobby	Fee $5.00	May not possess more than 50 game birds
☐ Shooting Preserve	Fee $115.00	
☐ Training	No Fee	~~No more than 10 consecutive days~~ ANNUAL
☐ Field Trial	Fee $6.00	No more than 10 consecutive days

~~Training~~ or Field Trial Dates _____ to _____

A separate application will need to be submitted for each location where wildlife will be used.

Department ID Number or SSN: _____ Date of Birth _____

Name _____

Mailing Address _____

City _____ State _____ Zip _____ Phone _____

Gender _____ Weight _____ Height _____ Hair _____ Eyes _____

Email _____

☐ Resident _____ Number of Yrs Resident

☐ Non Resident

Required if using wildlife for commercial purposes:

Business Name _____ Phone _____

Mailing Address _____ City _____ State _____ Zip _____

Federal Tax ID # _____

If activity with birds will be used in an activity affiliated with a sponsoring organization

Organizations Name _____ Phone _____

Mailing Address _____ City _____ State _____ Zip _____

Wildlife to be Held (Common Name) Choose from drop-down list *List will not appear if license type is not selected*	# of new Animals Requested	For renewals # of Animals currently held from previous years license

CHECK ONE:

- ☐ Personal use only
- ☐ Conduct competition to test hunting dogs (Field Trial)
- ☐ Charge a fee to take birds (Shooting Preserve)
- ☐ Train dog or raptor (Field Training)

Describe how you intend to use the birds

For each location where wildlife will be used**:**

Species held at this location _____

Land Owners Name _____ Phone _____

Mailing Address _____ City _____ State _____ Zip _____

~~Lat/Long~~ _____ or ~~UTM~~ _____

~~(decimal degrees only)~~

For each location where wildlife will be released**:**

Species held at this locations _____

Land Owners Name _____ Phone _____

Mailing Address _____ City _____ State _____ Zip _____

~~Lat/Long~~ HUNT UNIT ~~or UTM~~ _____

(decimal ~~degrees~~ only)

Birds are being acquired ☐ In Arizona ☐ From out of state

Health certificate for imported wildlife must be submitted to the Department prior to importation.
Certificate shall not be issued no more than 30 days prior to the date of shipment.

Suppliers Name _____ Phone _____

Mailing Address _____ City _____ State _____ Zip _____

Federal Tax ID # _____

Attachments: Additional information required under R12-4-414

_____ Detailed description, diagram and photos of facilities
_____ Procedures of how you will comply with the captivity standards listed in R12-4-428
_____ Proof of annual veterinary inspection
_____ Annual report
_____ Health Certificate

*****LICENSE EXPIRES DECEMBER 31 OF EACH YEAR, RENEWAL APPLICATIONS MUST BE RECEIVED OR POSTMARKED BY DECEMBER 31st *****

~~A game bird license holder shall submit an annual report to the Department before January 31st each year, whether or not activities were performed under the license for the previous calendar year. The license becomes invalid if the report is not submitted and the Department will not process this renewal application until the report is received. Failure to submit a report may result in a citation.~~

APPLICANT SIGNATURE: _____ Date _____

I certify the information provided on this application is true and correct to my knowledge. I will comply with any municipal, county, state, or federal code, ordinance, statute, regulation or rule applicable to this license and that my live wildlife privileges are not currently suspended or revoked in this state, any other state or territory, or by the United States.

In accordance with provisions under Section 41-1030, Arizona Revised Statutes:
An agency shall not base a licensing decision in whole or in part on a licensing requirement or condition that is not specifically authorized by a statute, rule or state tribal gaming compact. A general grant of authority in statute does not constitute a basis for imposing a licensing requirement or condition unless a rule is made pursuant to that general grant of authority that specifically authorizes the requirement or condition.
This section may be enforced in a private civil action and relief may be awarded against the state. The court may award reasonable attorney fees, damages and all fees associated with the license application to a party that prevails in an action against the state for a violation of this section.
A state employee may not intentionally or knowingly violate this section. A violation of this section is cause for disciplinary action or dismissal pursuant to the Agency's adopted personnel policy. This section does not abrogate the immunity provided by section 12-820.01 or 12-820.02.

From: Wade A. Zarlingo
To: Celeste Cook
Subject: FW: Field trial training license
Date: Wednesday, May 10, 2017 8:36:10 AM

FYI

Wade Zarlingo
Small Game Program Manager
Arizona Game and Fish Department
5000 W. Carefree Highway
Phoenix, AZ 85086
(623) 236-7503-office
(623) 236-7327-Fax

From: Jim Carpenter [mailto:jcarpen323@wildblue.net]
Sent: Wednesday, May 10, 2017 7:05 AM
To: Wade A. Zarlingo
Subject: Re: Field trial training license

Hi Wade,

Ted Hamilton just forwarded me the proposed rule changes for keeping and using birds for our NAVHDA dog training. Looks like an improvement over the original to me. I especially appreciate the "user friendly" changes and the reduction of so many restrictions. Seems to me like this could be a win-win for bird users and the native birds if it becomes the way going forward. Generating timely data serves everyone and increased participation by all will help do that.
Thank you for the work you guys do. I've been very proud of Arizona's Game and Fish for a long time and this goes to show another reason why.

Sincerely,
Jim Carpenter

From:	Wade A. Zarlingo
To:	Celeste Cook
Subject:	Fwd: R12-4-414 Game Bird License
Date:	Wednesday, May 10, 2017 3:01:14 PM

FYI

Wade Zarlingo

Sent from my iPhone

Begin forwarded message:

> **From:** John Mullen <jbmmullen@gmail.com>
> **Date:** May 10, 2017 at 2:55:42 PM MST
> **To:** Wade Zarlingo <WZarlingo@azgfd.gov>
> **Subject: R12-4-414 Game Bird License**
>
> Mr Zarlingo
> I would like to express my support for the latest revisions on R12-4-414. Having a GPS coordinates as a general reference point will allow for the flexibility to move in the field if a unforeseen situation arises. And going back to a annual license with multiple locations will help to eliminate unnecessary processing. I can support the annual reporting considering these other modifications. I thank you and the others that work to fast track these rule changes.
>
> Sincerely
> John “Brent” Mullen

From:	Wade A. Zarlingo
To:	Celeste Cook
Subject:	Fwd: Proposed Change to Field Training License
Date:	Wednesday, May 10, 2017 3:24:05 PM

FYI

Wade Zarlingo

Sent from my iPhone

Begin forwarded message:

> **From:** Zack May <zmay@comcast.net>
> **Date:** May 10, 2017 at 3:20:14 PM MST
> **To:** Wade Zarlingo <wzarlingo@azgfd.gov>
> **Cc:** Brittany Oleson <boleson@azgfd.gov>, Mike Chapdelain <chap7mm@cox.net>
> **Subject: Proposed Change to Field Training License**
>
> Wade,
>
> I like the proposed change to the field training license and recommend it be adopted. The present rule is too cumbersome and hard to understand and puts an unneeded burden on those wanting to train and AZGFD personnel.
>
> Zack May
> Southern AZ Quail Forever
> Chapter President
> zmay@comcast.net
> Cell 520.301.8135

From:	Wade A. Zarlingo
To:	Celeste Cook
Subject:	Fwd: Field trial training rule changes
Date:	Wednesday, May 10, 2017 3:24:44 PM

FYI

Zarlingo

Sent from my iPhone

Begin forwarded message:

> **From:** Ted Hamilton <pudelpointerguy@msn.com>
> **Date:** May 10, 2017 at 3:17:36 PM MST
> **To:** Wade Zarlingo <wzarlingo@azgfd.gov>
> **Cc:** Brent and Judy Mullen <jbmmullen@gmail.com>, Jim Cassara <james.cassara@yahoo.com>, Bob Redwine <bredwine@wilburellis.com>, "Jim Carpenter" <jcarpen323@wildblue.net>
> **Subject: Field trial training rule changes**
>
> As one of the people that petitioned the AZGFD Commission and rules committee, I support the rule changes to rule R12-4-414. The new rule makes it much easier to comply, and eleminates a lot of unnecessary paper work for the public and the AZGFD.
> Thank you for your consideration.
> Ted Hamilton
> President Grand Canyon Chapter of NAVHDA (North American Versatile Hunting Dog Association.
>
> Get Outlook for iOS

July 1, 2017

To: AZ Game & Fish Commission

Subject: **Proposed rules for game bird field training licenses, R12-4-414**

Mr. Chair and fellow Commissioners, Arizona Sportsmen for Wildlife Conservation (AZSFWC) would like to comment on the impending Rule change for R12-4-414 relative to field training dogs using live birds, like quail and chukar. AZSFWC and 21 of our member organizations support the following comments, and a list of those supporting groups follows the commentary.

We understand the potential biological implications of introduced birds on the landscape, that are pen raised and possibly non-native species. However due consideration should be given to where these birds might be used in training, the season they are used in, along with the likelihood any of them would survive should they be fortunate to live through the training exercise!

We have concerns with the existing rule that was going to be enforced. This rule may be needlessly onerous to the dog trainers and might be an attempt to apply a solution to a nonexistent problem.

The weekend bird trainers should be distinguished from the shooting preserves or hunting clubs.

Training licenses should be consistent state-wide and not Region specific. In other words, allow the weekend bird trainers to have the ability to complete one application wherever they live, applicable to any or all other Regions.

If there are potentially conflicts with native birds during certain times of the year, those issues and concerns should be spelled out and specifically addressed.

If there are potential or imminent disease issues, specify what and where they might be and be specific with any limitations, issues or areas. Coordination with land management agencies can follow accordingly based on need and necessity.

Arizona Sportsmen for Wildlife Conservation
PO Box 12590 Glendale, AZ 85318

We believe notification to land management agencies regarding any training events should be the responsibility of the event organizer versus the Department. If the Department has concerns regarding the location and timing of such events, they could then work out any issues with the respective land managers.

Finally, we believe an annual permit for amateur dog handlers should be sufficient. That would allow the Department to readily identify who has such a permit, and if there is a Region specific, or disease specific issue they need to focus on or direct attention to, they can look to those license holders accordingly.

In addition, the administrative costs and handling of annual permits for these amateur trainers would not only be a benefit to them, but would eliminate any onerous administrative expenses for the Department.

AZSFWC, the Department and HAWHG have all recognized the importance of small game hunting as an important recruiting tool. Simplifying the rules and regulations for training matters such of this, would go a long way in reducing regulations and unneeded barriers towards this effort.

Thank you!

Jim Unmacht
Executive Director

Arizona Sportsmen for Wildlife Conservation
PO Box 12590 Glendale, AZ 85318

AZSFWC Member Organizations Supporting Recommendations on Proposed Rule Changes for R12-4-414

Anglers United
AZ Bass Nation
AZ Big Game Super Raffle
AZ Chapter of NWTF
AZ Deer Association
AZ Desert Bighorn Sheep Society
AZ Elk Society
AZ Flycasters Club
AZ Houndsmen
AZ Outdoor Sports
AZ Shooting Sports Education Foundation
AZ State Council of Trout Unlimited
Christian Hunters of America
Coconino Sportsmen
Mohave Sportsmen Club
Outdoor Experience 4 All
Southwest Wildlife Foundation
SRT Outdoors
The Bass Federation
Valley of the Sun Quail Forever
Xtreme Predator Callers

Arizona Sportsmen for Wildlife Conservation
PO Box 12590 Glendale, AZ 85318

From:	Wade A. Zarlingo
To:	Jim Unmacht; Celeste Cook
Cc:	Rulemaking; Jim Ammons; Arizona Sportsmen for Wildlife Conservation; Rich Williams - AZ NWTF
Subject:	Re: AZSFWC comment on Proposed rules for game bird field training licenses, R12-4-414
Date:	Sunday, July 02, 2017 9:03:04 PM

Jim,

Thanks for being engaged in the Departments process. I will forward the comments to make sure it's part of the package moving forward.

Wade Zarlingo

Sent from my iPhone

On Jul 2, 2017, at 5:48 PM, Jim Unmacht <huntheworld2@gmail.com> wrote:

> Please consider Arizona Sportsmen for Wildlife Conservation's attached comments on this proposed rule change.
>
> Thank you!
>
> **Jim Unmacht**
> **Executive Director**
> **Arizona Sportsmen for Wildlife Conservation**
>
> <image001.jpg>
>
> **www.azsfwc.org**
> **623-570-0534**
>
> <AZSFWC correspondence to the Commission on R12-4-414 - 7-1-2017.pdf>

From:	Wade A. Zarlingo
To:	Celeste Cook
Cc:	huntheworld2@gmail.com
Subject:	Fwd: AZSFWC comment on Proposed rules for game bird field training licenses, R12-4-414
Date:	Sunday, July 02, 2017 9:12:59 PM
Attachments:	image001.jpg ATT00001.htm AZSFWC correspondence to the Commission on R12-4-414 - 7-1-2017.pdf ATT00002.htm

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Celeste,

See attachment with previous email.

Thank you!

Wade Zarlingo

Sent from my iPhone

Begin forwarded message:

> **From:** Jim Unmacht <huntheworld2@gmail.com>
> **Date:** July 2, 2017 at 5:48:38 PM MST
> **To:** <rulemaking@azgfd.gov>, <wzarlingo@azgfd.gov>
> **Cc:** 'Jim Ammons' <JAmmons@azgfd.gov>, '"Arizona Sportsmen for Wildlife Conservation"' <info@azsfwc.org>, 'Rich Williams - AZ NWTF' <azgobbler60@gmail.com>
> **Subject: AZSFWC comment on Proposed rules for game bird field training licenses, R12-4-414**
>
> Please consider Arizona Sportsmen for Wildlife Conservation's attached comments on this proposed rule change.
>
> Thank you!
>
> **Jim Unmacht**
> **Executive Director**
> **Arizona Sportsmen for Wildlife Conservation**

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

ARTICLE 4. LIVE WILDLIFE

R12-4-414

Economic, Small Business and Consumer Impact Statement

A. Economic, small business and consumer impact summary:

1. Identification of the proposed rule making.

The objective of the rule is to establish requirements that allow a person to possess, propagate, release, and take pen-reared game birds, to include lists of game bird species that may be held under the license, the various activities authorized under the license, administrative compliance requirements, and the restrictions and prohibitions that are necessary to protect existing habitat and wildlife resources.

The rule requires license holders to report on the number of birds held, released, and the locations of the release. In part, this is to aid the Department in the detection and assessment of impacts, positive or negative, to native wildlife and habitat. The Department's Wildlife Health Program receives and responds to reports of wildlife mortality across the state. In the past 10 years, the Department has detected multiple outbreaks of trichomonas in mourning doves and pigeon paramyxovirus in Eurasian collared doves. This virus also affects mourning doves. The Department has also identified psittacosis in nonnative rosy-cheeked lovebirds in the Phoenix area. Additional diseases known to occur in captive pen-reared game birds are avian influenza, avian cholera, duck cholera, quail bronchitis, and ulcerative enteritis. The impact of the introduction of these diseases into a wild population is unknown; however, researchers have examined the impact of the introduction of nonnative species and identified disease, hybridization, and competition as risks for the native populations.

On April 7, 2017, as a result of a rulemaking petition, the Commission directed the Department to work with identified stakeholders to develop rule amendments that result in an improved process and customer friendly approach for administering game bird licenses.

The Commission proposes to amend the rule to make the rule more understandable. The last rulemaking combined four game bird licenses into one over-arching game bird rule that addressed all of the activities authorized under the original four rules: Game Bird Shooting Preserve, Game Bird Field Trial, Game Bird Field Training, and Game Bird Hobby. Members of the public and the Department have stated the rule is confusing as written and should be amended to speak more clearly to the different species of game bird and different activities allowed under each type of license.

The Commission proposes to amend the rule to clarify the Game Bird License only authorizes the license holder to use captive pen-reared game birds for any of the activities authorized under the license. As written, the rule could be interpreted to mean wild-caught game birds may be possessed under the license, which is not the intent of the rule.

The Commission proposes to amend the rule to establish a person conducting activities under a Game Bird Field Training license is not required to possess a hunting license in order to take captive pen-reared game birds to increase consistency between the activities authorized under the rule. Currently, a person taking a captive pen-reared game bird under a valid Game Bird Shooting Preserve or Game Bird Field Trial license is not required to possess a hunting license when taking a captive pen-reared game bird under the license. The Commission believes that because the taking of captive pen-reared game birds is authorized under the license, a hunting license should not be required when training dogs with captive pen-reared game birds.

The Commission proposes to amend the rule to offer a Game Bird Field Training license that is valid until December 31 of the year in which it was issued. The last rulemaking reduced the period of time in which the license was valid to ten consecutive days to increase consistency between the Game Bird Field Trial and Field Training licenses. In reviewing information provided on previous years Game Bird Field Training license applications, the ten day time-frame appeared to be consistent with the times-frames indicated on the applications. However, persons who petitioned the Commission requested the rule be amended to revert back to the December 31 expiration date.

The Commission proposes to amend the rule to remove the requirement that an applicant submit a separate application when applying for a Game Bird Shooting Preserve, Game Bird Field Training, or Game Bird Hobby license when the applicant proposes to use more than one location to conduct activities authorized under the license. The Commission anticipates revising the Game Bird License Application to allow an applicant to list multiple locations on one application. The Game Bird Field Trial license applicant will continue to submit a separate application for each location. This is because the Game Bird Field Trial license is only valid for a specific field trial event.

The Commission proposes to amend the rule to remove the requirement that an applicant provide the game bird supplier's Federal Tax Identification Number and the applicant's Federal Tax Identification Number on the application when the applicant will use the captive pen-reared game birds for a commercial purpose. The Commission has determined this information, while helpful, is not essential to the application review.

The Commission proposes to amend the rule to clarify that only a person applying for a Game Bird Hobby or Game Bird Shooting Preserve License provide a detailed description or diagram of the facilities where the applicant will hold game birds and a description of how the facilities comply with the requirements established under R12-4-428 and any other captivity standards established under this Section. Game birds possessed by Game Bird Field Trial and Training License holders are typically housed in boxes at the site where the event or training will take place and the requirements for transporting an animal humanely are addressed under R12-4-428 (Captivity Standards).

The Commission proposes to amend the rule to remove the requirement that a Game Bird License holder have their facility inspected by a veterinarian at least once every year. Because the Arizona Model Veterinary Practice Act requires a veterinarian to visit a facility regularly in order to stay within practice act

rules and the captivity standards rule (R12-4-428) requires a special license holder who possesses an animal for more than one-year to have their facility inspected annually by a veterinarian licensed to practice in Arizona, the Commission determined it is not necessary to apply this requirement in the Game Bird License rule.

The Commission proposes to amend the rule to remove the requirement that a Game Bird License holder retain records of copies of all federal, state, and local licenses, permits, and authorizations required for the lawful operation of the game bird activity because having this language in rule implies the Department verifies that the applicant possesses all of the necessary approvals and/or permits in place and that those approvals and/or permits are valid. The Department believes it is the applicant's responsibility to ensure they apply for and obtain all required licenses, permits, and authorizations.

The Commission proposes to amend the rule to clarify that any activities authorized under the license may occur only at the locations and dates specified on the license and require a license holder who wishes to conduct activities authorized under the license at a new location or a different date to submit an application to the Department. Because the special license administrator needs to determine whether training a dog will conflict with other activities or projects occurring in that area, it is necessary for the applicant to submit an application providing the information required to determine whether the Game Bird License may be amended to include the new location and date.

The Department issues approximately 6 Game Bird Shooting Preserve, 36 Game Bird Field Trial, 85 Game Bird Field Training, and 55 Game Bird Hobby licenses on an annual basis.

(a) The conduct and its frequency of occurrence that the rule is designed to change.

The Commission believes the amendments proposed in this rulemaking result in a rule that is either less burdensome or has no significant impact on persons regulated by the rule. Therefore, this subsection will address only those items identified in the petitions submitted to the Commission.

The Game Bird Field Training license is valid for a period of 10 consecutive days; an applicant who wishes to train their dogs every weekend during the off-season would be required to submit 20 applications each year. The Commission is unable to establish the frequency of this occurrence. The Game Bird License rule was amended to limit the license to 10 consecutive days during the last rulemaking which became effective December 5, 2015.

An applicant for a Game Bird License is required to provide the Federal Tax Identification Number on the application when the applicant will use the captive pen-reared game birds for a commercial purpose as well as the game bird supplier's Federal Tax Identification Number. The Commission is unable to establish the frequency of this occurrence as the Department does not track how many applications are received; only the number of licenses issued. However, previous licensing time-frame reports indicate most all applications submitted to the Department result in the issuance of a Game Bird License.

An applicant for a Game Bird License is required to submit a separate application for each location where the applicant proposes to conduct activities with captive pen-reared game birds. The

Commission is unable to establish the frequency of this occurrence as the Department does not tracks how many applications are received; only the number of licenses issued. However, previous licensing time-frame reports indicate most all applications submitted result in the issuance of a license.

Requiring an applicant to provide the Global Position System (GPS) location implies activities occurring outside of the specific GPS location would be unlawful. The Commission is unable to establish the frequency of this occurrence as the Department does not track how many applications are received; only the number of licenses issued. However, previous licensing time-frame reports indicate most all applications submitted result in the issuance of a Game Bird License.

A Game Bird License holder is required to have their facility inspected at least once every year by a veterinarian licensed in Arizona. The Commission is unable to establish the frequency of this occurrence as the Department does not require a license holder to provide proof of the veterinary inspection.

(b) The harm resulting from the conduct the rule is designed to change and the likelihood it will continue to occur if the rule is not changed.

The Commission anticipates the amendments proposed in this rulemaking result in a rule that is either less burdensome or has no significant impact on persons regulated by the rule. Therefore, this subsection will address only those items identified in the petitions submitted to the Commission.

Limiting the period in which a Game Bird Field Training license is valid for to a period of 10 consecutive days requires an applicant who wishes to train their dogs every weekend during the off-season to submit 20 applications each year; a person who trains more frequently may submit up to 36 applications each year. Filing multiple applications containing identical information places an administrative burden on persons regulated by the rule. This limitation also places an administrative burden on the Department due to having to review numerous applications.

Requiring an applicant to provide the Federal Tax Identification Number on the application when the applicant will use the captive pen-reared game birds for a commercial purpose and the game bird supplier's Federal Tax Identification Number is problematic for applicants because the information is not always readily available and some applicants and suppliers do not want to provide a number that is associated with their income tax records.

Requiring an applicant for a Game Bird License to submit multiple applications containing identical information, except for the location, places an administrative burden on persons regulated by the rule. This limitation also places an administrative burden on the Department due to having to review numerous almost identical applications.

Requiring an applicant to provide the GPS location implies activities occurring outside of the specific GPS location would be unlawful. While this is not the case, it is a concern of Game Bird Field Training license holders.

Requiring a Game Bird License holder to have their facility inspected at least once every year by a veterinarian licensed in Arizona places an undue burden on Game Bird License holders who only possess captive pen-reared game birds for a short period of time.

Because these requirements apply to all game gird licenses, the harm resulting from the conduct the rule is designed to change will continue to occur as long as persons are interested in conducting activities authorized under the rule with captive pen-reared game birds.

(c) The estimated change in frequency of the targeted conduct expected from the rule change.

The Commission believes the amendments proposed in this rulemaking result in a rule that is either less burdensome or has no significant impact on persons regulated by the rule. Therefore, this subsection will address only those items identified in the petitions submitted to the Commission.

Amending the rule to make the Game Bird Field Training license valid until December 31 of the year in which it is issued will greatly reduce the number of applications an applicant is required to submit each year. The proposed amendment will reduce the burdens and costs to persons regulated by the rule and the Department.

Amending the rule to remove the requirement that an applicant provide the game bird supplier's Federal Tax Identification Number and the license holder's Federal Tax Identification Number when the applicant intends to use the captive pen-reared game birds for a commercial purpose and their supplier's will reduce the burdens and costs to persons regulated by the rule. While this change will have an insignificant effect on the amount of time it takes an applicant to complete the application, not having to provide this information will provide greater security to the applicant, which is not readily quantifiable, but is assumed to be significant as identity theft concerns increase with each passing year.

Amending the rule to remove the requirement that an applicant submit a separate application for each location where the applicant proposes to conduct activities with captive pen-reared game birds will reduce the administrative burdens and costs to persons regulated by the rule and the Department.

Amending the rule to remove the requirement that an applicant provide the GPS locations will reduce the administrative burdens and costs to persons regulated by the rule.

Amending the rule to remove the requirement that a Game Bird License holder have their facility inspected at least once every year by a licensed veterinarian will reduce the administrative burdens and costs to persons regulated by the rule.

2. Brief summary of the information included in the economic, small business and consumer impact statement.

The Commission’s rule protects native wildlife in many ways, including preventing the spread of disease, reducing the risk of released animals competing with native wildlife, and preventing interactions between humans and wildlife that may threaten public health or safety. The Department's Wildlife Health Program receives and responds to reports of wildlife mortality across the state. In the past 10 years, the Department has detected multiple outbreaks of trichomonas in mourning doves and pigeon paramyxovirus in Eurasian collared doves. This virus also affects mourning doves. The Department has also identified

psittacosis in nonnative rosy-cheeked lovebirds in the Phoenix area. Additional diseases known to occur in captive pen-reared game birds are avian influenza, avian cholera, duck cholera, quail bronchitis, and ulcerative enteritis. Although avian influenza A viruses usually do not infect humans, rare cases of human infection with these viruses have been reported. Infected birds shed avian influenza virus in their saliva, mucous and feces. Human infections with bird flu viruses can happen when enough virus gets into a person's eyes, nose or mouth, or is inhaled. This can happen when virus is in the air (in droplets or possibly dust) and a person either breathes it in or touches something that has virus on it and then touches their mouth, eyes, or nose. The impact of introduction of these diseases into a wild population is unknown; however, researchers have examined the impact of the introduction of nonnative species and identified disease, hybridization, and competition as risks for the native populations.

The Commission anticipates the rulemaking will benefit the Department by increasing efficiency in administering game bird licenses.

The Commission anticipates the rulemaking will result in an overall benefit to the persons regulated by the rule by reducing the burdens and costs associated with the rule and providing better customer-service to persons seeking to conduct activities with captive pen-reared game birds in Arizona.

The Commission anticipates the rulemaking will result in little or no impact to political subdivisions of this state; private and public employment in businesses, agencies or political subdivisions; or state revenues.

The Commission has determined that there are no less intrusive or costly alternative methods of achieving the purpose of the rulemaking. Other than the regular cost of rulemaking, there are no costs associated with the rulemaking. Therefore, the Commission has determined that the benefits of the rulemaking outweigh any costs.

3. The name and address of agency employees who may be contacted to submit or request additional data on the information included in the economic, small business and consumer impact statement.

Name:	Wade Zarlingo, Small Game Program Manager
Address:	Arizona Game and Fish Department
	5000 W. Carefree Highway
	Phoenix, AZ 85086
Telephone:	(623) 236-7503
Fax:	(623) 236-7929
E-mail:	WZarlingo@azgfd.gov

B. The economic, small business and consumer impact statement:

1. Identification of the proposed rule making.

See paragraph (A)(1) above.

2. Identification of the persons who will be directly affected by, bear the costs of or directly benefit from the proposed rule making.

The Commission believes the amendments proposed in this rulemaking result in rules that are either less burdensome or have no significant impact on persons regulated by the rule. The Commission

anticipates the general public and the Department benefit from the proposed rulemaking through clarification of rule language governing game bird licenses. Persons who benefit from the proposed rulemaking include:

Persons who own and raise captive pen-reared game birds for a hobby

Persons who own or manage game bird shooting preserves

Persons who train dogs to locate captive pen-reared game birds as a hobby or a profession

Persons who hold captive pen-reared game bird field trial events using captive pen-reared game birds

Businesses that sell captive pen-reared game birds

Persons who provide goods and services for the agricultural and pet industry

Game bird dog associations and clubs

Businesses that provide goods and services for the tourism industry

Persons who bear the costs from the proposed rulemaking include:

Veterinarians who conduct annual inspections of Game Bird License holder facilities

3. Cost benefit analysis:

Cost-revenue scale. Annual costs or revenues are defined as follows:

Minimal	less than $100
Moderate	$101 to $1,000
Substantial	$1,001 or more

Persons who own and raise captive pen-reared game birds for a hobby will benefit from the amendment that removes the requirement that the license holder's facility be inspected by a licensed veterinarian annually. Costs for the veterinary inspection range from $65 to $100.

Persons who own or manage game bird shooting preserves will benefit from the amendment that removes the requirement that the license holder's facility be inspected by a licensed veterinarian annually. Costs for a veterinary inspection range from $65 to $100.

Persons who train dogs to locate captive pen-reared game birds as a hobby or a profession will benefit from the rulemaking because it reduces the time and effort spent on completing multiple applications; and removes the requirement that the license holder's facility be inspected by a licensed veterinarian annually. Costs for a veterinary inspection range from $65 to $100.

Persons who hold captive pen-reared game bird field trial events using captive pen-reared game birds benefit from the rulemaking because it allows a license holder to possess captive pen-reared game birds until December 31 of the year in which the license was issued; and removes the requirement that the license holder's facility be inspected by a licensed veterinarian annually. Costs for a veterinary inspection range from $65 to $100.

Businesses who sell captive pen-reared game birds benefit from a rule that decreases the administrative burdens and costs to Game Bird License holders and the change may encourage greater participation in activities authorized under the Game Bird License. Prices for game birds range from $4 to $12 dollars depending on the game bird species and age.

Businesses that provide goods and services for the agricultural and pet industry benefit from a rule that decreases the administrative burdens and costs to Game Bird License holders and may encourage greater participation in activities authorized under the Game Bird License. Businesses include, but are not limited to, tack and feed stores, pet stores, dog training professionals, dog breeders, etc. Given the wide range of businesses, it is not possible to provide an exact cost, but the Commission anticipates prices range from minimal to substantial depending on the product or service.

Game bird dog associations and clubs benefit from a rule that decreases the administrative burdens and costs to Game Bird License holders and may encourage greater participation in activities authorized under the Game Bird License. The Commission anticipates greater participation in captive pen-reared activities may result in increased membership in these clubs and associations.

Businesses that provide goods and services for the tourism industry benefit from a rule that decreases the administrative burdens and costs to Game Bird License holders as the amendment makes it easier for persons to conduct activities authorized by the license and may encourage greater participation. In general, a Game Bird Field Training license holder trains their dogs approximately 18 to 25 times and uses approximately 60 captive pen-reared game birds each year. A Game Bird Field Training license holder travels 50 to 100 or more miles from their residence to train their dogs, per event; purchasing fuel and meals during their travels. In general, a Game Bird Field Trial license holder holds a trial event two or more times each year and uses approximately 150 to 200 captive pen-reared game birds each year, depending on the amount of contestants. A Game Bird Field Trial license holder travels 100 to 200 or more miles from their residence to participate in any one event; staying overnight and purchasing fuel and meals during their travels.

Veterinarians who conduct annual inspections of Game Bird License holder's facilities will bear the costs from the proposed rulemaking due to the requirement that removes the need for an annual inspection of the facility. Veterinary inspections range from $65 to $100. The Department issues approximately 180 Game Bird Licenses each year. The Commission anticipates the rulemaking will have a minimal or no substantive impact on veterinarians who conducts these inspections.

(a) Probable costs and benefits to the implementing agency and other agencies directly affected by the implementation and enforcement of the proposed rule making. The probable costs to the implementing agency shall include the number of new full-time employees necessary to implement and enforce the proposed rule. The preparer of the Economic, Small Business, and Consumer Impact Statement shall notify the Joint Legislative Budget Committee of the number of new full-time employees necessary to implement and enforce the rule before the rule is approved by council.

The Commission anticipates the proposed amendments will have little or no impact on the Department or other agencies directly affected by the implementation and enforcement of the proposed rulemaking. The Commission anticipates the implementation of the rulemaking will have no measurable impact on Department operations, because the Department has been fully engaged in

administering game bird licenses. The Commission has determined the rulemaking will not require any new full-time employees. The Commission anticipates the proposed rulemaking will enhance the Department's ability to protect the health and safety of native wildlife and wildlife habitat. The Commission anticipates persons regulated by the rule and the Department will benefit from the amendments that clarify the rule and reduce the administrative burdens and costs to persons regulated by the rule. The Commission believes the benefits of the rulemaking outweigh any costs.

(b) Probable costs and benefits to a political subdivision of this state directly affected by the implementation and enforcement of the proposed rule making.

The Commission anticipates the proposed amendments will have little or no impact on political subdivisions of this state directly affected by the implementation and enforcement of the proposed rulemaking. The Commission believes the benefits of the rulemaking outweigh any costs.

(c) Probable costs and benefits to businesses directly affected by the proposed rule making, including any anticipated effect on the revenues or payroll expenditures of employers who are subject to the proposed rule making.

The Commission's intent in the proposed rulemaking is to reduce the administrative burdens and costs to persons regulated by the rule and allow the Department the management authority necessary to protect and manage wildlife and wildlife habitat. Many of the amendments will not affect businesses, their revenues, or their payroll expenditures. Of those that do or may have an impact, the Commission does not anticipate the impact will be significant. The Commission believes the benefits of the rulemaking outweigh any costs.

4. General description of the probable impact on private and public employment in businesses, agencies and political subdivisions of this state directly affected by the proposed rule making.

The Commission anticipates the proposed amendments will have minimal or no substantive impact on private and public employment in businesses, agencies, and political subdivisions of this state directly affected by the proposed rulemaking.

5. Statement of the probable impact of the proposed rule making on small businesses:

(a) Identification of the small businesses subject to the proposed rule making.

The Commission's intent in proposing these amendments is to protect native wildlife and their habitats in many ways, including preventing the spread of disease and reducing the risk of released animals competing with native wildlife. The Commission believes the majority of the rulemaking will benefit persons regulated by the rule, members of the public, and the Department by clarifying rule language to ease enforcement, creating consistency among existing Commission rules, and reducing the burden on persons regulated by the rule where practical. The Commission anticipates the rulemaking will result in an overall benefit to persons regulated by the rule, members of the public, and the Department. The Commission anticipates the rulemaking will result in little or no impact to political subdivisions of this state; private and public employment in businesses, agencies or political subdivisions; or state revenues. The Commission has determined that there are no less intrusive or

costly alternative methods of achieving the purpose of the rulemaking. Other than the regular cost of rulemaking, there are no costs associated with the rulemaking. Therefore, the Commission has determined that the benefits of the rulemaking outweigh any costs.

The Commission anticipates a variety of small business may be impacted by the proposed rulemaking; these may include persons who sell bird dogs, businesses that provide animal feed, care, and housing supplies, businesses that supply food, gas, or lodging for persons who are traveling, pet stores, and veterinarians.

Because, in most instances, the rulemaking either reduces or makes no change to the current regulatory burden, the Commission anticipates persons regulated by the rule will not incur any additional costs as a result of the rulemaking. For most Game Bird License holders, any anticipated costs incurred are strictly administrative in nature and are believed to be insignificant.

(b) Administrative and other costs required for compliance with the proposed rulemaking.

Overall, the Commission believes the amendments proposed in this rulemaking result in rules that are either less burdensome or have no significant impact on persons regulated by the rule.

(c) Description of the methods that the agency may use to reduce the impact on small businesses.

The Commission believes establishing less stringent compliance requirements for small businesses is not necessary as the proposed rules do not place any compliance or reporting requirements on businesses.

(d) Probable cost and benefit to private persons and consumers who are directly affected by the proposed rulemaking.

The Commission anticipates the proposed rulemaking will benefit private persons and consumers by clarifying the Game Bird License rule, and in doing so ensuring the continued integrity of and compliance with its rule. The Commission believes the amendments proposed in this rulemaking result in rules that are either less burdensome or have no significant impact on persons regulated by the rule. The Commission believes the general public and the Department benefit from the proposed rulemaking through clarification of rule language governing the lawful use of captive pen-reared game birds.

Because, in most instances, the rulemaking either reduces or makes no change to the current regulatory burden, the Commission anticipates persons regulated by the rule will not incur any additional costs as a result of the rulemaking.

6. Statement of the probable effect on state revenues.

The Commission anticipates the proposed amendments will have little or no impact on state revenues.

7. Description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed rulemaking including the monetizing of the costs and benefits for each option and providing rationale for not using the nonselected alternatives.

The Commission has determined that there are no alternative methods of achieving the objectives of the proposed rulemaking.

8. **Description of any data on which a rule is based with a detailed explanation of how the data was obtained and why the data is acceptable data. An agency advocating that any data is acceptable data has the burden of proving that the data is acceptable. For the purposes of this paragraph, "acceptable data" means empirical, replicable and testable data as evidenced in supporting documentation, statistics, reports, studies or research.**

Under ARS 41-1024(D), within the scope of its delegated authority, an agency may use its own experience, technical competence, specialized knowledge, and judgment in the making of a rule.

C. **If for any reason adequate data are not reasonably available to comply with the requirements of subsection B of this section, the agency shall explain the limitations of the data and the methods that were employed in the attempt to obtain the data and shall characterize the probable impacts in qualitative terms. The absence of adequate data, if explained in accordance with this subsection, shall not be grounds for a legal challenge to the sufficiency of the economic, small business and consumer impact statement.**

The Department tasked a team of subject matter experts to review and make recommendations for the Game Bird License rule. In its review, the team considered the petitions submitted to the Department, all comments from the public and agency staff that administer and enforce the rule, historical data, current processes and environment, and the Department's overall mission. The team took a customer-focused approach, considering each recommendation from a resource perspective and determining whether the recommendation would cause undue harm. The team then determined whether the request was consistent with the Department's overall mission, if it could be effectively implemented given agency resources, and if it was acceptable to the public. The Commission believes the data utilized in completing this economic, small business, and consumer statement is more than adequate.

activities performed under the license for the previous calendar year. The report form is furnished by the Department.
1. A report is required regardless of whether or not activities were performed during the previous year.
2. The private game farm license becomes invalid if the annual report is not submitted to the Department by January 31 of each year.
3. The Department will not process the special license holder's renewal application until the annual report is received by the Department.
4. The annual report shall include all of the following information, as applicable:
   a. Number of wildlife, by species;
   b. Source of all wildlife that the license holder obtained or propagated;
   c. Date on which the wildlife was obtained or propagated;
   d. Date on which the wildlife was disposed of and the manner of disposition; and
   e. Name of person who received wildlife disposed of by barter, given as a gift, or sale.

N. Except for cervids which shall be disposed of only as established under R12-4-430, a private game farm license holder who no longer uses the wildlife for a commercial purpose shall dispose of the wildlife as follows:
1. Export,
2. Transfer to another private game farm licensed under this Section,
3. Transfer to a zoo licensed under R12-4-420,
4. Transfer to a medical or scientific research facility exempt under R12-4-407,
5. As directed by the Department, or
6. As otherwise authorized under this Section.

O. A private game farm license holder shall comply with the requirements established under R12-4-428 and R12-4-430.

Historical Note

Adopted effective April 28, 1989 (Supp. 89-2). Amended effective January 1, 1995; filed in the Office of the Secretary of State December 9, 1994 (Supp. 94-4). Amended by final rulemaking at 7 A.A.R. 2732, effective July 1, 2001 (Supp. 01-2). Amended by final rulemaking at 9 A.A.R. 3186, effective August 30, 2003 (Supp. 03-3). Amended by final rulemaking at 12 A.A.R. 980, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4).

R12-4-414. Game Bird License

A. A game bird license authorizes a person to display for sale, export, give as a gift, import, offer for sale, possess, propagate, purchase, sell, trade, and transport only the game birds specified on the license at the location specified on the license. A person who possesses a game bird license may conduct any of the following activities when stipulated on the person's game bird license:
1. Year-round possession of live captive-reared game birds at the site specified on the license, Game Bird Hobby:
   a. A license holder shall possess no more than 50 game birds at any one time.
   b. The Game Bird Hobby license expires on December 31 each year.
2. Take of game birds by a person who may be charged a fee, Game Bird Shooting Preserve:
   a. A license holder shall restrict the release and take of the live game birds on private lands to an area not more than 1,000 acres.
   b. A person is not required to possess a hunting license when taking a game bird released under a game bird license.
   c. The Game Bird Shooting Preserve license expires on December 31.
3. Conduct a competition to test the performance of hunting dogs for no more than 10 consecutive days, Game Bird Field Trial.
4. Train a dog or raptor to hunt game birds for no more than 10 consecutive days, Game Bird Field Training.

B. A game bird license authorizes the use of the following game bird species as specified under the license:
1. Game Bird Hobby:
   a. *Alectoris chukar*, Chukar;
   b. *Callipepla californica*, California or valley quail;
   c. *Callipepla gambelii*, Gambel's quail;
   d. *Callipepla squamata*, Scaled quail;
   e. *Colinus virginianus*, Northern bobwhite, subject to the restriction specified under subsection (D);
   f. *Cyrtonyx montezumae*, Montezuma or Mearn's quail; and
   g. *Dendragapus obscurus*, Dusky grouse.
2. Game Bird Shooting Preserve, Game Bird Field Trial, and Game Bird Field Training:
   a. *Alectoris chukar*, Chukar;
   b. *Anas platyrhynchos*, Mallard duck;
   c. *Colinus virginianus*, Northern bobwhite, subject to the restriction specified under subsection (D);
   d. *Phasianus colchicus*, Ringneck and Whitewing pheasant;
3. For the game bird species listed below, a game bird license authorizes a person to conduct only the following activities: display, export for noncommercial purposes, give as a gift, import, kill, possess, propagate, purchase, and transport:
   a. *Callipepla californica*, California or valley quail;
   b. *Callipepla gambelii*, Gambel's quail;
   c. *Callipepla squamata*, Scaled quail;
   d. *Cyrtonyx montezumae*, Montezuma or Mearn's quail; and
   e. *Dendragapus obscurus*, Dusky grouse.

C. In addition to the requirements established under this Section, a game bird license holder shall comply with the special license requirements established under R12-4-409.

D. The license holder shall be responsible for compliance with all applicable regulatory requirements. The game bird license does not:
1. Exempt the license holder from any municipal, county, state, or federal codes, ordinances, statutes, rules, or regulations; or
2. Authorize the license holder to engage in authorized activities using federally-protected wildlife, unless the license holder possesses a valid license, permit, or other form of documentation issued by the United States authorizing the license holder to use that wildlife in a manner consistent with the special license.

E. The Department shall deny a game bird license to a person who fails to meet the requirements established under R12-4-409 or this Section. The Department shall provide the written notice established under R12-4-409(F)(4) to the applicant stating the reason for the denial. The person may appeal the denial to the Commission as prescribed under A.R.S. Title 41, Chapter 6, Article 10. In addition to the requirements and criteria established under R12-4-409(F)(1) through (4), the Department may deny a game bird license when:
1. The applicant proposes to release game birds:

a. At a location where an established wild population of the same species exists.
b. During nesting periods of upland game birds or waterfowl that nest in the area.

2. The applicant requests a license:
a. For the sole purpose described under subsection (A)(1) and proposes to possess more than 50 game birds at any one time.
b. To possess Northern bobwhites, *Colinus virginianus*, in any one of the following game management units, as described under R12-4-108; 34A, 36A, 36B, and 36C.

3. The Department determines the:
a. Authorized activity listed under this Section may pose a threat to native wildlife, wildlife habitat, or public health or safety.
b. Escape of any species listed on the application may pose a threat to native wildlife or public health or safety.
c. Release of game birds may interfere with a wildlife or habitat restoration program.

F. A person applying for a game bird license shall submit an application to the Department. A separate application is required for each location where the applicant proposes to use wildlife. The application is furnished by the Department and is available at any Department office and online at www.azgfd.gov. An applicant shall provide the following information on the application:

1. The applicant's information:
a. Name;
b. Mailing address;
c. Telephone number; and,
d. Department ID number, when applicable;

2. If the applicant will use the game birds for a commercial purpose, the applicant's business:
a. Name;
b. Federal Tax Identification Number;
c. Mailing address; and
d. Telephone number;

3. If the applicant will use the game birds for an activity affiliated with a sponsoring organization, the organization's:
a. Name;
b. Mailing address; and
c. Telephone number of the organization chair or local chapter;

4. For game birds to be used under the license:
a. Common name of game bird species;
b. Number of animals for each species; and
c. When the applicant is renewing the game bird license, the species and number of animals for each species currently held in captivity under the license;

5. A description of how the applicant intends to use the game birds:
a. For personal possession only;
b. Charge a person a fee to take game birds;
c. Conduct a competition to test the performance of hunting dogs; or
d. Train a dog or raptor to hunt;

6. For each location where game birds will be used, the owner's:
a. Name;
b. Mailing address;
c. Telephone number; and
d. Physical location description to include the Global Positioning System location or Universal Transverse Mercator coordinates;

7. For each location where game birds will be released, the land owner's:
a. Name;
b. Mailing address;
c. Telephone number; and
d. Physical location description to include the Global Positioning System location or Universal Transverse Mercator coordinates;

8. A detailed description or diagram of the facilities where the applicant will hold game birds and a description of how the facilities comply with the requirements established under R12-4-428 and any other captivity standards established under this Section;

9. For each game bird supplier from whom the applicant will obtain game birds, the supplier's:
a. Name;
b. Federal Tax Identification Number;
c. Mailing address;
d. Telephone number;

10. Any other information required by the Department; and

11. The certification required under R12-4-409(C).

G. An applicant for a game bird license shall pay all applicable fees established under R12-4-412.

H. A game bird license holder shall:

1. Comply with all additional stipulations placed on the license by the Department, as authorized under R12-4-409(H).

2. Allow the Department to conduct inspections of an applicant's or license holder's facility and records at any time before or during the license period to determine compliance with the requirements of this Article.

3. Ensure each facility is inspected by the attending veterinarian at least once every year.

4. Possess the license or legible copy of the license while conducting any activity authorized under the game bird license and presents it for inspection upon the request of any Department employee or agent.

5. Ensure each shipment of game birds imported into the state is accompanied by a health certificate.
a. The certificate shall be issued no more than 30 days prior to the date on which the game birds are shipped.
b. A copy of the certificate shall be submitted to the Department prior to importation.

6. Provide each person that transports game birds taken under the game bird license with documentation that includes all of the following:
a. Name of the game bird license holder;
b. Game bird license number;
c. Date the game bird was purchased, traded, or given as a gift;
d. Number of game birds, by species; and
e. When the game birds are being shipped:
i. Name of the person or common carrier transporting the shipment, and
ii. Name of the person receiving the shipment.

7. Maintain records of all game birds possessed under the license for a period of three years. In addition to the information required under subsections (H)(5)(a) through (H)(5)(d), the records shall also include:
a. The game bird license holder's:
i. Name;
ii. Mailing address;

iii. Telephone number; and
iv. Special license number;
b. Copies of all federal, state, and local licenses, permits, and authorizations required for the lawful operation of the game bird activity;
c. Copies of the annual report required under subsection (I);
8. Dispose of game birds only as authorized under this Section or as directed by the Department.

I. A game bird license holder shall submit an annual report to the Department before January 31 of each year for the previous calendar year. The report form is furnished by the Department.
1. A report is required regardless of whether or not activities were performed during the previous year.
2. The game bird license becomes invalid if the annual report is not submitted to the Department by January 31 of each year.
3. The Department will not process the special license holder's renewal application until the annual report is received by the Department.
4. The annual report shall include all of the following information, as applicable:
a. Number of all game birds, by species and the date it was obtained;
b. Source of all game birds and the date the game bird was obtained;
c. Number of offspring propagated by all game birds; and
d. For all game birds disposed of by the license holder:
i. Number, species, and date of disposition; and
ii. Manner of disposition to include the names and addresses of persons to whom the wildlife was bartered, given, or sold, when authorized.

J. A game bird license holder shall comply with the requirements established under R12-4-428.

K. A game bird released under a game bird license may be taken with any method designated under R12-4-304.

L. A game bird released under a game bird license and found outside of the location specified on the license shall become property of the State and is subject to the requirements prescribed under A.R.S. Title 17 and 12 A.A.C. 4, Article 3.

Historical Note

Adopted effective April 28, 1989 (Supp. 89-2). Amended by final rulemaking at 12 A.A.R. 980, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4).

R12-4-415. Repealed

Historical Note

Adopted effective April 28, 1989 (Supp. 89-2). Amended by final rulemaking at 12 A.A.R. 980, effective May 6, 2006 (Supp. 06-1). Repealed by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4).

R12-4-416. Repealed

Historical Note

Adopted effective April 28, 1989 (Supp. 89-2). Amended effective January 1, 1995; filed in the Office of the Secretary of State December 9, 1994 (Supp. 94-4). Amended by final rulemaking at 12 A.A.R. 980, effective May 6, 2006 (Supp. 06-1). Repealed by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4).

R12-4-417. Wildlife Holding License

A. A wildlife holding license authorizes a person to display for educational purposes, euthanize, export, give away, import, photograph for commercial purposes, possess, propagate, purchase, or transport, restricted and nonrestricted live wildlife lawfully:
1. Held under a valid hunting or fishing license for a purpose listed under subsection (C),
2. Collected under a valid scientific collecting license issued under R12-4-418,
3. Obtained under a valid wildlife rehabilitation license issued under R12-4-423,
4. Or as otherwise authorized by the Department.

B. A wildlife holding license expires on December 31 of the year issued, or, if the license holder is a representative of an institution, organization, or agency described under subsection (C)(4), upon termination of affiliation with that entity, whichever comes first.

C. A wildlife holding license is valid for the following purposes, only:
1. Advancement of science;
2. Lawfully possess restricted live wildlife when it is:
a. Necessary to give humane treatment to restricted live wildlife that has been abandoned or permanently disabled, and is therefore unable to meet its own needs in the wild; or
b. Previously possessed under another special license and the primary purpose for that special license no longer exists;
3. Promotion of public health or welfare;
4. Provide education under the following conditions:
a. The applicant is an educator affiliated or partnered with an educational organization; and
b. The educational organization permits the use of live wildlife.
5. Photograph for a commercial purpose live wildlife provided:
a. The wildlife will be photographed without posing a threat to other wildlife or the public, and
b. The photography will not adversely impact other affected wildlife in this state, or
6. Wildlife management.

D. The Department shall deny an application for a wildlife holding license for the possession of cervids.

E. In addition to the requirements established under this Section, a wildlife holding license holder shall comply with the special license requirements established under R12-4-409.

F. The license holder shall be responsible for compliance with all applicable regulatory requirements. The wildlife holding license does not:
1. Exempt the license holder from any municipal, county, state, or federal codes, ordinances, statutes, rules, or regulations; or
2. Authorize the license holder to engage in authorized activities using federally-protected wildlife, unless the license holder possesses a valid license, permit, or other form of documentation issued by the United States authorizing the license holder to use that wildlife in a manner consistent with the special license.

G. The Department shall deny a wildlife holding license to a person who fails to meet the requirements established under R12-4-409 or this Section, or when the person's wildlife holding privileges are suspended or revoked in any state. The Department shall provide the written notice established under R12-4-409(F)(4) to the applicant stating the reason for the denial. The person may appeal the denial to the Commission as prescribed under A.R.S. Title 41, Chapter 6, Article 10. In addition to the requirements and criteria established under R12-4-409(F)(1)

R12-4-414. Game Bird License
Statutory Authority

17-101. Definitions

A. In this title, unless the context otherwise requires:

1. "Angling" means the taking of fish by one line and not to exceed two hooks, by one line and one artificial lure, which may have attached more than one hook, or by one line and not to exceed two artificial flies or lures.
2. "Bag limit" means the maximum limit, in number or amount, of wildlife that may lawfully be taken by any one person during a specified period of time.
3. "Closed season" means the time during which wildlife may not be lawfully taken.
4. "Commission" means the Arizona game and fish commission.
5. "Department" means the Arizona game and fish department.
6. "Device" means any net, trap, snare, salt lick, scaffold, deadfall, pit, explosive, poison or stupefying substance, crossbow, firearm, bow and arrow, or other implement used for taking wildlife. Device does not include a raptor or any equipment used in the sport of falconry.
7. "Domicile" means a person's true, fixed and permanent home and principal residence. Proof of domicile in this state may be shown as prescribed by rule by the commission.
8. "Falconry" means the sport of hunting or taking quarry with a trained raptor.
9. "Fishing" means to lure, attract or pursue aquatic wildlife in such a manner that the wildlife may be captured or killed.
10. "Fur dealer" means any person engaged in the business of buying for resale the raw pelts or furs of wild mammals.
11. "Guide" means a person who does any of the following:
    (a) Advertises for guiding services.
    (b) Holds himself out to the public for hire as a guide.
    (c) Is employed by a commercial enterprise as a guide.
    (d) Accepts compensation in any form commensurate with the market value in this state for guiding services in exchange for aiding, assisting, directing, leading or instructing a person in the field to locate and take wildlife.
    (e) Is not a landowner or lessee who, without full fair market compensation, allows access to the landowner's or lessee's property and directs and advises a person in taking wildlife.
12. "License classification" means a type of license, permit, tag or stamp authorized under this title and prescribed by the commission by rule to take, handle or possess wildlife.
13. "License year" means the twelve-month period between January 1 and December 31, inclusive, or a different twelve-month period as prescribed by the commission by rule.
14. "Nonresident", for the purposes of applying for a license, permit, tag or stamp, means a citizen of the United States or an alien who is not a resident.
15. "Open season" means the time during which wildlife may be lawfully taken.

16. "Possession limit" means the maximum limit, in number or amount of wildlife, that may be possessed at one time by any one person.
17. "Resident", for the purposes of applying for a license, permit, tag or stamp, means a person who is:
    (a) A member of the armed forces of the United States on active duty and who is stationed in:
        (i) This state for a period of thirty days immediately preceding the date of applying for a license, permit, tag or stamp.
        (ii) Another state or country but who lists this state as the person's home of record at the time of applying for a license, permit, tag or stamp.
    (b) Domiciled in this state for six months immediately preceding the date of applying for a license, permit, tag or stamp and who does not claim residency privileges for any purpose in any other state or jurisdiction.
18. "Road" means any maintained right-of-way for public conveyance.
19. "Statewide" means all lands except those areas lying within the boundaries of state and federal refuges, parks and monuments, unless specifically provided differently by commission order.
20. "Take" means pursuing, shooting, hunting, fishing, trapping, killing, capturing, snaring or netting wildlife or the placing or using of any net or other device or trap in a manner that may result in the capturing or killing of wildlife.
21. "Taxidermist" means any person who engages for hire in the mounting, refurbishing, maintaining, restoring or preserving of any display specimen.
22. "Traps" or "trapping" means taking wildlife in any manner except with a gun or other implement in hand.
23. "Wild" means, in reference to mammals and birds, those species that are normally found in a state of nature.
24. "Wildlife" means all wild mammals, wild birds and the nests or eggs thereof, reptiles, amphibians, mollusks, crustaceans and fish, including their eggs or spawn.
25. "Youth" means a person who is under eighteen years of age.
26. "Zoo" means a commercial facility open to the public where the principal business is holding wildlife in captivity for exhibition purposes.

B. The following definitions of wildlife shall apply:
1. Aquatic wildlife are all fish, amphibians, mollusks, crustaceans and soft-shelled turtles.
2. Game mammals are deer, elk, bear, pronghorn (antelope), bighorn sheep, bison (buffalo), peccary (javelina), mountain lion, tree squirrel and cottontail rabbit.
3. Big game are wild turkey, deer, elk, pronghorn (antelope), bighorn sheep, bison (buffalo), peccary (javelina), bear and mountain lion.
4. "Trophy" means:
    (a) A mule deer buck with at least four points on one antler, not including the eye-guard point.
    (b) A whitetail deer buck with at least three points on one antler, not including the eye-guard point.
    (c) A bull elk with at least six points on one antler, including the eye-guard point and the brow tine point.

(d) A pronghorn (antelope) buck with at least one horn exceeding or equal to fourteen inches in total length.

(e) Any bighorn sheep.

(f) Any bison (buffalo).

5. Small game are cottontail rabbits, tree squirrels, upland game birds and migratory game birds.
6. Fur-bearing animals are muskrats, raccoons, otters, weasels, bobcats, beavers, badgers and ringtail cats.
7. Predatory animals are foxes, skunks, coyotes and bobcats.
8. Nongame animals are all wildlife except game mammals, game birds, fur-bearing animals, predatory animals and aquatic wildlife.
9. Upland game birds are quail, partridge, grouse and pheasants.
10. Migratory game birds are wild waterfowl, including ducks, geese and swans; sandhill cranes; all coots, all gallinules, common snipe, wild doves and bandtail pigeons.
11. Nongame birds are all birds except upland game birds and migratory game birds.
12. Raptors are birds that are members of the order of falconiformes or strigiformes and include falcons, hawks, owls, eagles and other birds that the commission may classify as raptors.
13. Game fish are trout of all species, bass of all species, catfish of all species, sunfish of all species, northern pike, walleye and yellow perch.
14. Nongame fish are all the species of fish except game fish.
15. Trout means all species of the family salmonidae, including grayling.

17-102. Wildlife as state property; exceptions

Wildlife, both resident and migratory, native or introduced, found in this state, except fish and bullfrogs impounded in private ponds or tanks or wildlife and birds reared or held in captivity under permit or license from the commission, are property of the state and may be taken at such times, in such places, in such manner and with such devices as provided by law or rule of the commission.

17-231. General powers and duties of the commission

A. The commission shall:

1. Adopt rules and establish services it deems necessary to carry out the provisions and purposes of this title.
2. Establish broad policies and long-range programs for the management, preservation and harvest of wildlife.
3. Establish hunting, trapping and fishing rules and prescribe the manner and methods that may be used in taking wildlife, but the commission shall not limit or restrict the magazine capacity of any authorized firearm.
4. Be responsible for the enforcement of laws for the protection of wildlife.
5. Provide for the assembling and distribution of information to the public relating to wildlife and activities of the department.

6. Prescribe rules for the expenditure, by or under the control of the director, of all funds arising from appropriation, licenses, gifts or other sources.
7. Exercise such powers and duties necessary to carry out fully the provisions of this title and in general exercise powers and duties that relate to adopting and carrying out policies of the department and control of its financial affairs.
8. Prescribe procedures for use of department personnel, facilities, equipment, supplies and other resources in assisting search or rescue operations on request of the director of the division of emergency management.
9. Cooperate with the Arizona-Mexico commission in the governor's office and with researchers at universities in this state to collect data and conduct projects in the United States and Mexico on issues that are within the scope of the department's duties and that relate to quality of life, trade and economic development in this state in a manner that will help the Arizona-Mexico commission to assess and enhance the economic competitiveness of this state and of the Arizona-Mexico region.

B. The commission may:

1. Conduct investigations, inquiries or hearings in the performance of its powers and duties.
2. Establish game management units or refuges for the preservation and management of wildlife.
3. Construct and operate game farms, fish hatcheries, fishing lakes or other facilities for or relating to the preservation or propagation of wildlife.
4. Expend funds to provide training in the safe handling and use of firearms and safe hunting practices.
5. Remove or permit to be removed from public or private waters fish which hinder or prevent propagation of game or food fish and dispose of such fish in such manner as it may designate.
6. Purchase, sell or barter wildlife for the purpose of stocking public or private lands and waters and take at any time in any manner wildlife for research, propagation and restocking purposes or for use at a game farm or fish hatchery and declare wildlife salable when in the public interest or the interest of conservation.
7. Enter into agreements with the federal government, with other states or political subdivisions of the state and with private organizations for the construction and operation of facilities and for management studies, measures or procedures for or relating to the preservation and propagation of wildlife and expend funds for carrying out such agreements.
8. Prescribe rules for the sale, trade, importation, exportation or possession of wildlife.
9. Expend monies for the purpose of producing publications relating to wildlife and activities of the department for sale to the public and establish the price to be paid for annual subscriptions and single copies of such publications. All monies received from the sale of such publications shall be deposited in the game and fish publications revolving fund.
10. Contract with any person or entity to design and produce artwork on terms that, in the commission's judgment, will produce an original and valuable work of art relating to wildlife or wildlife habitat.
11. Sell or distribute the artwork authorized under paragraph 10 of this subsection on such terms and for such price as it deems acceptable.

12. Consider the adverse and beneficial short-term and long-term economic impacts on resource dependent communities, small businesses and the state of Arizona, of policies and programs for the management, preservation and harvest of wildlife by holding a public hearing to receive and consider written comments and public testimony from interested persons.
13. Adopt rules relating to range operations at public shooting ranges operated by and under the jurisdiction of the commission, including the hours of operation, the fees for the use of the range, the regulation of groups and events, the operation of related range facilities, the type of firearms and ammunition that may be used at the range, the safe handling of firearms at the range, the required safety equipment for a person using the range, the sale of firearms, ammunition and shooting supplies at the range, and the authority of range officers to enforce these rules, to remove violators from the premises and to refuse entry for repeat violations.
14. Solicit and accept grants, gifts or donations of money or other property from any source, which may be used for any purpose consistent with this title.

C. The commission shall confer and coordinate with the director of water resources with respect to the commission's activities, plans and negotiations relating to water development and use, restoration projects under the restoration acts pursuant to chapter 4, article 1 of this title, where water development and use are involved, the abatement of pollution injurious to wildlife and in the formulation of fish and wildlife aspects of the director of water resources' plans to develop and utilize water resources of the state and shall have jurisdiction over fish and wildlife resources and fish and wildlife activities of projects constructed for the state under or pursuant to the jurisdiction of the director of water resources.

D. The commission may enter into one or more agreements with a multi-county water conservation district and other parties for participation in the lower Colorado river multispecies conservation program under section 48-3713.03, including the collection and payment of any monies authorized by law for the purposes of the lower Colorado river multispecies conservation program.

17-238. Special licenses for field trials, for shooting preserves and for collecting or holding wildlife in captivity

A. The commission may adopt rules and regulations and issue licenses for the conduct of field trials, shooting preserves, private wildlife farms and zoos, or for the personal use and possession of wildlife so as to safeguard the interests of the wildlife and people of the state.

B. The commission, at its discretion and under such regulations as it deems necessary, may issue a permit to take wildlife for scientific purposes to any person or duly accredited representative of public educational or scientific institutions, or governmental departments of the United States engaged in the scientific study of wildlife.

C. A person holding a permit issued pursuant to this section may, upon advance approval by the commission, buy, sell and transport wildlife legally possessed. Each person receiving a permit under this section shall file with the department within fifteen days after requested by the department a report of his activities under the permit. The commission may revoke such licenses or permits for noncompliance with regulations.

17-240. Disposition of wildlife; devices; unlawful devices; notice of intention to destroy; waiting period; destruction; jurisdiction of recovery actions; disposition of unclaimed property

A. Wildlife seized under this title may be disposed of in such manner as the commission or the court may prescribe, except that the edible portions shall be given to public institutions or charitable organizations. In consultation with the department of health services and the chief veterinary meat inspector, the commission shall adopt rules for the handling, transportation, processing and storing of game meat given to public institutions and charitable organizations.

B. Devices, excepting firearms, which cannot be used lawfully for the taking of wildlife and being so used at the time seized may be destroyed. Notice of intention to destroy such devices as prescribed in this section must be sent by registered mail to the last known address of the person from whom seized if known and posted in three conspicuous places within the county wherein seized, two of said notices being posted in the customary place for posting public notices about the county courthouse of said county. Such device shall be held by the department for thirty days after such posting and mailing, and if no action is commenced to recover possession of such device within such time, the same shall be summarily destroyed by the department, or if such device shall be held by the court in any such action to have been used for the taking of wildlife, then such device shall be summarily destroyed by the department immediately after the decision of the court has become final. The justice court shall have jurisdiction of any such actions or proceedings commenced to recover the possession of such devices.

C. Devices other than those referred to in subsection B, including firearms seized under this title shall, after final disposition of the case, be returned to the person from whom the device was seized. If the person from whom the device was seized cannot be located or ascertained, the device seized shall be retained by the department at least ninety days after final disposition of the case, and all devices so held by the department may be:

1. Sold annually.
2. Destroyed only if considered a prohibited or defaced weapon, as defined in section 13-3101, except that any seized firearm registered in the national firearms registry and transfer records of the United States treasury department or has been classified as a curio or relic by the United States treasury department shall not be destroyed.

D. If no complaint is filed pursuant to this title, the device shall be returned to the person from whom seized within thirty days from the date seized.

E. A complete report of all wildlife and devices seized by the department showing a description of the items, the person from whom it was seized, if known, and a record of the disposition shall be kept by the department. The money derived from the sale of any devices shall be deposited in the game and fish fund.

17-306. Importation, transportation, release or possession of live wildlife

No person shall import or transport into the state or sell, trade or release within the state or have in his possession any live wildlife except as authorized by the commission or as defined in title 3, chapter 16.

17-307. Possession, storage, sale and gift of the carcass or parts thereof of wildlife

A. The carcass or parts thereof of wildlife lawfully obtained in accordance with the provisions of this title and commission regulations may be possessed by the person taking such wildlife.

B. The carcass or parts thereof of wildlife lawfully obtained may be placed in storage in accordance with the provisions of this title.

C. The carcass or parts thereof of wildlife lawfully produced by or lawfully obtained from a commercial wildlife breeding or processing establishment may be sold in this state.

D. A person may make a gift of the carcass or parts thereof of his lawfully obtained wildlife, or he may have it prepared in a public eating place and served to himself and his guests.

17-332. Form and contents of license; duplicate licenses; period of validity

A. Licenses and license materials shall be prepared by the department and may be furnished and charged to dealers authorized to issue licenses. The license shall be issued in the name of the department. Except as provided by rule adopted by the commission, each license shall be signed by the licensee in ink on the face of the license and any license not signed is invalid. With each license authorizing the taking of big game the department shall provide such tags as the commission may prescribe, which the licensee shall attach to the big game animal in such manner as prescribed by the commission. The commission shall limit the number of big game permits issued to nonresidents in a random drawing to ten per cent or fewer of the total hunt permits, but in extraordinary circumstances, at a public meeting the commission may increase the number of permits issued to nonresidents in a random drawing if, on separate roll call votes, the members of the commission unanimously:

1. Support the finding of a specifically described extraordinary circumstance.
2. Adopt the increased number of nonresident permits for the hunt.

B. The commission shall issue with each license a shipping permit entitling the holder of the license to a shipment of game or fish as provided by article 4 of this chapter.

C. It is unlawful, except as provided by the commission, for any person to apply for or obtain in any one license year more than one original license permitting the taking of big game. A duplicate license or tag may be issued by the department or by a license dealer if the person requesting such license or tag furnishes the information deemed necessary by the commission.

D. No license or permit is transferable, nor shall such license or permit be used by anyone except the person to whom such license or permit was issued, except that:

1. The commission may prescribe the manner and conditions of transferring and using permits and tags under this paragraph, including an application process for a qualified organization, to allow a person to transfer the person's big game permit or tag to a qualified organization for use by:
   (a) A minor child who has a life-threatening medical condition or by a minor child who has a permanent physical disability. If a child with a physical disability is under fourteen years of age, the child must satisfactorily complete the Arizona hunter education course or another comparable hunter education course that is approved by the director.

(b) A veteran of the armed forces of the United States who has a service-connected disability. For the purposes of this paragraph:

(i) "Disability" means a permanent physical impairment that substantially limits one or more major life activities requiring the assistance of another person or a mechanical device for physical mobility.

(ii) "Qualified organization" means a nonprofit organization that is qualified under section 501(c)(3) of the United States internal revenue code and that affords opportunities and experiences to children with life-threatening medical conditions or with physical disabilities or to veterans with service-connected disabilities.

2. A parent, grandparent or legal guardian may allow the parent's, grandparent's or guardian's minor child or minor grandchild to use the parent's, grandparent's or guardian's big game permit or tag to take big game pursuant to the following requirements:

(a) The parent, grandparent or guardian must transfer the permit or tag to the child in a manner prescribed by the commission.

(b) The parent or guardian must accompany the child in the field or, if a grandparent allows a minor grandchild to use the grandparent's permit or tag, the grandparent, the parent or the child's guardian must accompany the child in the field.

(c) The child must possess a valid hunting license and, if under fourteen years of age, must satisfactorily complete the Arizona hunter education course or another comparable hunter education course that is approved by the director.

(d) Any big game that is taken counts toward the child's bag limit.

E. No refunds may be made for the purchase of a license or permit.

F Licenses are valid for a license year as prescribed in rule by the commission. Lifetime licenses and benefactor licenses are valid for the lifetime of the licensee.

17-333. License classifications; fees; annual report; review

A. Through July 1, 2019, the commission shall prescribe by rule license classifications that are valid for the taking or handling of wildlife, fees for licenses, permits, tags and stamps and application fees.

B. The commission may temporarily reduce or waive any fee prescribed by rule under this title on the recommendation of the director.

C. All monies collected pursuant to this section shall be deposited, pursuant to sections 35-146 and 35-147, in the game and fish fund established by section 17-261.

D. On or before December 31 of each year, the commission shall submit an annual report to the president of the senate, the speaker of the house of representatives, the chairperson of the senate natural resources and rural affairs committee and the chairperson of the house of representatives energy, environment and natural resources committee, or their successor committees, that includes information relating to license classifications, fees for licenses, permits, tags and stamps and any other fees that the commission prescribes by rule. On or before July

1, 2019 and each fifth year thereafter, the joint legislative audit committee shall assign a committee of reference to hold a public hearing and review the annual report submitted by the commission.

41-1005. Exemptions

A. This chapter does not apply to any:

1. Rule that relates to the use of public works, including streets and highways, under the jurisdiction of an agency if the effect of the order is indicated to the public by means of signs or signals.
2. Order or rule of the Arizona game and fish commission that does the following:
   (a) Opens, closes or alters seasons or establishes bag or possession limits for wildlife.
   (b) Establishes a fee pursuant to section 5-321, 5-322 or 5-327.
   (c) Establishes a license classification, fee or application fee pursuant to title 17, chapter 3, article 2.
3. Rule relating to section 28-641 or to any rule regulating motor vehicle operation that relates to speed, parking, standing, stopping or passing enacted pursuant to title 28, chapter 3.
4. Rule concerning only the internal management of an agency that does not directly and substantially affect the procedural or substantive rights or duties of any segment of the public.
5. Rule that only establishes specific prices to be charged for particular goods or services sold by an agency.
6. Rule concerning only the physical servicing, maintenance or care of agency owned or operated facilities or property.
7. Rule or substantive policy statement concerning inmates or committed youths of a correctional or detention facility in secure custody or patients admitted to a hospital, if made by the state department of corrections, the department of juvenile corrections, the board of executive clemency or the department of health services or a facility or hospital under the jurisdiction of the state department of corrections, the department of juvenile corrections or the department of health services.
8. Form whose contents or substantive requirements are prescribed by rule or statute, and instructions for the execution or use of the form.
9. Capped fee-for-service schedule adopted by the Arizona health care cost containment system administration pursuant to title 36, chapter 29.
10. Fees prescribed by section 6-125.
11. Order of the director of water resources adopting or modifying a management plan pursuant to title 45, chapter 2, article 9.
12. Fees established under section 3-1086.
13. Fees established under sections 41-4010 and 41-4042.
14. Rule or other matter relating to agency contracts.
15. Fees established under section 32-2067 or 32-2132.
16. Rules made pursuant to section 5-111, subsection A.

17. Rules made by the Arizona state parks board concerning the operation of the Tonto natural bridge state park, the facilities located in the Tonto natural bridge state park and the entrance fees to the Tonto natural bridge state park.
18. Fees or charges established under section 41-511.05.
19. Emergency medical services protocols except as provided in section 36-2205, subsection B.
20. Fee schedules established pursuant to section 36-3409.
21. Procedures of the state transportation board as prescribed in section 28-7048.
22. Rules made by the state department of corrections.
23. Fees prescribed pursuant to section 32-1527.
24. Rules made by the department of economic security pursuant to section 46-805.
25. Schedule of fees prescribed by section 23-908.
26. Procedure that is established pursuant to title 23, chapter 6, article 6.
27. Rules, administrative policies, procedures and guidelines adopted for any purpose by the Arizona commerce authority pursuant to chapter 10 of this title if the authority provides, as appropriate under the circumstances, for notice of an opportunity for comment on the proposed rules, administrative policies, procedures and guidelines.
28. Rules made by a marketing commission or marketing committee pursuant to section 3-414.
29. Administration of public assistance program monies authorized for liabilities that are incurred for disasters declared pursuant to sections 26-303 and 35-192.
30. User charges, tolls, fares, rents, advertising and sponsorship charges, services charges or similar charges established pursuant to section 28-7705.
31. Administration and implementation of the hospital assessment pursuant to section 36-2901.08, except that the Arizona health care cost containment system administration must provide notice and an opportunity for public comment at least thirty days before establishing or implementing the administration of the assessment.
32. Rules made by the Arizona department of agriculture to adopt and implement the provisions of the federal milk ordinance as prescribed by section 3-605.

B. Notwithstanding subsection A, paragraph 21 of this section, at such time as the federal highway administration authorizes the privatization of rest areas, the state transportation board shall make rules governing the lease or license by the department of transportation to a private entity for the purposes of privatization of a rest area.

C. Coincident with the making of a final rule pursuant to an exemption from the applicability of this chapter under this section, another statute or session law, the agency shall file a copy of the rule with the secretary of state for publication pursuant to section 41-1012 and provide a copy to the council.

D. Unless otherwise required by law, articles 2, 3, 4 and 5 of this chapter do not apply to the Arizona board of regents and the institutions under its jurisdiction, except that the Arizona board of regents shall make policies or rules for the board and the institutions under its jurisdiction that provide, as appropriate under the circumstances, for notice of and opportunity for comment on the policies or rules proposed.

E. Unless otherwise required by law, articles 2, 3, 4 and 5 of this chapter do not apply to the Arizona state schools for the deaf and the blind, except that the board of directors of all the state schools for the deaf and the blind shall adopt policies for the board and the schools under its jurisdiction that provide, as appropriate under the circumstances, for notice of and opportunity for comment on the policies proposed for adoption.

F. Unless otherwise required by law, articles 2, 3, 4 and 5 of this chapter do not apply to the state board of education, except that the state board of education shall adopt policies or rules for the board and the institutions under its jurisdiction that provide, as appropriate under the circumstances, for notice of and opportunity for comment on the policies or rules proposed for adoption. In order to implement or change any rule, the state board of education shall provide at least two opportunities for public comment.

REGISTRAR OF CONTRACTORS
Title 4, Chapter 9, Article 1, General Provisions

Amend: R4-9-102; R4-9-103; R4-9-104; R4-9-106; R4-9-108; R4-9-109; R4-9-113; R4-9-115; R4-9-117
New Section: R4-9-111; R4-9-118

GOVERNOR'S REGULATORY REVIEW COUNCIL
M E M O R A N D U M

MEETING DATE: September 6, 2017 **AGENDA ITEM: D-4**

TO: Members of the Governor's Regulatory Review Council ("Council")

FROM: Chris Kleminich, Staff Attorney

DATE : August 23, 2017

SUBJECT: **REGISTRAR OF CONTRACTORS (R-17-0908)**
Title 4, Chapter 9, Article 1, General Provisions

Amend: R4-9-102; R4-9-103; R4-9-104; R4-9-106; R4-9-108; R4-9-109; R4-9-113; R4-9-115; R4-9-117

New Section: R4-9-111; R4-9-118

Purpose of the Agency and Summary of What the Rulemaking Does

The purpose of the Registrar of Contractors (Registrar) is "to protect the public health, safety, and welfare by licensing, bonding and regulating contractors engaged in residential construction and to administer the contractors' recovery fund." Laws 2004, Ch. 16, § 3. This rulemaking amends nine rules and creates two new rules in A.A.C. Title 4, Chapter 9, Article 1.

The Registrar indicates that many of the amendments clarify language to improve the effectiveness of the rules. A major aspect of the rulemaking is the reestablishment of 28 commercial license classifications and 28 residential license classifications that were eliminated in a 2014 rulemaking that forced certain contractors into dual license classifications. In addition, the Registrar intends to increase flexibility for businesses by allowing a one-time opt out opportunity from dual license classification to residential-only or commercial-only classification. Also, changes to Section 118 establish prehearing disclosure requirements that are intended to increase transparency and efficiency in the Registrar's hearing process at the Office of Administrative Hearings (OAH).

Proposed Action

- *Section 102 – Commercial Contractor License Classifications and Scopes of Work*:
  - In subsection (A), the following commercial contractor license classifications are restored:

        - C-1: Acoustical Systems
        - C-3: Awnings, Canopies, Carports and Patio Covers
        - C-7: Carpentry
        - C-8: Floor Covering
        - C-10: Drywall
        - C-12: Elevators
        - C-14: Fencing
        - C-15: Blasting
        - C-21: Hardscaping and Irrigation Systems
        - C-24: Ornamental Metals
        - C-31: Masonry
        - C-34: Painting and Wall Covering
        - C-36: Plastering
        - C-38: Signs
        - C-40: Insulation
        - C-41: Septic Tanks and Systems
        - C-42: Roofing
        - C-45: Sheet Metal
        - C-48: Ceramic, Plastic and Metal Tile
        - C-54: Water Conditioning Equipment
        - C-56: Welding
        - C-57: Wrecking
        - C-60: Finish Carpentry
        - C-61: Carpentry, Remodeling and Repairs
        - C-63: Appliances
        - C-65: Glazing
        - C-67: Low Voltage Communication Systems
        - C-70: Reinforcing Bar and Wire Mesh
    - In subsection (B), scopes of work for restored license classifications are added. Also, clarifying changes are made to existing scopes of work for commercial contractors.
- *Section 103 – Residential Contractor License Classifications and Scopes of Work:*
    - The following general residential contractor license classifications are eliminated:
        - B-4R: Corrosion Control
        - B-4R: Soil Stabilization
        - B-5R: Fiberglassing of Swimming Pools
        - B-5R: Reservoir Linings & Covers
    - The following specialty residential contractor license classifications are modified:
        - R-4: The classification is renamed from “Boilers, Including Solar” to “Boilers, Steamfitting and Process Piping” and the R-4R “Boilers” classification is eliminated.
        - R-39R: Classifications for “Gas Refrigeration” and “Pre-Coolers” are eliminated.
    - The following specialty residential contractor license classifications are restored:
        - R-1: Acoustical Systems
        - R-3: Awnings, Canopies, Carports and Patio Covers

        - R-7: Carpentry
        - R-8: Floor Covering
        - R-10: Drywall
        - R-12: Elevators
        - R-14: Fencing
        - R-15: Blasting
        - R-21: Hardscaping and Irrigation Systems
        - R-24: Ornamental Metals
        - R-31: Masonry
        - R-34: Painting and Wall Covering
        - R-36: Plastering
        - R-38: Signs
        - R-40: Insulation
        - R-41: Septic Tanks and Systems
        - R-42: Roofing
        - R-45: Sheet Metal
        - R-48: Ceramic, Plastic and Metal Tile
        - R-54: Water Conditioning Equipment
        - R-56: Welding
        - R-57: Wrecking
        - R-60: Finish Carpentry
        - R-61: Carpentry, Remodeling and Repairs
        - R-63: Appliances
        - R-65: Glazing
        - R-67: Low Voltage Communication Systems
        - R-70: Reinforcing Bar and Wire Mesh
    - In subsection (B), scopes of work for restored license classifications are added. Also, clarifying changes are made to existing scopes of work for residential contractors.
- *Section 104 – Dual Contractor License Classifications and Scopes of Work:*
    - Clarifying changes are intended to improve the conciseness of the rule.
- *Section 106 – Examinations:* To make requirements more clear, the rule is rewritten.
    - Subsection (A) is added to define the terms “business management examination” and “trade examination.”
    - Subsection (B) retains the existing requirement for the Registrar or contracted private testing service to administer examinations at least once a week.
    - Subsection (C) retains the existing 70% standard for a passing grade.
    - Subsection (D) retains the existing waiting periods for retaking examinations:
        - 30 calendar days from the first failure;
        - 30 calendar days from the second failure; and
        - 180 calendar days from any other failure.
    - Subsection (E) provides additional details related to the Registrar’s authority to waive the trade examination requirement for qualified parties.
- *Section 108 – Minimum Workmanship Standards*:
    - The title is changed from “Minimum Construction Standards” to “Minimum Workmanship Standards.”

    - Subsection (A) is amended to note that a contractor is required to perform all work in a "workmanlike" manner.
- *Section 109 – Name of Licensee or Applicant*: To make requirements more clear, the rule is rewritten.
    - Subsection (A) is added to define the terms "official name of record," "trade name," and "DBA."
    - Subsection (B), related to general rules about the licensee's name, expands upon existing requirements.
    - Subsection (C), related to a licensee's name at the time of license application, expands upon existing requirements.
    - Subsection (D), related to a licensee's request to change its name on a license, expands upon existing requirements.
- *Section 111 – Opting Out of Dual License Classifications*:
    - This new rule allows, at the time of renewal, a contractor who holds a dual license the one-time option of:
        - 1) Retaining the dual license,
        - 2) Designating the license as commercial, or
        - 3) Designating the license as residential.
- *Section 113 – Application Process*: To make requirements more clear, the rule is rewritten.
    - Subsection (A) reformats the Registrar's existing licensing time-frames.
    - Subsection (B), related to the return of license applications, expands upon existing requirements.
    - Subsection (C), related to the withdrawal of license applications, expands upon existing requirements.
- *Section 115 – Posting*: To make requirements more clear, the rule is reformatted.
- *Section 117 – Prior Record*: To make requirements more clear, the rule is reformatted.
- *Section 118 – Prehearing Disclosure Requirement*: This new rule establishes prehearing disclosure requirements.
    - Subsection (A) requires a party to prepare a disclosure statement prior to a hearing that contains:
        - 1. A list of all the witnesses the party will call to testify, including the witnesses' contact information and a brief description of the subject matter of the witnesses' expected testimony; and
        - 2. A list of all the exhibits that the party will use at the hearing.
    - Subsection (B) provides requirements related to the exchange of disclosure statements and exhibits.
    - Subsection (C) provides consequences for a failure to disclose.

Exemption or Request and Approval for Exception from the Moratorium

The Registrar received approvals to proceedwith rulemaking from Governor Ducey's office on November 30, 2016, December 21, 2016, and February 8, 2017.

Substantive or Procedural Concerns

None.

1. Are the rules legal, consistent with legislative intent, and within the agency's statutory authority?

Yes. As general authority for the rule, the Registrar cites to many statutes. Of particular note is A.R.S. § 32-1104(A)(5), which requires, in relevant part, the agency to make rules that are "necessary to effectually carry out the provisions and intent of this chapter [Title 32, Chapter 10, Contractors]. Such rules shall include the adoption of minimum standards for good and workmanlike construction."

2. Are the rules written in a manner that is clear, concise, and understandable to the general public?

Yes. The rules are clear, concise, and understandable.

3. Does the agency adequately address the comments on the proposed rules and any supplemental proposals?

Yes. After reaching out to licensees and 39 contracting associations via e-mail, the Registrar indicates that it received 22 comments on the rulemaking. A summary of those comments, along with the Department's responses, can be found on pages 4-9 of the Notice of Final Rulemaking. Council staff believes that the Registrar has adequately addressed the comments.

4. Are the final rules a substantial change, considered as a whole, from the proposed rules and any supplemental proposals?

No. Only stylistic and clarifying changes have been made between the proposed and final rules.

5. Does the preamble disclose a reference to any study relevant to the rules that the agency reviewed and either did or did not rely on in the agency's evaluation of or justification for the rules?

No. The Registrar indicates that it did not review or rely upon any study for the rulemaking.

6. Are the rules more stringent than corresponding federal law and, if so, is there statutory authority that allows the agency to exceed the requirements of federal law?

No. The Registrar indicates that no federal laws directly relate to the rules.

7. Do the rules require a permit or license and if so, does the agency use a general permit or is any exception applicable under A.R.S. § 41-1037?

Yes. The Registrar indicates that it does not issue general permits, as the agency is required to classify each of its licenses in a manner consistent with established usage and procedure found in the construction business.

8. Do the rules establish a new fee or contain a fee increase?

No. The rules do not establish a new fee or contain a fee increase.

9. Conclusion

The Registrar requests the usual 60-day delayed effective date for the rules. This analyst recommends approval of the rules.

GOVERNOR'S REGULATORY REVIEW COUNCIL
M E M O R A N D U M

MEETING DATE: September 6, 2017 **AGENDA ITEM: D-4**

TO: Members of the Governor's Regulatory Review Council ("Council")

FROM: GRRC Economic Team

DATE : August 23, 2017

SUBJECT: **REGISTRAR OF CONTRACTORS (R-17-0908)**
Title 4, Chapter 9, Article 1, General Provisions

Amend: R4-9-102; R4-9-103; R4-9-104; R4-9-106; R4-9-108; R4-9-109; R4-9-113; R4-9-115; R4-9-117

New Section: R4-9-111; R4-9-118

The economic analysis team has reviewed the economic, small business, and consumer impact statement (EIS) and makes the following comments. These comments are made to assist the Council in its review and may be used as the Council determines.

In this rulemaking, the Registrar of Contractors (ROC) is proposing to amend most of the rules in Article 1. Most of the rules in Article 1 are being amended to clarify language to improve the effectiveness of the rule. Four of the rules are being amended for changes in license classifications. The four rules being amended for changes in license classifications represent a reversal of the 2014 rulemaking that eliminated many commercial and residential classifications and forced license holders into a dual classification.

Key stakeholders are ROC, contractors who hold a dual license, and consumers who use the services provided by those contractors. As of July 17, 2017, there are 37,221 active licensees. Of these, 11,040 currently hold a dual license which they may opt out of in favor of a less costly residential-only or commercial-only license after the proposed amendments become effective.

1. <u>Costs and Benefits for:</u>

a. The implementing agency:

The Agency does not anticipate this rulemaking having an impact on itself, or any other state agencies.

b. Political subdivisions:

The Agency does not anticipate this rulemaking having an impact on political subdivisions.

c. Businesses:

The Agency anticipates reduced fees for contracting businesses due to their ability to opt out of the dual license classification for a single license, which is less expensive.

d. Small businesses:

Small private contracting businesses will be impacted in the same manner as businesses listed above.

e. Consumers directly affected by the rulemaking:

The Agency anticipates it is possible that the decreased cost of the licenses could be partially or wholly passed on to consumers. They also anticipate, due to the expansion of work permitted under certain licenses, consumers may also see decreased costs in not needing to separately hire two contractors.

2. Do the probable benefits outweigh the probable costs?

The Agency anticipates that the probable benefits outweigh the probable costs. The probable costs are minimal, while the benefits would provide savings for contracting businesses, and possibly for consumers

3. Analysis of methods to reduce the small business impact:

The Agency has determined that this rulemaking does not further regulatory burden on small businesses.

4. The probable effect on state revenues:

The Agency anticipates approximately a decrease of annual General Fund deposits of $56,304 due to the decrease in revenue from licenses.

5. Analysis of any less intrusive or less costly alternative methods:

The Agency states that there are no less costly alternatives for achieving the purpose of this rule.

6. Whether an analysis was submitted to the agency regarding the rule's impact on the competitiveness of businesses in this state as compared to the competitiveness of businesses in other states:

No analysis was submitted that compares the rule's impact of the competitiveness of businesses in this state to the impact on businesses in other states.

7. A description of any data on which a rule is based with an explanation of how the data was obtained and why the data is acceptable data, and the methods used by the agency to evaluate the costs and benefits in the EIS.

The data used includes:

- Number of licenses issued by the Agency and known to be active and current
- Cost of licensure, to include license fees, Recovery Fund assessment, and average bonding costs
- Average bonding costs from SuretyBonds.com

The data were obtained through the Agency's case management system and a general search for bond prices. The Agency determines the data are acceptable because they are accurate and verifiable.

8. Conclusion:

The submitted economic, small business, and consumer impact statement is generally accurate, and contains the information required for compliance with ARS §§ 41-1035, 41-1052(D)(1-3), and 41-1055. This analyst recommends that the proposed rule amendments be approved.

ARIZONA REGISTRAR OF CONTRACTORS

Douglas A. Ducey, Governor | *Jeff Fleetham, Director*

Friday, July 21, 2017

Nicole A. Ong, Chairwoman
Governor's Regulatory Review Council
Arizona Department of Administration
100 N. Fifteenth Ave., Ste. 402
Phoenix, AZ 85007

Re: Rulemaking related to 5-Year-Rule-Review

Dear Chairwoman Ong:

For the Governor's Regulatory Review Council's consideration, the Arizona Registrar of Contractors submits to you a Notice of Final Rulemaking, Economic Impact Statement, public comments from proposed rulemaking, or the authorizing statutes.

The Arizona Registrar of Contractors submitted a Notice of Rulemaking Docket Opening and Notice of Proposed Rulemaking on May 26, 2017 to the Arizona Secretary of State. On June 16, 2017, the Notices were published in the Register. The Notice of Proposed Rulemaking provided an open record of 30-days and therefore, closed on July 16, 2017.

As required by A.R.S. § 32-1104(A)(5), the Registrar makes rules deemed necessary to effectually carry out the provisions and intent of Title 32, Chapter 10 and pursuant to A.R.S. § 32-1105, the Registrar may adopt rules necessary to effect the classification of contractors and may limit the scope of operations of a licensed contractor. A full list of statutes authorizing this rulemaking are included with the rulemaking package.

The Proposed and enclosed Final Rulemaking amends classifications and improves the clarity of many of the non-classification related rules. The Final Rulemaking is largely derived from the Agency's most recent 5-Year-Rule-Review, approved by the Council on May 2, 2017. The enclosed Rulemaking is not resulting in an increase of fees, based a study relevant to the rule, nor resulting in an increase in employees to implement or enforce.

If you have any questions regarding the enclosed rulemaking, please contact Jim Knupp at 602-771-6710 or jim.knupp@azroc.gov.

Sincerely,

Jeff Fleetham
Director

1700 W. Washington Street • Phoenix AZ 85007-2812
602.542.1525 • Within AZ 877.692.9762 • Fax 602.542.1599 • www.azroc.gov

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 9. REGISTRAR OF CONTRACTORS

PREAMBLE

1. Article, Part, or Section Affected (as applicable) Rulemaking Action

R4-9-102	Amend
R4-9-103	Amend
R4-9-104	Amend
R4-9-106	Amend
R4-9-108	Amend
R4-9-109	Amend
R4-9-111	New Section
R4-9-113	Amend
R4-9-115	Amend
R4-9-117	Amend
R4-9-118	New Section

2. Citations to the agency's statutory rulemaking authority to include both the authorizing statute (general) and the implementing statute (specific):

Authorizing statute: A.R.S. § 32-1104(A)(5), A.R.S. § 32-1104(C), A.R.S. § 32-1105, A.R.S. § 32-1122, A.R.S. § 32-1124(A), A.R.S. § 32-1124(B), A.R.S. § 32-1124(E), A.R.S. § 32-1124(F), A.R.S. § 32-1126, A.R.S. § 32-1151.01, A.R.S. § 32-1152(B), A.R.S. § 32-1152.01, A.R.S. § 32-1156, A.R.S. § 32-1166, A.R.S. § 32-1170.02(C), A.R.S. § 41-1073(A)

Implementing statute: Arizona Revised Statutes, Title 32, Chapter 10

3. The effective date of the rule:

60 day effective date is planned.

a. If the agency selected a date earlier than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):

Not Applicable.

b. If the agency selected a date later than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):

Not Applicable.

4. Citations to all related notices published in the *Register* as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:

Notice of Rulemaking Docket Opening: 23 A.A.R. 1639, June 16, 2017

Notice of Proposed Rulemaking: 23 A.A.R. 1599, June 16, 2017

5. The agency's contact person who can answer questions about the rulemaking:

Name: Jim Knupp, Legislative Liaison
Address: Arizona Registrar of Contractors
1700 W. Washington St., Ste. 105
Phoenix, AZ 85007
Telephone: (602) 771-6710
E-mail: jim.knupp@azroc.gov
Web site: https://roc.az.gov

6. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:

All of the proposed rulemaking developed from and was submitted with the Registrar's Five-Year-Review Report. The Governor's Office provided exemption for this rulemaking on Feb. 8, 2017.

Much of the rulemaking represents amendments to clarify language to improve effectiveness of the rule. This is true of R4-9-102, R4-9-103, R4-9-104, R4-9-106, R4-9-108, R4-9-109, R4-9-113, R4-9-115, R4-9-117. Changes in license classifications, as seen in proposed rulemaking for R4-9-102, R4-9-103, and R4-9-104, represent a reversal of 2014 rulemaking that eliminated many commercial and residential classifications and improve consistency within the rules. Specifically, the rulemaking reestablishes 28 commercial and 28 residential license classifications.

Section R4-9-111 received Governor's Office rulemaking exemption on Dec. 21, 2016 and represents 1) a mechanism to reverse 2014 rulemaking that forced contractors into dual license classifications when the Registrar eliminated many commercial and residential licenses and 2) increases flexibility for a business to choose to opt out of dual license classification and move to a residential-only or commercial-only license once in the license's lifetime.

Section R4-9-118 received Governor's Office rulemaking exemption on Nov. 30, 2016 and increases transparency and efficiency in cases pending hearings at the Office of Administrative Hearings. By introducing prehearing disclosure requirements, cases set for hearing will be more effective and efficient.

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

Not Applicable.

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

Not Applicable.

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

The Registrar foresees only minor economic impact based on the proposed rulemaking. The anticipated economic impacts will be reduced burden on the regulated community as much of the rulemaking represents a reversal of negative economic impacts resulting from 2014 rulemaking amendments, where the Registrar eliminated many commercial-only and residential-only license classifications. The removal of these classifications in 2014 resulted in increased licensing fees, increased assessments, increased bonding requirements, and created potential barriers to entry.

Depending on actual bond prices, on average, a current licensee holding a dual license classification would save $485 per year by choosing to opt out of the dual classification in favor of a commercial-only license or $355 per year if choosing to opt to a residential-only. Variance in savings occurs due to the Registrar's Residential Recovery Fund assessment and differences in bond prices.

Beyond recreating residential and commercial licenses eliminated in 2014, proposed amendments to scopes of work permitted by the proposed commercial C-21 Hardscaping and Irrigation Systems and residential R-21 Hardscaping and Irrigation Systems licenses represent a more accurate description of work performed by the industry. This should represent no to minimal beneficial economic impact.

The proposed amendments to scopes of work permitted by the proposed commercial C-42 Roofing and residential R-42 Roofing licenses represent a more reasonable allowance of roof substrate replacement by allowing for 10 percent replacement if need for replacement is found after execution of initial contract and enables subcontracting if

10 percent limit is reached. Amendments also provide for clarification of allowances regarding lifting of HVAC equipment.
The C- and R-34 are also clarified to include "liquid floor and wall coatings."
Amendments to rules not relating to classifications represent clarifications and pose no economic impact.
The New Section proposed as R4-9-111 received Governor's Office rulemaking exemption on Dec. 21, 2016 and represents 1) a mechanism to reverse 2014 rulemaking that forced contractors into dual license classifications when the Registrar eliminated many commercial and residential licenses and 2) increases flexibility for a business to choose to opt out of dual license classification and move to a residential-only or commercial-only license once in the license's lifetime. The Registrar anticipates this flexibility will represent a reduction in regulation and provide minor benefit to businesses wishing to not hold a dual license classification.

The New Section proposed as R4-9-118 received Governor's Office rulemaking exemption on Nov. 30, 2016 and increases transparency and efficiency in cases pending hearings at the Office of Administrative Hearings. By introducing prehearing disclosure requirements, the Registrar anticipates cases set for hearing will be more effective and efficient and reduce overall time and costs associated with hearings for complainants, respondents, and the Registrar; outweighing any cost related to need to submit such information.

10. A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:

The proposed rulemaking amendments were crafted under the supervision of the Registrar's previous Chief Counsel. On July 10, 2017, the Registrar hired a new Chief Counsel and the last four changes, listed below, represent stylistic or clarifying changes based on opinions offered by the new Chief Counsel. The first change, as recorded under the public comment summary section of this Notice of Final Rulemaking, is a correction to an omission made on a scope in the Notice of Proposed Rulemaking. The changes are as follow:

R4-9-103. Residential Contractor License Classifications and Scopes of Work **Correction**

Representing an oversight when recreating this residential scope, electrical wiring of 120 volts or less was omitted from the R-21. This was corrected after realized through public comment. This represents no expansion or reduction in current work permitted by scope under current rules and was not intended to be altered. No other change.

R-21

9. Water features that are not attached to swimming pools; including any necessary: **electrical wiring of 120 volts or less,** connection to potable water lines, backflow prevention devices, hose bibs, excavating, trenching, boring, backfilling, or grading

10. Irrigation systems, including any necessary: **electrical wiring of 120 volts or less,** connection to potable water lines, backflow prevention devices, hose bibs, excavating, trenching, boring, backfilling, or grading

R4-9-106. Examinations **Clarification**

In Section E., the Registrar's Chief Counsel suggested further clarifying which examination may be waived by inserting "trade" throughout the section to precede each instance of "examination." No other change.

R4-9-108. ~~Minimum Construction~~ Workmanship Standards **Clarification**

In the title of the rule, the Registrar's Chief Counsel suggested "Minimum" remain. The Final Rulemaking is altered to read, "Minimum Workmanship Standards." No other change.

R4-9-111. ~~Repealed~~ Opting Out of Dual License Classification **Clarification**

Registrar's Chief Counsel suggested avoiding use of "notwithstanding" to increase clarity. Removed "Any other rule notwithstanding" in favor of "Unless prohibited by another rule." No other change.

R4-9-118. ~~Reserved~~ Prehearing Disclosure Requirement **Clarification**
Registrar's Chief Counsel suggested several stylistic and clarifying changes within the proposed rule. No other change.

11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:

Understanding the broad changes proposed, the Registrar sent email notification to all licensees for which it has an email address. This totaled 28,868 email contacts or approximately 77 percent of licensees. Additionally, the Registrar sent notification to 39 contracting associations statewide, for which it has email addresses.

During and before the comment period, the Registrar also spoke about the proposed rulemaking with the memberships and leadership of Arizona Landscape Contractors' Association, Arizona Roofing Contractors Association, Associated Minority Contractors of America – Arizona, Office of Administrative Hearings, and at two Licensed Contractor Forums hosted by the ROC.

During the comment period, ending on July 16, 2017, the Registrar received 23 comments by email and none by mail.

Seven (7) individuals expressed support for the rulemaking for various reasons. No one submitted comments opposed to the rulemaking. Six (6) of the comments submitted did not relate to current proposals for rulemaking and each were informed their suggestion would be taken under advisement and considered for future rulemaking or related to statutory language. Nine (9) individuals posed questions as to the impact of the rulemaking and were satisfied with the answers provided. One of the nine questions, however, revealed an oversight by the Registrar in the rulemaking related to work permitted under the R-21. The proposed language mistakenly omitted permitting "electrical wiring of 120 volts or less" under portions of the scope and this oversight has been corrected within the final rulemaking within this submission.

Comment #1 – Mr. Vane Embry of Shaw Industries
We have been directed in the past by ROC that the CR-21 classification is required to provide installation services for synthetic turf. We would like to verify that these services will fall under the new pending licensing classifications of C-21 and R-21 just like they did for CR- 21? Clarification is being sought since it was not specifically mentioned in the revised wording of the new classifications (C-21 & R-21) and we anticipated it would be. Thank you advance for looking into this.

Response: The Agency called and answered his question as to whether synthetic turf falls under the -21 licenses; affirmatively.

Comment #2 – Chris Botta at Affordable Cabinet Refinishing
Good luck on the clarity part

Response: The Agency replied soliciting ideas on how to improve clarity. He replied asking if he, other contractors and the Agency could meet to discuss code and standards. The Agency replied accepting but clarifying the Registrar does not write code. He appreciated the clarification on code and iterated his offer to help if the opportunity arises to have input on the process.

Comment #3 – Mr. Mark Liebsch of Adove Garage Doors

(1) The 2014 regulation allowed many contractors to work in areas they were unqualified for thus creating the atmosphere for substandard work. In the construction field this could cause potential damage or injury as a result of the ROC arbitrarily qualifying a company with no background experience in a specific trade.

(2) Please change back to the old rules when I became a Licensed Contractor in Arizona. I qualified for only a residential license and when the state changed it my bond went from $50.00/year to $175.00/year = More cost of doing business.

Response: The Agency expressed appreciation for support of reestablishing residential-only and commercial-only classifications.

Comment #4 – Mr. Tom Francois
I'm not real happy about having to pay more for my bond to include commercial when **I'm only licensed to do residential**. I think this is an unfair burden for a one man operation like myself. It really hurt me as business is slow for a while. My Registrar 2 year fee went up from $540 to $650 **My BOND for 3 years went up from $100 all the way to $525 to include commercial! $425 increase! OUCH!** Just doesn't seem fair to us little guys!

Response: The Agency expressed appreciation for submitting comments and informed him that much of what he described is why this administration is looking to reverse the 2014 rulemaking. He replied stating, "JIM Thank you! I HOPE SO! This is a burden on me and I'm sure many other small operations."

Comment #5 – Mr. Lee Harr of H&H Yard Service, Inc.
Under the proposed changes, for R-21 "electrical wiring of 120 volts or less" is left out. Will need the ability for "electrical wiring of 120 volts or less" hook up in residential work.

Response: The Agency expressed appreciation for catching the error and inserted the language into the R-21 for the Final Rulemaking.

Comment #6 – Mr. Jason Thibodeau of Rescue One Air
Does this effect a CR-39 license?

Response: The Agency replied stating there are only conforming language changes proposed for the 39. By that, the Agency means there are no changes to the scope. The changes will make the scope's language match language used by other scopes, I.e. "This classification allows the licensee to install" rather than "Installation of" and eliminates restricted classifications no one holds anymore, I.e. R-39R has refrigeration and R-39R PreCoolers.

Comment #7 – Mr. Raul Rodriguez of Dezert Designs & Displays
So if I am reading this right I will be able to opt out of the dual license and submit as commercial only and carry only a bond for Commercial when they expire this November?

Response: The Agency answered his question affirmatively and informed that the only issue would be the effective date of the rulemaking amendments...they might not be effective by the time you renew this time around.

The Agency called him to explain the potential timeline of the rulemaking and explained his thoughts were correct, but the Agency couldn't guarantee the timeline would align with his renewal. In working with the Director and

Licensing Department at the Agency, it agreed anyone in Mr. Rodriguez's situation would be allowed to renew for one year; rather than the two year and the Agency informed Mr. Rodriguez of this fact.

Comment #8 – Mr. John Jackson of Dirt Cheap Tile, Inc.
Is this allowing sub contractors to go back to having a residential Lic than to be forced to have a dual Lic?

Response: Email: The Agency sought clarification as to what license classification he was inquiring of and stated the answer is very likely yes but subcontractors is too broad for the Agency to answer accurately. Phone: After returning to the office, the Agency learned Mr. Jackson's company holds a CR-48 Ceramic, Plastic and Metal Tile and then followed-up by phone to explain he would be able to opt out of the dual classification in favor of a commercial-only or residential-only after the proposed rulemaking became effective if his company decided to do so.

Comment #9 – Mr. Ivan Moreno of Divine Desert Landscape, LLC
Thanks Jim, so what exactly does that mean for guys like me who have a CR 21? It will turn from a CR 21 to an R 21, meaning I will be out of the commercial side? just need little bit of help understanding The Proposal.

Response: The Agency informed Mr. Moreno that his business's dual license will remain a dual, unless he wants to change it to a R-21 or C-21 at time of renewal. He was further informed that at the time of renewal, he can choose to do nothing except renew and you'll remain a CR- 21. The rulemaking reestablishes the R-21 and C-21 license classifications and enables moving to one of them if his company wants, but it in no way forces it away from its current classification.

Comment #10 – Henry Staggs of Preferred Roof Consultants of Arizona
Rule - every investigator should have a working knowledge of the trade they are investigating. My recent experience tells me they don't.

Response: Unrelated to current rulemaking.

Comment #11 – Scott West of West Construction and Development
It would be nice if they also addressed opting back into dual status from single status talked about : Section R4-9-111 Opting Out of a Dual License represents 1) a mechanism to - upon renewal - allow (not force) licensees to retain their dual classification, switch to a residential-only license, or switch to a commercial-only license and by doing so 2) increases flexibility for a business to choose what is most approrpiate for their business.
I.E. we want to switch our license from a B to KB-1 but have been told we cannot keep our same license and would need a new license number. It seems ridiculous that we wouldn't be able to switch while maintaining the same number but can change from dual to single.

Response: The Agency expressed appreciation for submitting comments and informed him they will be submitted as part of our next step in this process. The Agency further informed him that the mechanism to enable what he wants to do already exists and it is to simply apply for a new license, as it seems he's been advised. As identified, the current proposal doesn't seek to amend what you're asking but we can keep it in mind for future rulemaking.

Comment #12 – Tom Ford of Liberty Plumbing AZ
Is there something that can be done to un-licensed contractors advertising and selling jobs over their dollar limit on FB and other social media?

Response: The Agency informed him that it just recently hired an unlicensed investigator for just this idea. It was a recent initiative and, to be honest, the Agency will have to work through how best to handle these cases.

Comment #13 – Dan Sherwood of Alpine Construction & Development LLC
Per some of the info I have shared with you previously and a couple of my experiences during my 30+ years also a licensed contractor, I would like to see a provision that anyone of the general public who uses a non licensed entity to do work during a licensed contractor doing work on a job, or the correction of work done by a licensed contractor, automatically forfeits their ability to file a claim with the roc on a licensed contractor.
Until such time that the general public has to pay a price for using unlicensed contractors, the practice will continue. If Az is really wanting to curb that happening, there has to be some kind of penalty or those hiring the unlicensed folks, just as there is for employers hiring those who are in the US illegally.
That's my thoughts, from what I've experienced and what I continue to see around Az.

Response: The Agency informed him the suggestions would be beyond rulemaking, as the Agency understands what he is describing his thoughts would seem to be creating a prohibition of citation when a licensee corrects and unlicensed entity's work and regulation of consumers to penalize them for hiring unlicensed entities. Both would require statutory changes.

The Agency expressed appreciation for submitting comments and directed him to his legislator for the changes he is seeking.

Comment #14 – Chris Tortorello of Torel Custom Homes
One thing I think needs to be addressed is when a warrantee should start. It should be from the CO not when some one moves in . I had a client that moved in 18 months after completion-CO and no one lived in the house, There was a roof leak no one was aware of because of the clients vacancy. It was a mess. I repaired it but I don't think the law is correct on when a warrantee should start. Upon move in isn't fir to anyone and I believe the state should change.

Response: The Agency informed him that his suggestions would be beyond rulemaking. The ROC's jurisdiction to investigate a complaint comes from ARS 32-1155(A), which states: A. On the filing of a written complaint with the registrar charging a licensee with the commission, within two years before the date of filing the complaint, of an act that is cause for suspension or revocation of a license, including an act that is in violation of title 44, chapter 11, article 11, the registrar after investigation, in its sole discretion, may issue a citation directing the licensee, within ten days after service of the citation on the licensee, to appear by filing with the registrar the licensee's written answer to the citation and complaint showing cause, if any, why the licensee's license should not be suspended or revoked. Service of citation on the licensee shall be fully effected by personal service or by mailing a true copy thereof, together with a true copy of the complaint, by registered mail in a sealed envelope with postage prepaid and addressed to the licensee at the licensee's latest address of record in the registrar's office. Service of the citation and complaint shall be complete at the time of personal service or five days after deposit in the mail. The two-year period prescribed by this subsection shall commence on the earlier of the close of escrow or actual occupancy for new home or other new building construction and otherwise shall commence on completion of the specific project. | To change this, you'll need to contact your state legislative members.

Comment #15 – Chris Powers of Unknown
R4-9-111, does this mean do we need 2 license 1 for res. and 1 for com.? I work in both.

Response: The Agency informed him that rule 111 would enable a licensee to choose to move away from the dual classification; enables, and further informed him that since he works in both, it means nothing to him. If at some point in the future, however, his company wanted to get out of commercial and continue working in residential, or vice versa, the rule would allow him to do that upon renewal.

Comment #16 – Glenn Parham
Speaking from my position as a 30 year painting contractor I think you have some great ideas, which I am all for. I have the dual and at first was not impressed, probably because I had no say in the matter. Although,I have never had to tighten finances to the point of carrying only one license, residential or commercial. Their are many not so fortunate as myself and with just one license he maybe able to stay legal and be another example of Arizona craftsmanship.

Response: The Agency expressed appreciation for submitting comments and further appreciated his understanding of other licensees (and applicants just starting out, for that matter) who may not be able to or simply do not wish to pay to keep up both residential and commercial requirements.

Comment #17– Duane Yourko, Exec. Dir. of Arizona Roofing Contractors Association
ARCA is fully aware of the proposed changes impacting the CR-42 license classification and fully support the rulemaking. The changes will clarify the extent to which roofers can perform ancillary but necessary repairs to substrate. It will allow them to comply and maintain a high degree of workmanship standards and install a water impermeable membrane that meets and / or exceeds expected standards without the delays of subcontracting out replacement / repairs work.

Response: The Agency expressed appreciation for submitting comments.

Comment #18 – Tracy Ann Strickland, Research Coord., of Satellite Broadcasting and Comms Association
Called to seek clarification for any impact to low voltage licenses and followed-up by email. Please find my contact information below and feel free to reach out to me anytime regarding electrical licensing for our industry. Thank you for getting back to me so quickly on the current rule. I greatly appreciate it.

Response: Informed of reestablishing R and C – 67 and of R4-9-111 to opt out of the forced dual.

Comment #19 – Joe Booth of Booth Construction LLC
Subject: ? Are the B dual license subject to change I have a B 2 Joe booth

Response: There are some changes to language but nothing significant compared to the change effective on June 11 increasing the limit to $2M.

Comment #20 – Ron Brown of JBS Roofing
Thank you for submitting the new rule changes for our industry, this will clear up a lot of confusion for us. I totally approve of these changes, thank you again.

Response: The Agency expressed appreciation for submitting comments and informed him they will be submitted as part of our next step in this process.

Comment #21 – Craig Cavolo of Redwall Construction Inc.
Please add my name and Redwall Construction Inc. name to any list or tally you may have going in support of the rule changes listed for review closing July 16, 2017.

Response: The Agency expressed appreciation for submitting comments and informed him they will be submitted as

part of our next step in this process.

Comment #22 – David Landis of Creative Finishing Services, Inc.
I have revised my comments and have resent them in this up to date attachment. I looked for the draft and see that the draft was already sent to you. Thank you for your interest. I will also use this revised attachment as an exhibit in my up-coming hearing. Attached please find my comments to Section R4-9-118 as it has applied to my case. I am a very hard working contractor who has hundreds of repeat customers. I love my work and go out of my way to make all my customers happy and satisfied one hundred percent of the time. I do not advertise, and I have a waiting list for certain projects, but also work with the **public**. To date, I have been a victim of the lack of proper prehearing disclosure, along with the lack of proper efficiency between the ROC and the OAH regarding my case. Both sides of the story must be addressed, not just the complaint against the contractor. There are fraudulent cases being claimed by customers. I have been assured of this by your legal department. My case is definitely one of them! I do work in multi-million dollar homes for customers who have numerous homes in the state of Arizona. In my next hearing, which is not yet scheduled, I will have affidavits from many of them. I will be stating why the recovery fund should not pay the customer after being falsely accused of poor workmanship. The decisions made did not include the proper information. Thank you for taking the time to properly review my comments and make the necessary changes in the rulings and statutes to protect the contractor; the ROC; the OAH; and the State of Arizona, from customer fraudulent claims and false accusations, for occasionally, they do occur. Also it is of the utmost importance that transparency and efficiency take place between the ROC and the OAH regarding these cases. I had an unjust telephonic hearing, and when I requested a rehearing, I was denied a rehearing. Now I have to prove that a very large payout should not be made from the recovery fund. Thank you for taking the time and effort to review my comments as I am a great example of the feedback that you are looking for. Hope this helps you make some very necessary and important decisions regarding these kinds of issues. If you would like any additional feedback please feel free to contact me anytime.

Response: The Agency expressed appreciate for submission of comments and clarified the prehearing disclosure requirements would apply to the Registrar in own motion cases; where the Registrar is bringing a case against a respondent.

In the majority of cases, however, including the example provided with case 2016-1138, the complainant and his company as the respondent would be the parties responsible for disclosing all witness and document information intended to be presented in the hearing.

The section is proposed to increase efficiency and effectiveness in case and to reduce/eliminate last minute information that would have otherwise eliminated the need for a hearing all together. The Agency will keep his comments in mind especially if the ROC decides to rework rehearing portion of the rules.

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

None.

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

The Registrar does not issue general permits because activities or practices in license classifications are not substantially similar in nature. Statutes require the Registrar to classify licenses in a manner consistent with established usage and procedure found in the construction business.

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

Not Applicable.

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness

of business in this state to the impact on business in other states:

Not Applicable.

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

None.

14. Whether the rule was previously made, amended or repealed as an emergency rule. If so, cite the notice published in the *Register* as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:

Not Applicable.

15. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 9. REGISTRAR OF CONTRACTORS

ARTICLE 1. GENERAL PROVISIONS

Section
R4-9-102. Commercial Contractor License Classifications and Scopes of Work
R4-9-103. Residential Contractor License Classifications and Scopes of Work
R4-9-104. Dual Contractor License Classifications and Scopes of Work
R4-9-106. Examinations
R4-9-108. ~~Minimum Construction~~ Workmanship Standards
R4-9-109. Name of Licensee or Applicant
R4-9-111. ~~Repealed~~ Opting Out of Dual License Classifications
R4-9-113. Application Process
R4-9-115. Posting
R4-9-117. Prior Record
R4-9-118. ~~Reserved~~ Prehearing Disclosure Requirement

ARTICLE 1. GENERAL PROVISIONS

R4-9-102. Commercial Contractor License Classifications and Scopes of Work

A. Commercial contractor license classifications. License classifications for commercial contractors are as follows:

ENGINEERING CONTRACTING

A No Change
A-4 No Change
A-5 No Change
A-7 No Change
A-9 No Change
A-11 No Change
A-12 No Change
A-14 No Change
A-15 No Change
A-16 No Change
A-17 No Change
A-19 No Change

GENERAL COMMERCIAL CONTRACTING

B-1 No Change
B-2 No Change

SPECIALTY COMMERCIAL CONTRACTING

C-1 Acoustical Systems
C-3 Awnings, Canopies, Carports and Patio Covers
C-4 No Change
C-6 No Change
C-7 Carpentry
C-8 Floor Covering
C-9 No Change
C-10 Drywall
C-11 No Change
C-12 Elevators
C-14 Fencing
C-15 Blasting
C-16 No Change
C-21 Hardscaping and Irrigation Systems
C-24 Ornamental Metals
C-27 No Change

C-31 Masonry

C-34 Painting and Wall Covering

C-36 Plastering

C-37 No Change

C-38 Signs

C-39 No Change

C-40 Insulation

C-41 Septic Tanks and Systems

C-42 Roofing

C-45 Sheet Metal

C-48 Ceramic, Plastic and Metal Tile

C-49 No Change

C-53 No Change

C-54 Water Conditioning Equipment

C-56 Welding

C-57 Wrecking

C-58 No Change

C-60 Finish Carpentry

C-61 Carpentry, Remodeling and Repairs

C-63 Appliances

C-65 Glazing

C-67 Low Voltage Communication Systems

C-70 Reinforcing Bar and Wire Mesh

C-74 No Change

C-77 No Change

C-78 No Change

C-79 No Change

B. Commercial contracting scopes. The scope of work which may be done under the commercial contracting license classifications is as follows:

A- GENERAL ENGINEERING

This classification allows the licensee to construct or repair:

1. Fixed works
2. Streets
3. Roads
4. Power and utility plants
5. Dams
6. Hydroelectric plants
7. Sewage and waste disposal plants
8. Bridges
9. Tunnels
10. Overpasses
11. Public parks
12. Public right-of-ways

Also included are the scopes of work allowed by the A-4 through A-19~~ and CR-2 through CR-80 classifications.~~ This classification does not include work authorized by the B-1, B-2, B-, or B-3 scopes.

A-4 DRILLING

~~Drilling includes~~ This classification allows the licensee to drill, including horizontal and vertical drilling or boring, constructing, deepening, repairing, or abandoning wells; exploring for water, gas, and oil; and constructing dry wells, and monitor wells. Also included is the erection of rigs, derricks and related substructures, and installation, service and repair of pumps and pumping equipment.

A-5 EXCAVATING, GRADING AND OIL SURFACING

No Change

A-7 PIERS AND FOUNDATIONS

This classification allows the licensee to install ~~Installation of~~ piers and foundations using concrete, rebar, post tension and other materials common to the industry. Includes pile driving, excavation, forming and other techniques and equipment common to the industry.

A-9 SWIMMING POOLS

This classification allows the licensee to construct ~~Construction~~, service, and repair ~~of~~ swimming pools and spas, including water and gas service lines from point of service to pool equipment, wiring from pool equipment to first readily accessible disconnect, pool piping, fittings, backflow prevention devices, waste lines, and other integral parts of a swimming pool or spa.

Also included is the installation of swimming pool accessories, covers, safety devices, and fencing for protective purposes, if in the original contract.

A-11 STEEL AND ALUMINUM ERECTION

~~Field fabrication, erection, repair, and alteration of architectural and structural steel and aluminum materials common to the industry, including field layout, cutting, assembly, and erection by welding, bolting, wire tying or riveting.~~

This classification allows the licensee to install and repair architectural and structural steel and aluminum materials common to the industry. This classification also includes reinforcing steel and field layout, cutting, assembly, and erection by welding, bolting, wire tying or riveting.

A-12 SEWERS, DRAINS AND PIPE LAYING

This classification allows the licensee to install ~~Installation~~ and repair ~~of~~ any project involving sewer access holes, the laying of pipe for storm drains, water and gas lines, irrigation, and sewers. Includes connecting sewer collector lines to building drains and the installation of septic tanks, leach lines, dry wells, all necessary connections, liners and related excavating and backfilling.

A-14 ASPHALT PAVING

This classification allows the licensee to install ~~Installation of~~ asphalt paving, and all related fine grading on streets, highways, driveways, parking lots, tennis courts, running tracks, play areas, and gas station driveways and areas, using materials and accessories common to the industry. ~~Includes~~ Only permitted as it pertains to the larger scope of work, the classification also permits ~~the necessary~~ excavation and grading ~~only~~ for height adjustment of existing sewer access holes, storm drains, water valves, sewer cleanouts, and drain gates. Also included is the scope of work allowed by the A-15 Seal Coating Classification.

A-15 SEAL COATING

This classification allows the licensee to apply ~~Application of~~ seal coating to asphalt paving surfaces. This classification also allows ~~Includes~~ repair of surface cracks and application of painted marking symbols.

A-16 WATERWORKS

This classification allows the licensee to perform all ~~All~~ work necessary for the production and distribution of water including drilling well, setting casing and pump, related electrical work, related concrete work, excavation, piping for storage and distribution, storage tanks, related fencing, purification and chlorination equipment.

A-17 ELECTRICAL AND TRANSMISSION LINES

This classification allows the licensee to install, alter, ~~Installation, alteration,~~ and repair ~~of~~ transmission lines on public right-of-ways, including erection of poles, guying systems, tower line erection, cellular and communication towers, street lighting of all voltages, and all underground systems including ducts for signal, communication, and similar installations. This classification also allows the licensee to install ~~Installing~~ transformers, circuit breakers, capacitors, primary metering devices and other related equipment of all commercial electrical construction ~~is included~~.

~~All electrical systems of less than 600 volts on or inside a building are excluded.~~

A-19 SWIMMING POOLS, INCLUDING SOLAR

~~Construction, service, and repair of swimming pools and spas, with or without solar water heating devices, including water and gas service lines from point of service to pool equipment, wiring from pool equipment to first readily accessible disconnect, pool piping, fittings, backflow prevention devices, waste lines and other integral parts of a swimming pool, spa and attached solar water heating device.~~

~~Also included are swimming pool accessories, covers, safety devices, and fencing for protective purposes, if in the original contract.~~

This classification allows the licensee to perform the same scope of work permitted by the A-9 but also includes installation and repair of solar heating devices.

B-1 GENERAL COMMERCIAL CONTRACTOR

This classification allows the licensee to construct, alter, ~~Construction, alteration,~~ and repair in connection with any structure built, being built, or to be built for the support, shelter, and enclosure of persons, animals, ~~chattels,~~ or movable property of any kind. This scope includes the supervision of all or any part of the above and includes the management, or direct or indirect supervision of any work performed.

~~Also included are the scopes of work allowed by the CR-2 through CR-80 license classifications.~~ Work related to electrical, plumbing, air conditioning systems, boilers, swimming pools, spas and water wells must be subcontracted to an appropriately licensed contractor. This classification does not include work authorized by the A-, B-, or B-3 scopes.

B-2 GENERAL SMALL COMMERCIAL CONTRACTOR

For projects of $2,000,000 or less including labor and materials, this classification allows the licensee to perform ~~Small~~ commercial construction in connection with any new structure or addition built, being built, or to be built for the support, shelter and enclosure of persons, animals, ~~chattels~~ or movable property of any kind ~~for which the total amount paid to the licensee does not exceed 2,000,000~~. This scope includes the supervision of all or any part of the above and includes the management or direct or indirect supervision of any work performed.

Work related to electrical, plumbing, fire protection systems, air conditioning systems, boilers, swimming pools, spas and water wells must be subcontracted to an appropriately licensed contractor. This classification does not include work authorized by the A-, B-, B-3, or residential scopes.

C-1 ACOUSTICAL SYSTEMS

This classification allows the licensee to install and repair pre-manufactured acoustical ceiling and wall systems.

This classification does not allow the licensee to install or repair electrical or mechanical systems.

C-3 AWNINGS, CANOPIES, CARPORTS AND PATIO COVERS

This classification allows the licensee to place concrete footings and concrete slabs as required for the licensee to install and repair:

1. Window awnings
2. Door hoods
3. Freestanding or attached canopies
4. Carport and patio covers constructed of metal, fabric, fiberglass, or plastic
5. Screened and paneled enclosures, which are not intended for use as habitable spaces, using metal panels, plastic inserts, and screen doors. A minimum of 60% of the wall area of an enclosure shall be constructed of screening material.
6. Fascia panels
7. Flashing and skirting
8. Exterior, detached metal storage units not to exceed 120 square feet

This classification does not allow the licensee to install or repair electrical, plumbing, or air conditioning systems.

C-4 BOILERS, STEAMFITTING AND PROCESS PIPING

This classification allows the licensee to install, alter, ~~Installation, alteration,~~ and repair ~~of~~ steam and hot water systems and boilers, including chimney connections, flues, refractories, burners, piping, fittings, valves, thermal insulation, and accessories; fuel and water lines from source of supply to boilers; process and specialty piping and related equipment; pneumatic and electrical controls.

If necessary, a new circuit may be added to the existing service panel or sub-panel. Excluded is the installation of a new service panel or sub-panel.

C-6 SWIMMING POOL SERVICE AND REPAIR

~~Service, replacement, and repair of swimming pools including all existing connections and equipment. Pool gas heaters and gas piping from meter to heater may be installed only if the existing line and gas supply are adequate.~~

~~Application of pool coatings to interior of pool in conjunction with minor repairs to pool tile, plaster, and decks.~~

~~Excluded are chlorine gas connections, connections to potable water, and electric connections beyond first readily accessible disconnect. This classification excludes a complete replacement of plaster or pebble pool interiors and decks.~~

This classification allows the licensee to replace and repair commercial pools and accessories including all existing connections and equipment. Plumbing connections to a potable water system, gas lines, gas chlorine systems, and electrical work beyond the first disconnect must be subcontracted to a properly licensed contractor.

This classification does not allow the licensee to perform a complete replacement of plaster or pebble pool interiors and decks.

C-7 CARPENTRY

This classification allows the licensee to install and repair:

1. Rough carpentry
2. Finish carpentry
3. Hardware
4. Millwork
5. Metal studs
6. Metal doors or door frames

7. Windows

C-8 FLOOR COVERING

This classification allows the licensee to prepare a surface as required for the licensee to install and repair the following floor covering materials:

1. Carpet
2. Floor tile
3. Wood
4. Linoleum
5. Vinyl
6. Asphalt
7. Rubber
8. Concrete coatings

C-9 CONCRETE

~~All work in connection with the processing, proportioning, batching, mixing, conveying, and placing of concrete composed of materials common to the concrete industry, including finishing, coloring, curing, repairing, testing, drilling, sawing, grinding, chipping, and grouting. Placing film barriers, sealing, and waterproofing are included.~~

~~Construction, centering, and assembling forms, molds, insulating concrete forms, slipforms, and pans.~~

This classification allows the licensee to install and repair concrete, concrete products, and accessories common to the industry.

This classification also allows the licensee to perform trenching, ~~Trenching,~~ excavating, backfilling, and grading in connection with concrete construction.

~~Installation of embedded items essential to or comprising an integral part of the concrete or concrete construction, including reinforcing elements and accessories.~~

C-10 DRYWALL

This classification allows the licensee to install and repair:

1. Gypsum wall board
2. Ceiling grid systems
3. Movable partitions
4. Wall board tape and texture
5. Non-load bearing, lightweight, steel wall partitions

C-11 ELECTRICAL

This classification allows the licensee to install, alter, ~~Installation, alteration,~~ and repair ~~of~~ any wiring, related electrical material and equipment used in the generating, transmitting, or utilization of electrical energy less than 600 volts, including all overhead electrical wiring on public right-of-ways for signs and street decorations, and all underground electrical distribution systems of less than 600 volts serving private properties.

This classification also allows the licensee to install, alter, ~~Installation, alteration,~~ and repair ~~on other than public right-of-ways of~~ all outside, overhead, and underground electrical construction and all wiring in or on any building of less than 600 volts, but does not permit work in public right-of-ways.

C-12 ELEVATORS

This classification allows the licensee to install and repair:

1. Elevators
2. Dumbwaiters
3. Escalators
4. Moving walks and ramps
5. Stage and orchestra lifts

C-14 FENCING

This classification allows the licensee to install and repair:

1. Metal, wood, and cement block fencing
2. Automatic gates
3. Fire access strobes
4. Highway guard rails
5. Cattle guards
6. Low voltage U.L. approved electrical fence protective devices of less than 25 volts and 100 watts

This classification does not allow the licensee to install or repair retaining walls.

C-15 BLASTING

This classification allows the licensee to drill, bore, move earth, and build temporary shelters or barricades, as required for the licensee's use of explosives and explosive devices for:

1. Excavation

2. Demolition
3. Geological exploration
4. Mining
5. Construction related blasting

C-16 FIRE PROTECTION SYSTEMS

This classification allows the licensee to install, alter, ~~Installation, alteration,~~ and repair ~~of~~ fire protection systems using water, steam, gas, or chemicals. Included is any required excavation, trenching, backfilling and grading, piping from structure, and connections to off-premise water supply adjacent to property involving a fire protection system.

Systems may include the following areas of work and related equipment: restaurant hood protection systems; fire pumps and drivers; pressure and storage tanks; all piping and valves; sprinkler heads and nozzles; and application of materials for the prevention of corrosion or freezing.

Also included are air compressors, air receivers, bottled inert gases, pressurized chemicals, manifolds, pneumatic, hydraulic, or electrical controls, low voltage signaling systems, control piping, and the flushing and testing of systems.

C-21 HARDSCAPING AND IRRIGATION SYSTEMS

This classification allows the licensee to install, alter, and repair:

1. Non-loadbearing concrete
2. Uncovered patios, walkways, driveways made of brick, stone, pavers or gravel
3. Wooden decks no higher than 29 inches above finish grade
4. Decorative garden walls up to six feet from finish grade
5. Fences and screens up to six feet from finish grade
6. Retaining walls up to three feet from the finish grade of the lower elevation
7. Free standing fire pits, fireplaces, or barbeques – electric, plumbing, and gas must be subcontracted to a properly licensed contractor
8. Low voltage landscape lighting
9. Water features that are not attached to swimming pools; including any necessary: electrical wiring of 120 volts or less, connection to potable water lines, backflow prevention devices, hose bibs, excavating, trenching, boring, backfilling, or grading
10. Irrigation systems, including any necessary: electrical wiring of 120 volts or less, connection to potable water lines, backflow prevention devices, hose bibs, excavating, trenching, boring, backfilling, or grading

With the exception of free standing fire pits, fireplaces, or barbeques, this classification does not allow the licensee to install, contract for, or subcontract new electrical service panels, gas or plumbing lines, blasting, outdoor kitchens, gazebos, room additions, swimming pools, pool deck coatings, concrete driveways, load bearing walls, or perimeter fencing.

C-24 ORNAMENTAL METALS

This classification allows the licensee to install, alter, or repair non-structural ornamental metal, such as:

1. Metal folding gates
2. Guard and hand rails
3. Wrought iron fencing and gates
4. Window shutters and grilles
5. Room dividers and shields
6. Metal accessories common to the industry

This classification does not allow the licensee to install fire escapes or stairs.

C-27 LIGHTWEIGHT PARTITIONS

This classification allows the licensee to install ~~Installation of~~ lightweight (not to exceed 14 gauge) metal wall partitions, including suspended metal ceiling grid systems, as supporting members for the application of building materials such as: application and repair of gypsum plaster, cement, acoustical plaster, or a combination of materials and aggregates, that create a permanent coating; the application of such materials over any surface which offers either a mechanical or suction type bond, sprayed, dashed, or troweled to the surface; surface sandblasting preparatory to plastering or stucco; installation of plastering accessories and lath products manufactured to provide a key or suction type bond for the support of various type plaster coatings; and installation and repair of gypsum wall board, pointing, accessories, taping, and texturing on structures both interior and exterior.

Upon the effective date of these rules, no new applications for the C-27 classification will be accepted and no new C-27 licenses will be issued.

C-31 MASONRY

This classification allows the licensee to grout, caulk, sand blast, tuckpoint, mortar wash, parge, clean and weld reinforcing steel as required for the licensee to install and repair:

1. Masonry
2. Brick
3. Concrete block
4. Insulating concrete forms

5. Adobe units
6. Stone
7. Marble
8. Slate
9. Mortar-free masonry products

C-34 PAINTING AND WALL COVERING

This classification allows the licensee to perform surface preparation to install, apply or repair:

1. Wallpaper
2. Wall covering cloth
3. Wall covering vinyl
4. Decorative texture
5. Paint
6. Liquid floor and wall coatings

C-36 PLASTERING

This classification allows the licensee to install laths, metal studs, metal grid systems, or other bases as required for the licensee to coat surfaces by trowel or spray with combinations of:

1. Sand mixtures (e.g. stucco)
2. Gypsum plaster
3. Cement
4. Acoustical plaster
5. Swimming pool interiors (excluding tile)

C-37 PLUMBING

This classification allows the licensee to install, alter, ~~Installation, alteration,~~ and repair ~~of~~ all plumbing when performed solely within property lines and not on public easements or right-of-ways, except as hereinafter provided.

This classification also allows the licensee to perform installation, ~~Installation,~~ alteration, and repair of all piping, fixtures, and appliances related to water supply, including pressure vessels and tanks (excluding municipal or related water supply systems); venting and sanitary drainage systems for all fluid, semifluid, and organic wastes; septic tanks and leaching lines; roof leaders; lawn sprinklers; water conditioning equipment; piping; and equipment for swimming pools.

Also included are piping, fixtures, appliances, and pressure vessels for manufactured and natural gases, compressed air and vacuum systems, petroleum, fuel oil, nonpotable liquids, hot water heating, and hot water supply systems operating at pressures not exceeding 30 PSIG, or temperatures not exceeding 220° F; steam heating and steam supply systems not exceeding 15 PSIG operating pressure; gas or oil fired space heaters and furnaces, excluding duct work. Piping for water cooling systems, excluding the refrigerant piping and equipment. Testing and balancing of hydronics systems.

Sewer, gas, water lines, and connections from structure to the nearest point of public supply or disposal may cross public or private easements or be installed within private easements or right-of-ways. Pipe installed across public property may not be increased in size, or make any other connection between the point of exit from private property to the point of connection at public supply or disposal. These lines shall not be installed parallel to main lines in public easements or right-of-ways.

C-38 SIGNS

This classification allows the licensee to install and repair posts, poles, supports, paint, and electrical wiring as required for the licensee to install and repair:

1. Signs
2. Displays
3. Flagpoles

C-39 AIR CONDITIONING AND REFRIGERATION

This classification allows the licensee to install, alter, ~~Installation, alteration,~~ and repair ~~of~~ refrigeration and evaporative cooling systems.

This classification also allows the licensee to perform installation, ~~Installation,~~ alteration, and repair of heating systems of "wet", "dry" or radiant type. "Wet" systems include steam or hot water boilers and coils, or baseboard convectors, and are limited to 30 PSIG operating pressure of 220° F for hot water and 15 PSIG operating pressure for steam. Dry systems include gas fired furnaces and space heaters.

This classification also allows the licensee to perform installation, ~~Installation,~~ alteration, and repair of ventilation systems includes duct work, air filtering devices, water treatment devices, pneumatic or electrical controls, and control piping. Thermal and acoustical insulation of refrigerant pipes and ductwork, vibration isolation materials and devices, liquid fuel piping and tanks, water and gas piping from service connection to the equipment it serves. Testing and balancing of refrigerant, cooling, heating circuits, and air handling systems.

If necessary, a new circuit may be added to the existing service panel or sub-panel. Excluded is the installation of a new service panel or sub-panel.

C-40 INSULATION

This classification allows the licensee to install and repair:

1. Insulation materials, including radiant barriers
2. Preformed architectural acoustical materials
3. Insulation protecting materials

C-41 SEPTIC TANKS AND SYSTEMS

This classification allows the licensee to excavate, install and repair pipe, backfill, and compact soil as required for the licensee to install and repair:

1. Septic tanks
2. Aerobic digesters
3. Leaching fields

C-42 ROOFING

This classification allows the licensee to apply, repair, or install weatherproofing (i.e. asphaltum, pitch, tar, felt, glass fabric, flax, or other commonly used materials or systems) or roof accessories (i.e. flashing, valleys, gravel stops, or sheet metal) as required for the licensee to install and repair:

1. Roof tile
2. Shingles
3. Shakes
4. Slate
5. Metal roofing systems
6. Urethane foam
7. Roof insulation or coatings on or above the roof deck

This classification allows the licensee to replace up to 10 percent of the total roof substrate square footage as it relates to issues with substrate discovered after execution of the initial contract. Replacing more than 10 percent of the roof substrate square footage as it relates to issues with substrate discovered after execution of the initial contract requires licensee to subcontract work to a properly licensed contractor.

This classification also allows the licensee to install new or replace existing skylights where it does not require changes to the roof framing or roof structure and replace fascia not to exceed 24 linear feet.

Licensee may lift HVAC equipment to allow for proper installation of roofing material. However, the licensee must subcontract work to a properly licensed contractor if HVAC equipment ducting requires any modification to allow for proper installation of roofing material.

C-45 SHEET METAL

This classification allows the licensee to install and repair:

1. Sheet metal
2. Cornices
3. Flashings
4. Gutters
5. Leaders
6. Pans
7. Kitchen equipment
8. Duct work
9. Skylights
10. Patented chimneys
11. Metal flues
12. Metal roofing systems

C-48 CERAMIC, PLASTIC AND METAL TILE

This classification allows the licensee to prepare a surface as required for the licensee to install and repair the following tile products on horizontal and vertical surfaces:

1. Ceramic
2. Clay
3. Faience
4. Metal
5. Mosaic
6. Glass mosaic
7. Paver
8. Plastic
9. Quarry and stone tiles such as marble or slate
10. Terrazzo

Installation of shower doors and tub enclosures are included when a part of the original contract.

C-49 REFRIGERATION

This classification allows the licensee to install, alter, ~~Installation, alteration,~~ and repair ~~of~~ refrigeration equipment and systems used for processing, storage, and display of food products and other perishable commodities.

This classification includes ~~Includes~~ commercial, industrial, and manufacturing processes requiring refrigeration excluding comfort air conditioning.

Systems may also include the following areas of work and related equipment: temperature, safety and capacity controls, thermal insulation, vibration isolation materials and devices; water treatment devices; construction and installation of walk-in refrigeration boxes, liquid fuel piping and tanks, water and gas piping from equipment to service connection; and testing and balancing of refrigeration equipment and systems.

If necessary, a new circuit may be added to the existing service panel or sub-panel. Excluded is the installation of a new service panel or sub-panel.

C-53 WATER WELL DRILLING

This classification allows the licensee to drill ~~Drill~~ new water wells or deepen existing water wells by use of standard practices including the use of cable tools, compressed air percussion, rotary, air rotary, or reverse circulation rotary methods. Includes installing casing, gravel pack, perforating and sanitary seals. Repair existing wells by sand pumping, jetting, acidizing, swabbing, clean out, reperforating, swaging, installation of annealed lines, and the removal of debris.

Includes photographing interior of wells with appropriate equipment. Installation of jet and submersible pumps; electrical pump controls and wiring from pump equipment to first readily accessible disconnect; and water line to storage or pressure tank, not to exceed 50 linear feet. Use of a test pump to develop a new well, or repair an existing well, when provided in contract, is limited to 5 horsepower.

Installation of concrete pump bases not to exceed 50 square feet.

Installation of protective fencing when included in original contract.

C-54 WATER CONDITIONING EQUIPMENT

This classification allows the licensee to perform trenching, backfilling, and grading; and install and repair piping, fittings, valves, concrete supports, and electrical control panels of less than 25 volts and required grounding devices; as required for the licensee to install and repair:

1. Water conditioning equipment
2. Misting systems
3. Exchange tanks
4. Indirect waste pipe carrying brine, backwash and rinse water to the point of disposal

C-56 WELDING

This classification allows the licensee to weld metals.

C-57 WRECKING

This classification allows the licensee to install and repair temporary ramps, barricades, and pedestrian walkways as required for the licensee to demolish, dismantle, or remove structures not intended for reuse. This classification does not allow the licensee to use explosives.

C-58 COMFORT HEATING, VENTILATING, EVAPORATIVE COOLING

This classification allows the licensee to install, alter, ~~Installation, alteration,~~ and repair ~~of~~ warm air heating systems, gas fired furnaces and space heaters, ventilation and evaporative cooling units, or any combination of these.

Systems may include the following areas of work and related equipment; duct work, air filtering devices, pneumatic or electrical controls, control piping, thermal and acoustical insulation, vibration isolation materials and devices, liquid fuel piping and tanks, water and gas piping from service connection to equipment it serves. Testing and balancing of air handling systems.

If necessary, a new circuit may be added to the existing service panel or sub-panel. Excluded is the installation of a new service panel or sub-panel.

C-60 FINISH CARPENTRY

This classification allows the licensee to install and repair millwork such as:

1. Cabinets
2. Counter tops
3. Case sash
4. Door trim
5. Metal doors
6. Automatic door closers
7. Wood flooring

C-61 CARPENTRY, REMODELING AND REPAIRS

For projects of $50,000 or less including labor and materials, this classification allows the licensee to perform all general remodeling, additions, replacements, and repairs to existing structures.

Work related to electrical, plumbing, air conditioning systems, and boilers must be subcontracted to an appropriately licensed contractor.

C-63 APPLIANCES

This classification allows the licensee to install and repair appliances.

This classification does not allow the licensee to install or repair gas, electrical, or plumbing lines.

C-65 GLAZING

This classification allows the licensee to install and repair weatherproofing, caulking, sealants, and adhesives as required for the licensee to install and repair:

1. Glass products
2. Window film
3. Window treatments, such as blinds or shutters
4. Steel and aluminum glass holding members

C-67 LOW VOLTAGE COMMUNICATION SYSTEMS

This classification allows the licensee to build antenna towers on existing structures as required for the licensee to install, service, and repair:

1. Alarm systems
2. Telephone systems
3. Sound systems
4. Intercommunication systems
5. Public addressing systems
6. Television or video systems
7. Low voltage signaling devices
8. Low voltage landscape lighting that does not exceed 91 volts
9. Master and program clocks (only low voltage wiring and needed equipment)

C-70 REINFORCING BAR AND WIRE MESH

This classification allows the licensee to install and repair:

1. Reinforcing bar
2. Post-tension
3. Wire mesh

C-74 BOILERS, STEAMFITTING AND PROCESS PIPING, INCLUDING SOLAR

This classification allows the licensee to install, alter, ~~Installation, alteration,~~ and repair ~~of~~ steam and hot water systems and boilers including solar. Also included are chimney connections, flues, refractories, burners, piping, fittings, valves, thermal insulation and accessories; fuel and water lines from source of supply to boilers; process and specialty piping and related equipment; pneumatic and electrical controls.

If necessary, a new circuit may be added to the existing service panel or sub-panel. Excluded is the installation of a new service panel or sub-panel.

C-77 PLUMBING INCLUDING SOLAR

This classification allows the licensee to install, alter, ~~Installation, alteration,~~ and repair ~~of~~ all plumbing including solar, when performed solely within property lines and not on public easements or right-of-ways except as hereinafter provided.

This classification also allows for installation ~~Installation,~~ alteration, and repair of all piping, fixtures and appliances related to water supply, including pressure vessels and tanks (excluding municipal or related water supply systems); venting and sanitary drainage systems for all fluid, semifluid, and organic wastes; septic tanks and leaching lines; roof leaders; lawn sprinkler systems; water conditioning equipment; piping and equipment for swimming pools.

Also included are piping, fixtures, appliances, and pressure vessels for manufactured and natural gases, compressed air and vacuum systems, petroleum, fuel oil, nonpotable liquids, hot water heating and hot water supply systems operating at pressures not exceeding 30 PSIG or temperatures not exceeding 220° F; steam heating and steam supply systems not exceeding 15 PSIG operating pressure; gas or oil fired space heaters and furnaces excluding duct work. Piping for water cooling systems, excluding the refrigerant piping and equipment. Testing and balancing of hydronics systems.

Sewer, gas, water lines, and connections from structure to the nearest point of public supply or disposal may cross public or private easements or be installed within private easements. Pipe installed across public property may not be increased in size or make any other connection between the point of exit from private property to point of connection at public supply or disposal. These lines shall not be installed parallel to main lines in public easements or right-of-ways.

C-78 SOLAR PLUMBING LIQUID SYSTEMS ONLY

This classification allows the licensee to install, alter, ~~Installation, alteration,~~ and repair ~~of~~ solar water heating systems operating at temperatures not exceeding 220° F, including thermosyphon, direct (open loop), and indirect (closed loop), but excludes air as a transfer medium.

Includes installation of collectors, storage and expansion tanks, heat exchangers, piping valves, pumps, sensors and low voltage controls which connect to existing plumbing and electrical stubouts at the water tank location.

Installation of solar water heating systems for swimming pools which tie into and operate from the conventional pool systems, but excludes all non-solar plumbing, electrical and mechanical systems and components.

Installation of backup and auxiliary heating systems only when such systems are included in the original contract and when such systems are an integral part of the solar collector or storage equipment.

C-79 AIR CONDITIONING AND REFRIGERATION, INCLUDING SOLAR

This classification allows the licensee to install, alter, ~~Installation, alteration,~~ and repair ~~of~~ refrigeration and evaporative cooling systems, including solar.

This classification also allows for installation ~~Installation,~~ alteration, and repair of heating systems of "wet", "dry" or radiant type. "Wet" systems include steam, or hot water boilers and coils, or baseboard convectors and are limited to 30 PSIG operating pressure of 220° F for hot water and 15 PSIG operating pressure for steam. Dry systems include gas fired furnaces and space heaters.

This classification also allows for installation ~~Installation,~~ alteration, and repair of ventilation systems.

Installation of these systems include duct work, air filtering devices, water treatment devices, pneumatic or electrical controls, and control piping. Thermal and acoustical insulation, vibration isolation materials and devices, liquid fuel piping and tanks, and water and gas piping from service connection to equipment it serves. Testing and balancing of refrigerant, cooling and heating circuits, and air handling systems.

If necessary, a new circuit may be added to the existing service panel or sub-panel. Excluded is the installation of a new service panel or sub-panel.

R4-9-103. Residential Contractor License Classifications and Scopes of Work

A. Residential contracting license classifications. License classifications for residential contractors are as follows:

GENERAL RESIDENTIAL CONTRACTING

B- No Change

B-3 No Change

B-4 General Residential Engineering Contractor

~~B-4R Corrosion Control~~

B-4R Sport Court Accessories

~~B-4R Soil Stabilization~~

B-5 General Swimming Pool Contractor

B-5R Swimming Pool Covers

~~B-5R Fiberglassing of Swimming Pools~~

~~B-5R Reservoir Linings & Covers~~

B-5R Factory Fabricated Pools & Accessories

B-6 No Change

B-10 No Change

SPECIALTY RESIDENTIAL CONTRACTING

R-1 Acoustical Systems

R-2 No Change

R-3 Awnings, Canopies, Carports and Patio Covers

R-4 ~~Boilers, Including Solar~~ Boilers, Steamfitting and Process Piping

~~R-4R Boilers~~

R-6 No Change

R-7 Carpentry

R-8 Floor Covering

R-9 No Change

R-10 Drywall

R-11 No Change

R-12 Elevators

R-13 No Change

R-14 Fencing

R-15 Blasting

R-16 No Change
R-17 No Change
R-21 Hardscaping and Irrigation Systems
R-22 No Change
R-24 Ornamental Metals
R-31 Masonry
R-34 Painting and Wall Covering
R-36 Plastering
R-37 No Change
R-37R No Change
R-37R No Change
R-37R No Change
R-37R No Change
R-37R No Change
R-37R No Change
R-37R No Change
R-38 Signs
R-39 Air Conditioning and Refrigeration, Including Solar
R-39R Air Conditioning and Refrigeration
~~R-39R Gas Refrigeration~~
R-39R Temperature Control Systems
R-39R Warm Air Heating, Evaporative Cooling and Ventilating
R-39R Evaporative Cooling and Ventilators
~~R-39R Pre-Coolers~~
R-40 Insulation
R-41 Septic Tanks and Systems
R-42 Roofing
R-45 Sheet Metal
R-48 Ceramic, Plastic and Metal Tile
R-53 No Change
R-54 Water Conditioning Equipment
R-56 Welding
R-57 Wrecking
R-60 Finish Carpentry
R-61 Carpentry, Remodeling and Repairs
R-62 No Change
R-63 Appliances
R-65 Glazing
R-67 Low Voltage Communication Systems
R-70 Reinforcing Bar and Wire Mesh

B. RESIDENTIAL CONTRACTING SCOPES. The "R" designation after the license classification means that the licensee's scope of work is restricted to the description stated in the license title. The scope of work which may be done under the residential contracting license classifications is as follows:

B- GENERAL RESIDENTIAL CONTRACTOR
This classification allows the licensee to construct and repair ~~Construction of~~ all or any part of a residential structure or appurtenance. ~~Also included are the scopes of work allowed by the B-3 and CR-2 through CR-80 license classifications.~~ Work related to electrical, plumbing, air conditioning systems, boilers, swimming pools, spas and water wells must be subcontracted to an appropriately licensed contractor. This classification does not include work authorized by the A-, B-1, or B-2 scopes.

B-3 GENERAL REMODELING AND REPAIR CONTRACTOR

This classification allows the licensee to remodel and repair ~~Remodeling or repair of~~ an existing residential structure or appurtenance except for electrical, plumbing, mechanical, boilers, swimming pools, spas and water wells, which must be subcontracted to an appropriately licensed contractor. The scope of work allowed under the ~~CR-7~~ R-7 carpentry classification is included within this scope.

This classification does not include work authorized by the A-, B-1, or B-2 scopes.

B-4 GENERAL RESIDENTIAL ENGINEERING CONTRACTOR

This classification allows the licensee to construct ~~Construction~~ and repair ~~of~~ appurtenances to residential structures. Work related to electrical, plumbing, air conditioning systems, boilers, and water wells must be subcontracted to an appropriately licensed contractor. This scope includes the CR-21, B-5, and all B-4R subclassifications.

~~B-4R Corrosion Control~~

B-4R Sport Court Accessories

~~B-4R Soil Stabilization~~

Upon the effective date of these rules, no new applications for the B-4R license classifications will be accepted and no new B-4R licenses will be issued.

B-5 GENERAL SWIMMING POOL CONTRACTOR

This classification allows the licensee to construct ~~Construction~~ and repair ~~of~~ swimming pools and spas. Installation of code-required pool barriers around the swimming pool or spa and installation of utilities from the point of service to the pool equipment. Construction of other structures or appurtenances is excluded. This scope includes all B-5R subclassifications.

B-5R Swimming Pool Covers

~~B-5R Fiberglassing of Swimming Pools~~

~~B-5R Reservoir Linings & Covers~~

B-5R Factory Fabricated Pools & Accessories

Upon the effective date of these rules, no new applications for the B-5R classifications will be accepted and no new B-5R licenses will be issued.

B-6 GENERAL SWIMMING POOL CONTRACTOR, INCLUDING SOLAR

This classification allows the licensee to perform the same scope of work permitted by the ~~The scope of work allowed in this classification is the same as~~ B-5 (including all B-5R subclassifications) ~~with the inclusion of~~ but also includes installation and repair of solar heating devices.

B-10 PRE-MANUFACTURED SPAS AND HOT TUBS

This classification allows the licensee to construct ~~Construction~~ and repair ~~of~~ spas and hot tubs. Installation of code-required pool barriers around the spa or hot tub and installation of utilities from the point of service to the spa equipment are included.

R-1 ACOUSTICAL SYSTEMS

This classification allows the licensee to install and repair pre-manufactured acoustical ceiling and wall systems.

This classification does not allow the licensee to install or repair electrical or mechanical systems.

R-2 EXCAVATING, GRADING AND OILSURFACING

No Change

R-3 AWNINGS, CANOPIES, CARPORTS AND PATIO COVERS

This classification allows the licensee to place concrete footings and concrete slabs as required for the licensee to install and repair:

1. Window awnings
2. Door hoods
3. Freestanding or attached canopies
4. Carport and patio covers constructed of metal, fabric, fiberglass, or plastic
5. Screened and paneled enclosures, which are not intended for use as habitable spaces, using metal panels, plastic inserts, and screen doors. A minimum of 60% of the wall area of an enclosure shall be constructed of screening material.
6. Fascia panels
7. Flashing and skirting
8. Exterior, detached metal storage units, not to exceed 200 square feet

This classification does not allow the licensee to install or repair electrical, plumbing, or air conditioning systems.

R-4 ~~BOILERS, INCLUDING SOLAR~~ BOILERS, STEAMFITTING AND PROCESS PIPING

~~Installation and repair of steam and hot water boilers.~~

~~If necessary, a new circuit may be added to the existing service panel or sub-panel. Excluded is the installation of a new service panel or sub-panel. This scope includes the C-4R subclassification.~~

~~R-4R Boilers~~

This classification allows the licensee to install, alter, and repair steam and hot water systems and boilers, including chimney connections, flues, refractories, burners, piping, fittings, valves, thermal insulation, and accessories; fuel and water lines from source of supply to boilers; process and specialty piping and related equipment; pneumatic and electrical controls.

If necessary, a new circuit may be added to the existing service panel or sub-panel. Excluded is the installation of a new service panel or sub-panel.

R-6 SWIMMING POOL SERVICE AND REPAIR

This classification allows the licensee to service and perform minor repair ~~Service and minor repair~~ of residential pools and accessories, excluding plumbing connections to a potable water system, gas lines, gas chlorine systems, and electrical work beyond the first disconnect. ~~This classification does not include a complete replacement of plaster or pebble pool interiors and decks.~~

This classification does not allow the licensee to perform a complete replacement of plaster or pebble pool interiors and decks.

R-7 CARPENTRY

This classification allows the licensee to install and repair:

1. Rough carpentry
2. Finish carpentry
3. Hardware
4. Millwork
5. Metal studs
6. Metal doors or door frames
7. Windows

R-8 FLOOR COVERING

This classification allows the licensee to prepare a surface as required for the licensee to install and repair the following floor covering materials:

1. Carpet
2. Floor tile
3. Wood
4. Linoleum
5. Vinyl
6. Asphalt
7. Rubber
8. Concrete coatings

R-9 CONCRETE

This classification allows the licensee to install ~~Installation~~ and repair ~~of~~ concrete, concrete products, and accessories common to the industry.

R-10 DRYWALL

This classification allows the licensee to install and repair:

1. Gypsum wall board
2. Ceiling grid systems as supporting members for gypsum drywall
3. Movable partitions
4. Wall board tape and texture
5. Non-load bearing, lightweight, steel wall partitions

R-11 ELECTRICAL

This classification allows the licensee to install ~~Installation~~ and repair ~~of~~ residential electrical systems.

R-12 ELEVATORS

This classification allows the licensee to install and repair:

1. Elevators
2. Dumbwaiters
3. Escalators
4. Moving walks and ramps
5. Stage and orchestra lifts

R-13 ASPHALT PAVING

This classification allows the licensee to install ~~Installation~~ and repair ~~of~~ paved areas using materials and methods common to the industry, including asphalt curbs, concrete bumper curbs, headers, and striping.

R-14 FENCING

This classification allows the licensee to install and repair:

1. Metal, wood, and cement block fencing
2. Automatic gates
3. Fire access strobes
4. Cattle guards
5. Low voltage U.L. approved electrical fence protective devices of less than 25 volts and 100 watts

This classification does not allow the licensee to install or repair retaining walls.

R-15 BLASTING

This classification allows the licensee to drill, bore, move earth, and build temporary shelters or barricades, as required for the licensee's use of explosives and explosive devices for:

1. Excavation
2. Demolition
3. Construction related blasting

R-16 FIRE PROTECTION SYSTEMS

This classification allows the licensee to install ~~Installation~~ and repair ~~of approved types of~~ fire prevention and fire protection systems including all mechanical apparatus, devices, piping, ~~low voltage signaling systems,~~ and equipment common to the fire protection industry. Installation and repair of low voltage signaling systems are also permitted by the R-16 but ~~Installation~~ installation and repair of all other electrical devices, apparatus, and wiring must be subcontracted to a properly licensed contractor.

R-17 STRUCTURAL STEEL AND ALUMINUM

This classification allows the licensee to install ~~Installation~~ and repair ~~of~~ architectural and structural ~~shapes and members~~ steel and aluminum materials common to the industry~~, including reinforcing steel which may be used as structural members for buildings, equipment, and structures~~.

This classification also includes reinforcing steel and field layout, cutting, assembly, and erection by welding, bolting, wire tying or riveting.

R-21 HARDSCAPING AND IRRIGATION SYSTEMS

This classification allows the licensee to install, alter, and repair:

1. Non-loadbearing concrete
2. Uncovered patios, walkways, driveways made of brick, stone, pavers or gravel
3. Wooden decks no higher than 29 inches above finish grade
4. Decorative garden walls up to six feet from finish grade
5. Fences and screens up to six feet from finish grade
6. Retaining walls up to three feet from the finish grade of the lower elevation
7. Free standing fire pits, fireplaces, or barbeques – electric, plumbing, and gas must be subcontracted to a properly licensed contractor
8. Low voltage landscape lighting
9. Water features that are not attached to swimming pools; including any necessary: electrical wiring of 120 volts or less, connection to potable water lines, backflow prevention devices, hose bibs, excavating, trenching, boring, backfilling, or grading
10. Irrigation systems, including any necessary: electrical wiring of 120 volts or less, connection to potable water lines, backflow prevention devices, hose bibs, excavating, trenching, boring, backfilling, or grading
11. Residential outdoor misting systems. Freestanding or attached to existing appurtenance, not more than 1000 PSI.
12. Free standing and uncovered outdoor kitchens – electric, plumbing, and gas must be subcontracted to a properly licensed contractor

With the exception of free standing fire pits, fireplaces, or barbeques, this classification does not allow the licensee to install, contract for, or subcontract new electrical service panels, gas or plumbing lines, blasting, covered outdoor kitchens, gazebos, room additions, swimming pools, pool deck coatings, concrete driveways, load bearing walls, or perimeter fencing.

R-22 HOUSE MOVING

This classification allows the licensee to disconnect ~~Disconnection of~~ utilities ~~is permitted~~, but connection of utilities and construction of foundations are not permitted.

R-24 ORNAMENTAL METALS

This classification allows the licensee to install, alter, or repair non-structural ornamental metal, such as:

1. Metal folding gates
2. Guard and hand rails
3. Wrought iron fencing and gates
4. Window shutters and grilles
5. Room dividers and shields
6. Metal accessories common to the industry

This classification does not allow the licensee to install fire escapes or stairs.

R-31 MASONRY

This classification allows the licensee to grout, caulk, sand blast, tuckpoint, mortar wash, parge, clean and weld reinforcing steel as required for the licensee to install and repair:

1. Masonry
2. Brick
3. Concrete block
4. Insulating concrete forms
5. Adobe units
6. Stone
7. Marble
8. Slate
9. Mortar-free masonry products

R-34 PAINTING AND WALL COVERING

This classification allows the licensee to perform surface preparation to install, apply, and repair:

1. Wallpaper
2. Wall covering cloth
3. Wall covering vinyl
4. Decorative texture
5. Paint
6. Liquid floor and wall coatings

R-36 PLASTERING

This classification allows the licensee to install laths, metal studs, metal grid systems, or other bases as required for the licensee to coat surfaces by trowel or spray with combinations of:

1. Sand mixtures (e.g. stucco)
2. Gypsum plaster
3. Cement
4. Acoustical plaster
5. Swimming pool interiors (excluding tile)

R-37 PLUMBING, INCLUDING SOLAR

This classification allows the licensee to install ~~Installation~~ and repair ~~of~~ water and gas piping systems, fire protection as it relates to water sprinkler systems, and sewage treatment systems. Included are all fixtures, vents, and devices common to the industry, as well as solar applications. This scope includes all ~~C-37R~~ R-37R subclassifications.

R-37R	Plumbing
R-37R	Built-in Central Vacuum Systems
R-37R	Kitchen and Bathroom Fixture Refinishing
R-37R	Swimming Pool Plumbing and Equipment
R-37R	Gas Piping
R-37R	Sewers, Drains and Pipe Laying
R-37R	Solar Plumbing Liquid Systems Only

Upon the effective date of these rules, no new applications for the R-37R Built-in Central Vacuum Systems, Kitchen and Bathroom Fixture Refinishing, Swimming Pool Plumbing and Equipment, Gas Piping, Sewers, Drains and Pipe Laying, and Solar Plumbing Liquid Systems Only license classifications will be accepted and no new R-37R licenses in these classifications will be issued.

R-38 SIGNS

This classification allows the licensee to install and repair posts, poles, supports, paint, and electrical wiring as required for the licensee to install and repair:

1. Signs
2. Displays
3. Flagpoles

R-39 AIR CONDITIONING AND REFRIGERATION, INCLUDING SOLAR

This classification allows the licensee to install ~~Installation~~ and repair ~~of~~ comfort air conditioning systems, including refrigeration, evaporative cooling, ventilating, and heating with or without solar equipment. Installation and repair of machinery, units, accessories, refrigerator rooms, and insulated refrigerator spaces, and controls in refrigerators.

If necessary, a new circuit may be added to the existing service panel or sub-panel. Excluded is the installation of a new service panel or sub-panel. This scope includes all ~~C-39R~~ R-39R subclassifications.

R-39R	Air Conditioning and Refrigeration
~~R-39R~~	~~Gas Refrigeration~~

R-39R Temperature Control Systems

R-39R Warm Air Heating, Evaporative Cooling and Ventilating

R-39R Evaporative Cooling and Ventilators

~~R-39R Pre-Coolers~~

Upon the effective date of these rules, no new applications for the R-39R Gas Refrigeration, Temperature Control Systems, Warm Air Heating, Evaporative Cooling and Ventilating, Evaporative Cooling and Ventilators, and Pre-Coolers license classifications will be accepted and no new R-39R licenses in these classifications will be issued.

R-40 INSULATION

This classification allows the licensee to install and repair:

1. Insulation materials, including radiant barriers
2. Preformed architectural acoustical materials
3. Insulation protecting materials

R-41 SEPTIC TANKS AND SYSTEMS

This classification allows the licensee to excavate, install and repair pipe, backfill, and compact soil as required for the licensee to install and repair:

1. Septic tanks
2. Aerobic digesters
3. Leaching fields

R-42 ROOFING

This classification allows the licensee to apply, repair, or install weatherproofing (i.e. asphaltum, pitch, tar, felt, glass fabric, flax, or other commonly used materials or systems) or roof accessories (i.e. flashing, valleys, gravel stops, or sheet metal) as required for the licensee to install and repair:

1. Roof tile
2. Shingles
3. Shakes
4. Slate
5. Metal roofing systems
6. Urethane foam
7. Roof insulation or coatings on or above the roof deck

This classification allows the licensee to replace up to 10 percent of the total roof substrate square footage as it relates to issues with substrate discovered after execution of the initial contract. Replacing more than 10 percent of the roof substrate square footage as it relates to issues with substrate discovered after execution of the initial contract requires licensee to subcontract work to a properly licensed contractor.

This classification also allows the licensee to install new or replace existing skylights where it does not require changes to the roof framing or roof structure and replace fascia not to exceed 24 linear feet.

Licensee may lift HVAC equipment to allow for proper installation of roofing material. However, the licensee must subcontract work to a properly licensed contractor if HVAC equipment ducting requires any modification to allow for proper installation of roofing material.

R-45 SHEET METAL

This classification allows the licensee to install and repair:

1. Sheet metal
2. Cornices
3. Flashings
4. Gutters
5. Leaders
6. Pans
7. Kitchen equipment
8. Duct work
9. Skylights
10. Patented chimneys
11. Metal flues
12. Metal roofing systems

R-48 CERAMIC, PLASTIC AND METAL TILE

This classification allows the licensee to prepare a surface as required for the licensee to install and repair the following tile products on horizontal and vertical surfaces:

1. Ceramic
2. Clay
3. Faience
4. Metal
5. Mosaic

6. Glass mosaic
7. Paver
8. Plastic
9. Quarry and stone tiles such as marble or slate
10. Terrazzo

Installation of shower doors and tub enclosures are included when a part of the original contract.

R-53 DRILLING

This classification allows the licensee to install ~~Installation~~ and repair ~~of~~ wells, including test boring, exploratory drilling and all materials and devices common to the industry.

R-54 WATER CONDITIONING EQUIPMENT

This classification allows the licensee to perform trenching, backfilling, and grading; and install and repair piping, fittings, valves, concrete supports, and electrical control panels of less than 25 volts and required grounding devices; as required for the licensee to install and repair:

1. Water conditioning equipment
2. Misting systems
3. Exchange tanks
4. Indirect waste pipe carrying brine, backwash and rinse water to the point of disposal

R-56 WELDING

This classification allows the licensee to weld metals.

R-57 WRECKING

This classification allows the licensee to install and repair temporary ramps, barricades, and pedestrian walkways as required for the licensee to demolish, dismantle, or remove structures not intended for reuse.

This classification does not allow the licensee to use explosives.

R-60 FINISH CARPENTRY

This classification allows the licensee to install and repair millwork such as:

1. Cabinets
2. Counter tops
3. Case sash
4. Door trim
5. Metal doors
6. Automatic door closers
7. Wood flooring

R-61 CARPENTRY, REMODELING AND REPAIRS

For projects of $50,000 or less including labor and materials, this classification allows the licensee to perform all general remodeling, additions, replacements, and repairs to existing structures.

Work related to electrical, plumbing, air conditioning systems, and boilers must be subcontracted to an appropriately licensed contractor.

R-62 MINOR HOME IMPROVEMENTS

For projects of $5,000 or less including labor and materials, this classification allows the licensee to perform remodeling ~~Remodeling~~, repairs, and improvements to existing structures or appurtenances ~~not to exceed $5,000 for labor and materials per project per dwelling or appurtenance~~. The minor home improvement contractor shall not perform structural work to any existing structures or appurtenances, including load bearing masonry or concrete work (with the exception of on-grade flat work), and load bearing carpentry work (with the exception of patio or porch covers). ~~All electrical, plumbing, air conditioning, heating, boiler, and roofing work shall be performed by an appropriately licensed contractor.~~

Any work related to electrical, plumbing, air conditioning systems, and boilers must be subcontracted to an appropriately licensed contractor.

R-63 APPLIANCES

This classification allows the licensee to install and repair appliances.

This classification does not allow the licensee to install or repair gas, electrical, or plumbing lines.

R-65 GLAZING

This classification allows the licensee to install and repair weatherproofing, caulking, sealants, and adhesives as required for the licensee to assemble, install and repair:

1. Glass products
2. Window film
3. Window treatments, such as blinds or shutters
4. Steel and aluminum glass holding members

R-67 LOW VOLTAGE COMMUNICATION SYSTEMS

This classification allows the licensee to build antenna towers on existing structures as required for the licensee to install, service and repair:

1. Alarm systems
2. Telephone systems
3. Sound systems
4. Intercommunication systems
5. Public addressing systems
6. Television or video systems
7. Low voltage signaling devices
8. Low voltage landscape lighting that does not exceed 91 volts
9. Master and program clocks (only low voltage wiring and needed equipment)

R-70 REINFORCING BAR AND WIRE MESH

This classification allows the licensee to install and repair:

1. Reinforcing bar
2. Post-tension
3. Wire mesh

R4-9-104. Dual Contractor License Classifications and Scopes of Work

A. Dual license contracting classifications. License classifications for dual contractors are as follows:

GENERAL DUAL ENGINEERING CONTRACTING

KA- No Change

KA-5 No Change

KA-6 No Change

KE- (As restricted by Registrar)

GENERAL DUAL LICENSE CONTRACTING

KB-1 No Change

KB-2 No Change

KO- No Change

SPECIALTY DUAL LICENSE CONTRACTING

CR-1 No Change

CR-2 No Change

CR-3 No Change

CR-4 No Change

CR-5 No Change

CR-6 No Change

CR-7 No Change

CR-8 No Change

CR-9 No Change

CR-10 No Change

CR-11 No Change

CR-12 No Change

CR-14 No Change

CR-15 No Change

CR-16 No Change

CR-17 No Change

CR-21 ~~Landscaping~~ HARDSCAPING and Irrigation Systems

CR-24 No Change

CR-29 No Change

CR-31 No Change

CR-34 No Change

CR-36 No Change

CR-37 No Change

CR-38 No Change

CR-39 No Change

CR-40 No Change

CR-41 No Change

CR-42 No Change

CR-45 No Change

CR-48 No Change

CR-53 No Change

CR-54 No Change

CR-56 No Change

CR-57 No Change

CR-58 No Change

CR-60 No Change

CR-61 No Change

~~CR-62 Reinforcing Bar and Wire Mesh~~

CR-63 No Change

CR-65 No Change

CR-66 No Change

CR-67 No Change

CR-69 No Change

CR-70 Reinforcing Bar and Wire Mesh

CR-74 No Change

CR-77 No Change

CR-78 No Change

CR-79 No Change

CR-80 No Change

B. Dual license contracting scopes. The scope of work which may be done under the dual license contracting classifications allow a contractor to combine commercial and residential contracting licenses in one license. These classifications are as follows:

KA- DUAL ENGINEERING

This classification allows the scopes ~~scope~~ of work permitted by the commercial A- General Engineering and the B-4 General Residential Engineering licenses.

KA-5 DUAL SWIMMING POOL CONTRACTOR

This classification allows the scopes ~~scope~~ of work permitted by the commercial A-9 Swimming Pools and the residential B-5 General Swimming Pool licenses.

KA-6 DUAL SWIMMING POOL CONTRACTOR, INCLUDING SOLAR

This classification allows the scopes ~~scope~~ of work permitted by the commercial A-19 Swimming Pools, Including Solar and the residential B-6 General Swimming Pools, Including Solar licenses.

KE- (AS RESTRICTED BY REGISTRAR)

No Change

KB-1 DUAL BUILDING CONTRACTOR

This classification allows the scopes ~~scope~~ of work permitted by the B-1 General Commercial Contractor and the B- General Residential Contractor licenses.

KB-2 DUAL RESIDENTIAL AND SMALL COMMERCIAL

This classification allows the scopes ~~scope~~ of work permitted by the B-2 General Small Commercial and the B- General Residential Contractor licenses.

KO- (AS RESTRICTED BY REGISTRAR)

No Change

CR-1 ACOUSTICAL SYSTEMS

~~This classification allows the licensee to install or repair pre-manufactured acoustical ceiling and wall systems.~~

~~This classification does not allow the licensee to install or repair electrical or mechanical systems.~~

This classification allows the scopes of work permitted by the commercial C-1 Acoustical Systems and the residential R-1 Acoustical Systems licenses.

CR-2 EXCAVATING, GRADING AND OIL SURFACING

This classification allows the scopes ~~scope~~ of work permitted by the commercial A-5 Excavating, Grading, and Oil Surfacing and the residential R-2 Excavating, Grading, and Oil Surfacing licenses.

CR-3 AWNINGS, CANOPIES, CARPORTS AND PATIO COVERS

~~This classification allows the licensee to place concrete footings and concrete slabs as required for the licensee to install or repair:~~

~~1. Window awnings~~

~~2. Door hoods~~

~~3. Freestanding or attached canopies~~

~~4. Carport and patio covers constructed of metal, fabric, fiberglass, or plastic~~

~~5. Screened and paneled enclosures, which are not intended for use as habitable spaces, using metal panels, plastic inserts, and screen doors. A minimum of 60% of the wall area of an enclosure shall be constructed of screening material.~~

~~6. Fascia panels~~

~~7. Flashing and skirting~~

~~8. Exterior, detached metal storage units~~

~~This classification does not allow the licensee to install or repair electrical, plumbing, or air conditioning systems.~~

This classification allows the scopes of work permitted by the commercial C-3 Awnings, Canopies, Carports and Patio Covers and the residential R-3 Awnings, Canopies, Carports and Patio Covers licenses.

CR-4 BOILERS, STEAMFITTING AND PROCESS PIPING

This classification allows the scopes ~~scope~~ of work permitted by the commercial C-4 Boilers, Steamfitting and Process Piping and the residential ~~R-4 Boilers~~ R-4 Boilers, Steamfitting and Process Piping licenses.

CR-5 (AS RESTRICTED BY REGISTRAR)

No Change

CR-6 SWIMMING POOL SERVICE AND REPAIR

This classification allows the scopes ~~scope~~ of work permitted by the commercial C-6 Swimming Pool Service and Repair and the residential R-6 Swimming Pool Service and Repair licenses.

CR-7 CARPENTRY

~~This classification allows the licensee to install or repair:~~

~~1. Rough carpentry~~
~~2. Finish carpentry~~
~~3. Hardware~~
~~4. Millwork~~
~~5. Metal studs~~
~~6. Metal doors or door frames~~

This classification allows the scopes of work permitted by the commercial C-7 Carpentry and the residential R-7 Carpentry licenses.

CR-8 FLOOR COVERING

~~This classification allows the licensee to prepare a surface as required for the licensee to install or repair the following floor covering materials:~~

~~1. Carpet~~
~~2. Floor tile~~
~~3. Wood~~
~~4. Linoleum~~
~~5. Vinyl~~
~~6. Asphalt~~
~~7. Rubber~~
~~8. Concrete coatings~~

This classification allows the scopes of work permitted by the commercial C-8 Floor Covering and the residential R-8 Floor Covering licenses.

CR-9 CONCRETE

This classification allows the scopes ~~scope~~ of work permitted by the commercial C-9 Concrete and the residential R-9 Concrete licenses.

CR-10 DRYWALL

~~This classification allows the licensee to install or repair:~~

~~1. Gypsum wall board~~

~~2. Ceiling grid systems as supporting members for gypsum drywall~~
~~3. Movable partitions~~
~~4. Wall board tape and texture~~
~~5. Non-load bearing, lightweight, steel wall partitions~~

This classification allows the scopes of work permitted by the commercial C-10 Drywall and the residential R-10 Drywall licenses.

CR-11 ELECTRICAL

This classification allows the scopes ~~scope~~ of work permitted by the commercial C-11 Electrical and residential R-11 Electrical licenses.

CR-12 ELEVATORS

~~This classification allows the licensee to install or repair:~~

~~1. Elevators~~
~~2. Dumbwaiters~~
~~3. Escalators~~
~~4. Moving walks and ramps~~
~~5. Stage and orchestra lifts~~

This classification allows the scopes of work permitted by the commercial C-12 Elevators and the residential R-12 Elevators licenses.

CR-14 FENCING

~~This classification allows the licensee to install or repair:~~

~~1. Metal, wood, and cement block fencing~~
~~2. Automatic gates~~
~~3. Fire access strobes~~
~~4. Highway guard rails~~
~~5. Cattle guards~~
~~6. Low voltage U.L. approved electrical fence protective devices of less than 25 volts and 100 watts~~

~~This classification does not allow the licensee to install or repair retaining walls.~~

This classification allows the scopes of work permitted by the commercial C-14 Fencing and the residential R-14 Fencing licenses.

CR-15 BLASTING

~~This classification allows the licensee to drill, bore, move earth, and build temporary shelters or barricades, as required for the licensee's use of explosives and explosive devices for:~~

~~1. Excavation~~
~~2. Demolition~~
~~3. Geological exploration~~
~~4. Mining~~
~~5. Construction related blasting~~

This classification allows the scopes of work permitted by the commercial C-15 Blasting and the residential R-15 Blasting licenses.

CR-16 FIRE PROTECTION SYSTEMS

This classification allows the scopes ~~scope~~ of work permitted by the commercial C-16 Fire Protection Systems and the residential R-16 Fire Protection licenses.

CR-17 STEEL AND ALUMINUM ERECTION

This classification allows the scopes ~~scope~~ of work permitted by the commercial A-11 Steel and Aluminum Erection and the residential R-17 Structural Steel and Aluminum licenses.

CR-21 ~~LANDSCAPING~~ HARDSCAPING AND IRRIGATION SYSTEMS

~~This classification allows the licensee to treat, condition, prepare, and install:~~

~~1. Topsoil~~
~~2. Plants and decorative vegetation~~
~~3. Non-loadbearing concrete~~
~~4. Uncovered patios, walkways, driveways made of brick, stone, pavers or gravel~~
~~5. Wooden decks no higher than 29 inches above finish grade~~
~~6. Decorative garden walls up to six feet from finish grade~~
~~7. Fences and screens up to six feet from finish grade~~
~~8. Retaining walls up to three feet from the finish grade of the lower elevation~~
~~9. Wood-burning fire pit no higher than 16 inches above finish grade~~
~~10. Low voltage landscape lighting~~

~~11. Water features that are not attached to swimming pools; including any necessary: electrical wiring of 120 volts or less, connection to potable water lines, backflow prevention devices, hose bibs, excavating, trenching, boring, backfilling, or grading~~

~~12. Irrigation systems, including any necessary: electrical wiring of 120 volts or less, connection to potable water lines, backflow prevention devices, hose bibs, excavating, trenching, boring, backfilling, or grading~~

~~This classification does not allow the licensee to install, contract for, or subcontract new electrical service panels, gas or plumbing lines, blasting, outdoor kitchens, gazebos, room additions, swimming pools, pool deck coatings, barbeques, concrete driveways, load bearing walls, or perimeter fencing.~~

This classification allows the scopes of work permitted by the commercial C-21 Hardscaping and Irrigation Systems and the residential R-21 Hardscaping and Irrigation Systems licenses.

Upon the effective date of these rules, existing CR-21 Landscaping and Irrigation Systems licenses will be reclassified as CR-21 Hardscaping and Irrigation Systems.

CR-24 ORNAMENTAL METALS

~~This classification allows the licensee to fabricate, install, or repair non-structural ornamental metal, such as:~~

~~1. Metal folding gates~~
~~2. Guard and hand rails~~
~~3. Wrought iron fencing and gates~~
~~4. Window shutters and grilles~~
~~5. Room dividers and shields~~
~~6. Metal accessories common to the industry~~

~~This classification does not allow the licensee to install fire escapes and stairs.~~

This classification allows the scopes of work permitted by the commercial C-24 Ornamental Metals and the residential R-24 Ornamental Metals licenses.

CR-29 MACHINERY (AS RESTRICTED BY THE REGISTRAR)

CR-31 MASONRY

~~This classification allows the licensee to grout, caulk, sand blast, tuckpoint, mortar wash, parge, clean and weld reinforcing steel as required for the licensee to install or repair:~~

~~1. Masonry~~
~~2. Brick~~
~~3. Concrete block~~
~~4. Insulating concrete forms~~
~~5. Adobe units~~
~~6. Stone~~
~~7. Marble~~
~~8. Slate~~
~~9. Mortar-free masonry products~~

This classification allows the scopes of work permitted by the commercial C-31 Masonry and the residential R-31 Masonry licenses.

CR-34 PAINTING AND WALL COVERING

~~This classification allows the licensee to perform surface preparation, caulking, drywall patching, drywall taping, sanding, and cleaning as required for the licensee to install, apply or repair:~~

~~1. Wallpaper~~
~~2. Wall covering cloth~~
~~3. Wall covering vinyl~~
~~4. Decorative texture~~
~~5. Paint~~

This classification allows the scopes of work permitted by the commercial C-34 Painting and Wall Covering and the residential R-34 Painting and Wall Covering licenses.

CR-36 PLASTERING

~~This classification allows the licensee to install laths, metal studs, metal grid systems, or other bases as required for the licensee to coat surfaces by trowel or spray with combinations of:~~

~~1. Sand mixtures (e.g. stucco)~~
~~2. Gypsum plaster~~
~~3. Cement~~
~~4. Acoustical plaster~~
~~5. Swimming pool interiors (excluding tile)~~

This classification allows the scopes of work permitted by the commercial C-36 Plastering and the residential R-36 Plastering licenses.

CR-37 PLUMBING

This classification allows the scopes ~~scope~~ of work permitted by the commercial C-37 Plumbing and the residential R-37R Plumbing licenses.

CR-38 SIGNS

~~This classification allows the licensee to install or repair posts, poles, supports, paint, and electrical wiring as required for the licensee to fabricate, install or repair:~~

~~1. Signs~~
~~2. Displays~~
~~3. Flagpoles~~

This classification allows the scopes of work permitted by the commercial C-38 Signs and the residential R-38 Signs licenses.

CR-39 AIR CONDITIONING AND REFRIGERATION

This classification allows the scopes ~~scope~~ of work permitted by the commercial C-39 Air Conditioning and Refrigeration and the residential R-39R Air Conditioning and Refrigeration licenses.

CR-40 INSULATION

~~This classification allows the licensee to install supports, fastening systems, adhesives, mastics, or plastics as required for the licensee to install or repair:~~

~~1. Insulation materials~~
~~2. Preformed architectural acoustical materials~~
~~3. Insulation protecting materials~~

This classification allows the scopes of work permitted by the commercial C-40 Insulation and the residential R-40 Insulation licenses.

CR-41 SEPTIC TANKS AND SYSTEMS

~~This classification allows the licensee to excavate, install or repair pipe, backfill, and compact soil as required for the licensee to install or repair:~~

~~1. Septic tanks~~
~~2. Aerobic digesters~~
~~3. Leaching fields~~

This classification allows the scopes of work permitted by the commercial C-56 Welding and the residential R-56 Welding licenses.

CR-42 ROOFING

~~This classification allows the licensee to apply or install weatherproofing (i.e. asphaltum, pitch, tar, felt, glass fabric, or flax) or roof accessories (i.e. flashing, valleys, gravel stops, or sheet metal) as required for the licensee to install or repair:~~

~~1. Roof tile~~
~~2. Shingles~~
3. Shakes
~~4. Slate~~
~~5. Metal roofing systems~~
~~6. Urethane foam~~
~~7. Roof insulation or coatings on or above the roof deck~~

~~This classification allows the licensee to replace up to three sheets (96 square feet) of plywood on the roof substrate; and install new or replace existing skylights where it does not require changes to the roof framing or roof structure.~~

This classification allows the scopes of work permitted by the commercial C-42 Roofing and the residential R-42 Roofing licenses.

CR-45 SHEET METAL

~~This classification allows the licensee to cut, fabricate, install or repair:~~

~~1. Sheet metal~~
~~2. Cornices~~
~~3. Flashings~~
~~4. Gutters~~
~~5. Leaders~~
~~6. Pans~~
~~7. Kitchen equipment~~
~~8. Duct work~~
~~9. Skylights~~
~~10. Patented chimneys~~
~~11. Metal flues~~
~~12. Metal roofing systems~~

This classification allows the scopes of work permitted by the commercial C-45 Sheet Metal and the residential R-45 Sheet Metal licenses.

CR-48 CERAMIC, PLASTIC AND METAL TILE

~~This classification allows the licensee to prepare a surface as required for the licensee to install or repair the following tile products on horizontal and vertical surfaces:~~

~~1. Ceramic~~
~~2. Clay~~
~~3. Faience~~
~~4. Metal~~
~~5. Mosaic~~
~~6. Glass mosaic~~
~~7. Paver~~
~~8. Plastic~~
~~9. Quarry~~
~~10. Stone tiles such as marble or slate~~
~~11. Terrazzo~~

~~Installation of shower doors and tub enclosures are included when a part of the original contract.~~

This classification allows the scopes of work permitted by the commercial C-48 Ceramic, Plastic and Metal Tile and the residential R-48 Ceramic, Plastic and Metal Tile licenses.

CR-53 WATER WELL DRILLING

This classification allows the scopes ~~scope~~ of work permitted by the commercial C-53 Water Well Drilling and the residential R-53 Drilling licenses.

CR-54 WATER CONDITIONING EQUIPMENT

~~This classification allows the licensee to perform trenching, backfilling, and grading; and install and repair piping, fittings, valves, concrete supports, and electrical control panels of less than 25 volts and required grounding devices; as required for the licensee to install or repair:~~

~~1. Water conditioning equipment~~
~~2. Misting systems~~
~~3. Exchange tanks~~
~~4. Indirect waste pipe carrying brine, backwash and rinse water to the point of disposal~~

This classification allows the scopes of work permitted by the commercial C-54 Water Conditioning Equipment and the residential R-54 Water Conditioning Equipment licenses.

CR-56 WELDING

~~This classification allows the licensee to weld metals.~~

This classification allows the scopes of work permitted by the commercial C-56 Welding and the residential R-56 Welding licenses.

CR-57 WRECKING

~~This classification allows the licensee to install or repair temporary ramps, barricades, and pedestrian walkways as required for the licensee to demolish, dismantle, or remove structures not intended for reuse. This classification does not allow the licensee to use explosives.~~

This classification allows the scopes of work permitted by the commercial C-57 Wrecking and the residential R-57 Wrecking licenses.

CR-58 COMFORT HEATING, VENTILATING, EVAPORATIVE COOLING

This classification allows the scopes ~~scope~~ of work permitted by the commercial C-58 Comfort Heating, Ventilating, Evaporative Cooling and the residential R-39R Warm Air Heating, Evaporative Cooling, and Ventilating licenses.

CR-60 FINISH CARPENTRY

~~This classification allows the licensee to install or repair millwork such as:~~

~~1. Cabinets~~
~~2. Counter tops~~
~~3. Case sash~~
~~4. Door trim~~
~~5. Metal doors~~
~~6. Automatic door closers~~
~~7. Wood flooring~~

This classification allows the scopes of work permitted by the commercial C-60 Finish Carpentry and the residential R-60 Finish Carpentry licenses.

CR-61 CARPENTRY, REMODELING AND REPAIRS

~~For projects of $50,000 or less, this classification allows the licensee, on existing structures, to install or repair:~~

~~1. Rough carpentry~~
~~2. Finish carpentry~~
~~3. Roofing~~
~~4. Hardware~~
~~5. Millwork~~

~~6. Metal studs~~
~~7. Metal doors or door frames~~

~~Work related to electrical, plumbing, air conditioning systems, boilers, swimming pools, spas and water wells must be subcontracted to an appropriately licensed contractor.~~

This classification allows the scopes of work permitted by the commercial C-61 Carpentry, remodeling and Repairs and the residential R-61 Carpentry, remodeling and Repairs licenses.

CR-62 REINFORCING BAR AND WIRE MESH

~~This classification allows the licensee to install or repair:~~

~~1. Reinforcing bar~~
~~2. Post-tension~~
~~3. Wire mesh~~

Upon the effective date of these rules, no new applications for the CR-62 Reinforcing Bar and Wire Mesh license classifications will be accepted, no new CR-62 licenses will be issued, and existing CR-62 licenses will be reclassified as CR-70 Reinforcing Bar and Wire Mesh.

CR-63 APPLIANCES

~~This classification allows the licensee to install and repair appliances. This classification does not allow the licensee to install or repair gas, electrical, or plumbing lines.~~

This classification allows the scopes of work permitted by the commercial C-63 Appliances and the residential R-63 Appliances licenses.

CR-65 GLAZING

~~This classification allows the licensee to install or repair weatherproofing, caulking, sealants, and adhesives as required for the licensee to assemble, install or repair:~~

~~1. Glass products~~
~~2. Window film~~
~~3. Window treatments~~
~~4. Steel and aluminum glass holding members~~

This classification allows the scopes of work permitted by the commercial C-65 Glazing and the residential R-65 Glazing licenses.

CR-66 SEAL COATING

This classification allows the scopes ~~scope~~ of work permitted by the commercial A-15 Seal Coating and the residential R-13 Asphalt Paving licenses.

CR-67 LOW VOLTAGE COMMUNICATION SYSTEMS

~~This classification allows the licensee to build antenna towers on existing structures as required for the licensee to install, service or repair:~~

~~1. Alarm systems~~
~~2. Telephone systems~~
~~3. Sound systems~~
~~4. Intercommunication systems~~
~~5. Public addressing systems~~
~~6. Television or video systems~~
~~7. Low voltage signaling devices~~
~~8. Low voltage landscape lighting that does not exceed 91 volts~~
~~9. Master and program clocks (only low voltage wiring and needed equipment)~~

This classification allows the scopes of work permitted by the commercial C-67 Low Voltage Communication Systems and the residential R-67 Low Voltage Communication Systems licenses.

CR-69 ASPHALT PAVING

This classification allows the scopes ~~scope~~ of work permitted by the commercial A-14 Asphalt Paving and the residential R-13 Asphalt Paving licenses.

CR-70 REINFORCING BAR AND WIRE MESH

This classification allows the scope of work permitted by the commercial C-70 Reinforcing Bar and Wire Mesh and the residential R-70 Reinforcing Bar and Wire Mesh licenses.

CR-74 BOILERS, STEAMFITTING AND PROCESS PIPING, INCLUDING SOLAR

This classification allows the scopes ~~scope~~ of work permitted by the commercial C-74 Boilers, Steamfitting and Process Piping, Including Solar and the residential R-4 Boilers Including Solar licenses.

CR-77 PLUMBING INCLUDING SOLAR

This classification allows the scopes ~~scope~~ of work permitted by the commercial C-77 Plumbing Including Solar and the residential R-37 Plumbing, Including Solar licenses.

CR-78 SOLAR PLUMBING LIQUID SYSTEMS ONLY

This classification allows the scopes ~~scope~~ of work permitted by the commercial C-78 Solar Plumbing Liquid Systems Only and the residential R-37R Solar Plumbing Liquid Systems Only licenses.

CR-79 AIR CONDITIONING AND REFRIGERATION INCLUDING SOLAR

This classification allows the scopes ~~scope~~ of work permitted by the commercial C-79 Air Conditioning and Refrigeration Including Solar and the residential R-39 Air Conditioning and Refrigeration Including Solar licenses.

CR-80 SEWERS, DRAINS AND PIPE LAYING

This classification allows the scopes ~~scope~~ of work permitted by the commercial A-12 Sewers, Drains, and Pipe Laying and the residential R-37R Sewers, Drains and Pipe Laying licenses.

R4-9-106. Examinations

~~**A.** Examinations are given weekly or more often as prescribed by the Registrar or the contracted vendor.~~

~~**B.** The applicant's qualifying party must take and pass the appropriate examination with a passing grade of at least 70% for each examination taken.~~

~~**C.** A person is allowed to retake a failed examination subject to the following limitations:~~

~~1. Waiting 30 calendar days after a first failed attempt,~~

~~2. Waiting 30 calendar days after a second failed attempt, and~~

~~3. Waiting 180 calendar days after the third and any subsequent failed attempts.~~

~~**D.** Pursuant to A.R.S. §§ 32-1122(A)(4) and 32-1122(F) the Registrar may decide a trade exam is not required where the qualifying party has been the qualifying party within the preceding five years for a license in good standing in the same classification in this state, or a classification the Registrar deems comparable in another state.~~

A. **Definitions.**

1. *Business Management Examination*. The term "business management examination" means the examination required in A.R.S. § 32-1122(F)(2) addressing the qualifying party's general knowledge of the contracting business in Arizona. The business management examination addresses the qualifying party's general knowledge of:
   a. the building, safety, health, and lien laws of the state;
   b. administrative principles of the contracting business;
   c. the rules adopted by the Registrar; and
   d. any other matters deemed appropriate by the Registrar to determine that the qualifying party meets the requirements of Chapter 10, Title 32.
2. *Trade Examination*. The term "trade examination" means the examination required in A.R.S. § 32-1122(F)(2) addressing the qualifying party's knowledge of the particular kind of work performed in the license classification. The trade examination addresses the qualifying party's:
   a. qualification in the kind of work for which the applicant proposes to contract;
   b. knowledge and understanding of construction plans and specifications applicable to the particular industry or craft;
   c. knowledge and understanding of the standards of construction work and techniques and practices in the particular industry or craft;
   d. general understanding of other related construction trades; and
   e. any other matters deemed appropriate by the Registrar to determine that the qualifying party meets the requirements of Chapter 10, Title 32.

B. **Frequency of Examinations.** The Registrar, or a contracted private testing service, must administer business examinations and trade examinations at least once a week.

C. **Passing Grade.** On each required examination, the qualifying party must receive a grade of at least 70%.

D. **Retaking Examinations after Failure.** If the qualifying party fails to receive a grade of at least 70% on an examination, the qualifying party may retake the examination only after waiting:
   1. 30 calendar days from the first failure;
   2. 30 calendar days from the second failure; and
   3. 180 days from any other failure.

E. Waiver of the Trade Examination Requirement in A.R.S. § 32-1122.

1. Waiver of Trade Examination Requirement for a Qualifying Party from Another State.
   a. *Authority for Waiver.* In addition to the Registrar's authority in A.R.S. § 32-1122(F) to waive the examination requirement for a qualifying party in this state, the Registrar may waive the trade examination requirement for the qualifying party for a licensee in another state.
   b. *Conditions for Waiver.* The Registrar may waive the trade examination requirement if records reflect that the qualifying party is currently or has previously been a qualifying party for a licensee in the other state in the same classification, or in a comparable classification, within the preceding five years.

2. Extent of Waiver of Trade Examination Requirement for Any Qualifying Party.
   a. *Waiver of Trade Examination Permitted.* The Registrar may waive the trade examination requirement with respect to the trade examination if:
      1. A qualifying party for a license in this state meets the conditions for waiver in A.R.S. § 32-1122(F); or
      2. A qualifying party for a license in another state meets the conditions for waiver in Section (E)(1) of this Rule.

R4-9-108. Minimum ~~Construction~~ Workmanship Standards

A. A contractor shall perform all work in a professional and workmanlike manner.

B. A contractor shall perform all work in accordance with any applicable building codes and professional industry standards. For work to be performed in accordance with professional industry standards, a contractor shall use such skills, prudence, and diligence in performing and completing tasks undertaken that the completed work meets the standards of a similarly licensed contractor possessing ordinary skill and capacity.

C. All work performed by a contractor in a county, city, or town that has not adopted building codes or where any adopted building codes do not contain specific provisions applicable to that aspect of construction work shall be performed in accordance with professional industry standards.

R4-9-109. Name of Licensee or Applicant

~~**A.** A licensee shall do business under the name on the license issued and ensure that the same name is used on the license bond.~~

~~**B.** If a corporation is doing business in the name of a division or using a trade name, the corporation shall ensure that all names are shown on any application.~~

~~**C.** If applying for a license or a name change, a corporation shall submit written evidence that it is in good standing or that the new name has been filed with the Arizona Corporation Commission.~~

~~**D.** The Registrar shall grant a request for name change if there is no change in the legal entity, the name is available, and the request is submitted in writing, together with the required license fee and a cash deposit or bond rider that reflects the name change.~~

~~**E.** The Registrar may elect to reject an application, refuse to issue a license, or deny the name change of an existing license, based on a review of whether the proposed name is identical or so similar to that of an existing licensee or license applicant that it may cause confusion.~~

~~**F.** The Registrar shall not accept an application or issue a license if it contains the name of a building trade or craft for which the contractor is not qualified.~~

A. **Definitions.**

1. *Official Name of Record.* The term "official name of record" means either:
   a. The name of the licensee on file at the Arizona Corporation Commission, if the licensee is a corporation or a limited liability company;
   b. The name of the licensee on file at the Secretary of State's Office, if the licensee is a partnership; or
   c. The name of the licensee on a government-issued identification card, if the licensee is an individual operating as a sole proprietorship.
2. *Trade Name and DBA.* The terms "trade name" and "DBA" each mean the name in which the licensee actually does business as a contractor.

B. **General Rules about the Licensee's Name.**

1. *Names on a License.* On any license issued by the Registrar, the Registrar must include:
   a. The licensee's official name of record, and
   b. Any trade name used with that license.
2. *Name on the Bond.* Every name on the licensee's license must be on the license bond exactly as it appears on the license.
3. *Licensee's Name and the License Scope.* Neither a licensee's official name of record nor its trade name may include, reference, or suggest a scope of work that is not included in the scope of the license issued by the Registrar. This prohibition does not apply if:
   a. The licensee holds a separate license with a scope that is included, referenced, or suggested by the licensee's name; or
   b. The licensee:
      1. Does not use the official name of record to do business as a contractor, and
      2. Uses instead a trade name that does not include, reference, or suggest a scope of work that is not included in the scope of the license.
4. *Conducting Business Using a Name on the License.* Any time a licensee conducts business in Arizona as a contractor, the licensee must conduct that business using either the official name of record or the trade name on the license issued by the Registrar.

C. **Rules about the Licensee's Name at the Time of a License Application.**

1. *Evidence of Official Name of Record.* When applying for a license, the applicant must provide the Registrar with satisfactory evidence of the applicant's official name of record.
2. *Applicant's Name as Basis for Denial.* The Registrar may deny an application for a license if:
   a. The issued license would violate this Rule; or
   b. Conducting business as a contractor using any name on the license would, under A.R.S. § 32-1154(A)(15), constitute any false, misleading, or deceptive advertising whereby any member of the public may be misled and injured.

D. **Rules about the Licensee's Request to Change Its Name on a License.** If a licensee requests in writing that the Registrar change one or more names on a license, the Registrar must grant the request if:

1. There has been no change in the legal form of the licensee;
2. There has been no change in the ownership of the licensee;
3. The licensee provides a bond rider;
4. Every requested name is printed on the bond rider exactly;

5. The licensee provides the fee for the name change; and
6. The requested name does not violate this Rule or any provision in Chapter 10, Title 32.

R4-9-111. ~~Repealed~~ Opting Out of Dual License Classifications

Unless prohibited by another rule, if a contractor holds a dual license, then that contractor may, at the time of the license's renewal, choose:

1. To retain the dual license;
2. To designate the license as commercial; or,
3. To designate the license as residential.

If a license is designated as either commercial or residential under this Rule, that designation is permanent.

R4-9-113. Application Process

~~**A.** In accordance with the provisions of A.R.S. § 32-1122 an applicant for licensure shall submit a verified application on form prescribed by the Registrar of Contractors.~~

~~**B.** For the purposes of A.R.S. § 41-1073, the Registrar establishes the following time-frames for the issuance of a contractor license.~~

~~1. Administrative completeness review time-frame: 40 calendar days~~

~~2. Substantive review time-frame: 20 calendar days~~

~~3. Overall agency time-frame: 60 calendar days~~

~~**C.** During the administrative completeness review time-frame the Registrar shall review an application for administrative completeness and either issue the license or mail a written notice of completeness or deficiencies within 40 days from the date of receipt. If deficiencies are found in the application, the Registrar shall mail the applicant a written notice containing a comprehensive list of the specific deficiencies. The 40-day time-frame for the Registrar to finish the review for completeness shall be suspended from the date the notice of deficiencies is mailed until the Registrar receives all requested information.~~

~~**D.** During the substantive review time-frame the Registrar shall complete a substantive review of the applicant's qualifications and grant, deny, or mail a final comprehensive notice of deficiencies within 20 days after expiration of the administrative completeness review time-frame.~~

~~If the Registrar finds deficiencies during the substantive review of the application, the Registrar shall mail one final comprehensive request for additional information to the applicant. The 20-day time-frame for the Registrar to finish the substantive review shall be suspended from the date the request for additional information is mailed until the Registrar receives all requested information.~~

~~**E.** Compliance with the administrative completeness review, substantive review and overall time-frames:~~

~~1. By mutual agreement, an applicant and the Registrar may agree to extend the substantive review and overall time-frames by 15 calendar days.~~

~~2. The Registrar may return an application if it does not receive the information it requests during the administrative completeness review or substantive review periods within 30 calendar days from the date the registrar mailed the request for additional information. The return of a license application shall result in the forfeiture of the application fee, but all other license fees shall be returned to the applicant. An applicant shall pay an application fee each time it submits a returned license application.~~

~~**F.** For the purpose of this Section, 1st-class mail sent to the address on the application shall serve as legal notice.~~

~~**G.** In computing any period of time prescribed or allowed by this Section, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday.~~

~~**H.** Notwithstanding any provisions of this Section the applicant may apply to the Registrar in writing to withdraw a license application. The withdrawal of a license application shall result in the forfeiture of the application processing fee, but all other license fees shall be returned to the applicant.~~

A. **Time Frames for New Licenses.**

1. **Overall Time Frame for Issuing New Licenses.** When deciding whether to grant or deny a new contractor's license, the Registrar must operate within an overall time frame of 60 calendar days.
2. **Administrative Completeness Review Time Frame.** During the overall time frame of 60 calendar days, the Registrar must perform the administrative completeness review within 20 days.
3. **Substantive Review Time Frame.** During the overall time frame of 60 calendar days, the Registrar must perform the substantive review within 40 days.

B. **Return of License Application.**

1. **Registrar's Right to Return Application.** The Registrar may return an application if the Registrar:
   a. Issues either:
      1. A written notice of deficiencies under A.R.S. § 41-1074; or
      2. A comprehensive written request for additional information under A.R.S. § 41-1075; and
   b. Does not receive within 30 calendar days information sufficiently responsive to either the notice or the request.
2. **Consequences for Fees.** If the Registrar returns an application, then:
   a. The applicant forfeits the application fee; but
   b. The Registrar must return all other license fees.
3. **Resubmission Requires New Fee.** If the applicant resubmits a license application that has been returned, then the applicant must pay a new application fee.

C. **Withdrawal of the License Application.**

1. **Applicant's Right to Withdraw.** An applicant may withdraw its license application at any time.
2. **Written Request.** The applicant's request for withdrawal must be in writing.
3. **Consequences for Fees.** If the applicant withdraws its application, then:
   a. The applicant forfeits the application fee; but
   b. The Registrar must return all other license fees.

R4-9-115. Posting

~~**A.** The Registrar shall not issue a license until expiration of the posting period in A.R.S. § 32-1104(C).~~

~~**B.** The Registrar may waive part of the posting period for applicants and personnel of applicants who have previously undergone the 20-day posting period.~~

~~**C.** The Registrar may increase the posting period beyond 20 days, but no more than 60 days for applicants who have been on a license that was disciplined.~~

~~**D.** Posting shall be done on the Registrar's web site.~~

A. **Expiration of Posting Period.** The Registrar cannot issue a license until the posting period required by A.R.S. § 32-1104(C) expires, unless the Registrar waives the requirement as provided in that statute or in this Rule.

B. **Additional Waiver.** In addition to the waiver permitted in A.R.S. § 32-1104(C) for the applicant and the qualifying party, the Registrar may also waive part of the posting period if all other personnel named on the application for the license have previously been posted for some other license.

C. **Website Publication.** The Registrar may satisfy the posting requirement in A.R.S. § 32-1104(C) by publication on the Registrar's website.

R4-9-117. Prior Record

~~In any disciplinary proceeding the Administrative Law Judge and the Registrar may consider the licensee's entire license file including the record of prior warning letters, complaints, cease and desist orders, citations and final administrative decisions or orders, or both.~~

In determining the appropriate discipline for a licensed contractor, the Administrative Law Judge and the Registrar may consider not only facts in the current case, but also facts in prior cases and any documents regarding the contractor on file with the Registrar.

R4-9-118. ~~Reserved~~ Prehearing Disclosure Requirement

A. **Disclosure Statement.** Before the hearing, a party must prepare a disclosure statement. The disclosure statement must contain:
   1. A list of all the witnesses the party will call to testify, including the witnesses' contact information and a brief description of the subject matter of the witnesses' expected testimony; and,
   2. A list of all the exhibits that the party will use at the hearing.

B. **Exchanging Disclosure Statements and Exhibits.**
   1. **Contents.** A party to the hearing must serve on every other party and file with the Office of Administrative Hearings a copy of:
      a. The disclosure statement; and,
      b. Any exhibit that the party will use at the hearing.
   2. **Manner of Service and Filing.** The service and filing requirement in B(1) of this section must be performed in accordance with Arizona Administrative Code R2-19-108 Filing Documents.
   3. **Timing of Service and Filing.** The disclosure statement and the exhibits must be served and filed not less than seven calendar days before the date of the hearing.

C. Consequences for Failing to Disclose.
   1. Administrative Law Judge's Discretion. If a witness or an exhibit was not timely disclosed as required under Section B of this rule, and good cause for the failure to disclose is not shown then the administrative law judge may:
      a. Order that certain witnesses or exhibits not be used at the hearing;
      b. Order that a particular fact is or is not established for the record; or,
      c. Order that a charge, a defense, a claim, or some portion thereof, be dismissed.
   2. **Administrative Record.** Nothing in this Rule prohibits the administrative law judge from considering anything contained in the administrative record.

From: Vance Embry
To: Jim Knupp
Subject: Pending Licensing Changes
Date: Friday, June 23, 2017 11:19:41 AM

Jim,

I left you a message on your voicemail regarding this matter.

We have been directed in the past by ROC that the CR-21 classification is required to provide installation services for synthetic turf. We would like to verify that these services will fall under the new pending licensing classifications of C-21 and R-21 just like they did for CR-21? Clarification is being sought since it was not specifically mentioned in the revised wording of the new classifications (C-21 & R-21) and we anticipated it would be. Thank you advance for looking into this.

Sincerely,

Vance Embry

Shaw Industries
616 E Walnut Ave., Mail Drop 061-28, Dalton, GA 30722
Office: 706-532-1525 Fax: 706-532-1442

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Privileged and/or confidential information may be contained in this message. If you are not the addressee indicated in this message (or are not responsible for delivery of this message to that person) , you may not copy or deliver this message to anyone. In such case, you should destroy this message and notify the sender by reply e-mail.
If you or your employer do not consent to Internet e-mail for messages of this kind, please advise the sender.
Shaw Industries does not provide or endorse any opinions, conclusions or other information in this message that do not relate to the official business of the company or its subsidiaries.
****

From: Affordable Cabinet Refinishing
To: Jim Knupp
Subject: [FLAGGED] Re: ATTENTION - AZ ROC Rulemaking
Date: Thursday, June 22, 2017 2:36:09 PM
Importance: Low

Good luck on the clarity part

On Jun 22, 2017 2:04 PM, "Jim Knupp" <jim.knupp@azroc.gov> wrote:

Arizona Registrar of Contractors

Thurs., June 22, 2017

- RULEMAKING -

Good afternoon,

On May 26, 2017, the Arizona Registrar of Contractors submitted a Notice of Proposed Rulemaking and Notice of Rulemaking Docket Opening. These were published in the Secretary of State's Register on June 16, 2017.

Purposefully, there are many steps necessary to perform rulemaking and one of the first steps includes public comment; that's where you come in.

All of the proposed rulemaking was developed from and submitted with the Agency's Five-Year-Review Report and the Governor's Office provided exemption for this rulemaking on Feb. 8, 2017.

So what are the proposed changes? Well, here is a summary...

Much of the rulemaking represents amendments to clarify language to improve effectiveness of the ROC's rules. This is true of R4-9-102, R4-9-103, R4-9-104, R4-9-106, R4-9-108, R4-9-109, R4-9-113, R4-9-115, R4-9-117.

Changes in license classifications, as seen in proposed rulemaking for R4-9-102, R4-9-103, and R4-9-104, represent a reversal of 2014 rulemaking that eliminated many commercial and residential classifications and improve consistency within the rules. The move for reestablishing many of the commercial-only and residential-only classifications came as a direct result of hearing from you and your industry partners.

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Thanks,

Jim Knupp
Legislative Liaison, AZ ROC

This message was sent to **affordablecabinetrefinishing@gmail.com** from **jim.knupp@azroc.gov**

Jim Knupp
Jim Knupp
1700 W. Washington St., Ste. 105
Phoenix, AZ 85007

Unsubscribe

From: Jim Knupp
To: "Adobe Door"
Subject: RE: [FLAGGED] Rule change feedback...
Date: Monday, July 17, 2017 10:52:28 AM

Good morning Mark,

Just getting around to this now the public comment period is closed. Thank you for submitting your comments. They will be submitted as part of our next step in this process.

Thank you again Mark,

Jim

From: Adobe Door [mailto:adobegaragedoors@gmail.com]
Sent: Thursday, June 22, 2017 3:05 PM
To: Jim Knupp
Subject: [FLAGGED] Rule change feedback...
Importance: Low

(1) The 2014 regulation allowed many contractors to work in areas they were unqualified for thus creating the atmosphere for substandard work. In the construction field this could cause potential damage or injury as a result of the ROC arbitrarily qualifying a company with no background experience in a specific trade.

(2) Please change back to the old rules when I became a Licensed Contractor in Arizona. I qualified for only a residential license and when the state changed it my bond went from $50.00/year to $175.00/year = More cost of doing business.

Adobe Garage Doors (232944)

Mark Liebsch

520-850-6949

From:	Adobe Door
To:	Jim Knupp
Subject:	[FLAGGED] Rule change feedback...
Date:	Thursday, June 22, 2017 3:05:20 PM
Importance:	Low

---

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Adobe Garage Doors (232944)

Mark Liebsch

520-850-6949

From:	Tom Francois
To:	Jim Knupp
Subject:	[FLAGGED] Feedback about Registrar and Bonding Fees
Date:	Thursday, June 22, 2017 4:44:24 PM
Importance:	Low

I'm not real happy about having to pay more for my bond to include commercial when **I'm only licensed to do residential**.

I think this is an unfair burden for a one man operation like myself.

It really hurt me as business is slow for a while.

My Registrar 2 year fee went up from $540 to $650

My BOND for 3 years went up from $100 all the way to $525 to include commercial! $425 increase! OUCH!

Just doesn't seem fair to us little guys!

License 097833007 C-30

Tom Francois
Custom Woodworking
1530 S Starr Rd Apache Junction AZ 85119
480-982-6111 Office
602-390-0512 Cell
http://customwoodworkingaz.com

_____

From: Jim Knupp
To: "Lee Harr"
Subject: RE: Proposed R-21 classification
Date: Monday, June 26, 2017 10:16:50 AM

Good catch. It was left out of the R-21 by accident. We'll have it back in for Final Proposed Rulemaking.

Jim

-----Original Message-----
From: Lee Harr [mailto:lharr1@cox.net]
Sent: Thursday, June 22, 2017 9:02 PM
To: Jim Knupp
Subject: Proposed R-21 classification

Jim,

Under the proposed changes, for R-21 "electrical wiring of 120 volts or less" is left out. Will need the ability for "electrical wiring of 120 volts or less" hook up in residential work.

Thank you,

Lee Harr

H&H Yard Service Inc.

P.O.Box 813

Green Valley,AZ 85614

From: Lee Harr
To: Jim Knupp
Subject: Proposed R-21 classification
Date: Thursday, June 22, 2017 9:02:20 PM

Jim,

Under the proposed changes, for R-21 "electrical wiring of 120 volts or less" is left out. Will need the ability for "electrical wiring of 120 volts or less" hook up in residential work.

Thank you,

Lee Harr

H&H Yard Service Inc.

P.O.Box 813

Green Valley,AZ 85614

From:	Jim Knupp
To:	Jeffrey Fleetham; Jeff Wills
Subject:	Fwd: Proposed R-21 classification
Date:	Friday, June 23, 2017 6:54:00 AM

Sent from my iPhone

Begin forwarded message:

> **From:** Lee Harr <lharr1@cox.net>
> **Date:** June 22, 2017 at 9:02:09 PM PDT
> **To:** <jim.knupp@azroc.gov>
> **Subject: Proposed R-21 classification**
>
> Jim,
>
> Under the proposed changes, for R-21 "electrical wiring of 120 volts or less" is left out. Will need the ability for "electrical wiring of 120 volts or less" hook up in residential work.
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> Thank you,
>
> Lee Harr
>
> H&H Yard Service Inc.
>
> P.O.Box 813
>
> Green Valley,AZ 85614

From: Jim Knupp
To: Jason Thibodeau
Subject: Re: [FLAGGED] Re: ATTENTION - AZ ROC Rulemaking
Date: Friday, June 23, 2017 7:08:27 AM

There are only conforming language changes proposed for the 39. By that, I mean there are no changes to the scope. The changes will make its language match language used by other scopes, I.e. "This classification allows the licensee to install" rather than "Installation of" and eliminates restricted classifications no one holds anymore, I.e. R-39R has refrigeration and R-39R Pre Coolers.

Best,

Jim

Sent from my iPhone
On Jun 22, 2017, at 2:36 PM, Jason Thibodeau <jase890@gmail.com> wrote:

> Jim,
>
> Does this effect a CR-39 license?
>
> On Thu, Jun 22, 2017 at 2:03 PM, Jim Knupp <jim.knupp@azroc.gov> wrote:
>
> ## Arizona Registrar of Contractors
>
> *Thurs., June 22, 2017*
>
> ### - RULEMAKING -
>
> Good afternoon,
>
> On May 26, 2017, the Arizona Registrar of Contractors submitted a Notice of Proposed Rulemaking and Notice of Rulemaking Docket Opening. These were published in the Secretary of State's Register on June 16, 2017.
>
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>
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Thanks,

Jim Knupp
Legislative Liaison, AZ ROC

This message was sent to **jase890@gmail.com** from **jim.knupp@azroc.gov**

Jim Knupp
Jim Knupp
1700 W. Washington St., Ste. 105
Phoenix, AZ 85007

Unsubscribe

--

Thank you,

Jason Thibodeau
General Manager
Rescue One Air
602-273-7283 Office
www.RescueOneAir.com

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From: Jim Knupp
To: Raul Rodriguez
Subject: Re: [FLAGGED] Re: ATTENTION - AZ ROC Rulemaking
Date: Friday, June 23, 2017 6:58:27 AM

You're reading it correctly. The only issue would be the effective date of the rulemaking amendments...they might not be effective by the time you renew this time around. I'm out of the office today but more than happy to talk to you about options and the rulemaking process to explain our hopeful timeline. Again, I'm out today but but feel free to give me a call at 602.711.6710, leave a message and I'll give you a call Monday.

Best,

Jim

Sent from my iPhone

On Jun 22, 2017, at 2:50 PM, Raul Rodriguez <dezertdesigns@gmail.com> wrote:

> So if I am reading this right I will be able to opt out of the dual license and submit as commercial only and carry only a bond for Commercial when they expire this November?
>
> On Thu, Jun 22, 2017 at 2:03 PM, Jim Knupp <jim.knupp@azroc.gov> wrote:

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Jim Knupp
Jim Knupp
1700 W. Washington St., Ste. 105
Phoenix, AZ 85007

Unsubscribe

--
Regards,
Raul Rodriguez
Dezert Designs & Displays
Phoenix, AZ
p 602.486.6020
f 602.795.4487
e DezertDesigns@gmail.com

From: Raul Rodriguez
To: Jim Knupp
Subject: [FLAGGED] Re: ATTENTION - AZ ROC Rulemaking
Date: Thursday, June 22, 2017 2:50:25 PM
Importance: Low

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On Thu, Jun 22, 2017 at 2:03 PM, Jim Knupp <jim.knupp@azroc.gov> wrote:

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Phoenix, AZ 85007

Unsubscribe

--
Regards,
Raul Rodriguez
Dezert Designs & Displays
Phoenix, AZ
p 602.486.6020
f 602.795.4487
e DezertDesigns@gmail.com

From: Jim Knupp
To: John Jackson
Subject: Re: [FLAGGED] Change ?
Date: Friday, June 23, 2017 7:19:06 AM

Good morning John,

What classification are you asking about specifically? The answer is very likely yes but subcontractors is too broad for me to answer accurately.

Best,

Jim

> On Jun 22, 2017, at 2:10 PM, John Jackson <dirtch3ap@gmail.com> wrote:
>
> Hi
> Is this allowing sub contractors to go back to having a residential Lic than to be forced to have a dual Lic?
> John Jackson
> Dirt Cheap Tile, Inc
> 480 233 4437
> ROC 174242

From:	John Jackson
To:	Jim Knupp
Subject:	[FLAGGED] Change ?
Date:	Thursday, June 22, 2017 2:10:36 PM
Importance:	Low

Hi
Is this allowing sub contractors to go back to having a residential Lic than to be forced to have a dual Lic?
John Jackson
Dirt Cheap Tile, Inc
480 233 4437
ROC 174242

From: Jim Knupp
To: "holy roller"
Subject: RE: [FLAGGED] Re: ATTENTION - AZ ROC Rulemaking
Date: Monday, June 26, 2017 9:04:46 AM

Good morning Ivan,

Your dual license will remain a dual, unless YOU want to change it to a R-21 or C-21 at time of renewal. At the time of renewal, you can choose to do nothing except renew and you'll remain a CR-21. The rulemaking reestablishes the R-21 and C-21 license classifications and enables you to move to one of them if you want, but it in no way forces you away from your current classification.

Best,

Jim

From: holy roller [mailto:holyroller.im@gmail.com]
Sent: Thursday, June 22, 2017 2:34 PM
To: Jim Knupp
Subject: [FLAGGED] Re: ATTENTION - AZ ROC Rulemaking
Importance: Low

Thanks Jim, so what exactly does that mean for guys like me who have a CR 21? It will turn from a CR 21 to an R 21, meaning I will be out of the commercial side? just need little bit of help understanding The Proposal. Thanks Ivan
Divine desert landscape LLC

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Thurs., June 22, 2017

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Thanks,

Jim Knupp
Legislative Liaison, AZ ROC

Image removed by sender.

This message was sent to **holyroller.im@gmail.com** from **jim.knupp@azroc.gov**

Jim Knupp
Jim Knupp
1700 W. Washington St., Ste. 105
Phoenix, AZ 85007

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From:	holy roller
To:	Jim Knupp
Subject:	[FLAGGED] Re: ATTENTION - AZ ROC Rulemaking
Date:	Thursday, June 22, 2017 2:34:09 PM
Importance:	Low

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Divine desert landscape LLC

On Jun 22, 2017 2:03 PM, "Jim Knupp" <jim.knupp@azroc.gov> wrote:

From: Roof Consultant
To: Jim Knupp
Subject: [FLAGGED] Re: ATTENTION - AZ ROC Rulemaking
Date: Thursday, June 22, 2017 2:09:30 PM
Importance: Low

Rule - every investigator should have a working knowledge of the trade they are investigating. My recent experience tells me they don't.

On Thursday, June 22, 2017, Jim Knupp <jim.knupp@azroc.gov> wrote:

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>
> *Thurs., June 22, 2017*
>
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>
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This message was sent to **prcofarizona@gmail.com** from **jim.knupp@azroc.gov**

Jim Knupp
Jim Knupp
1700 W. Washington St., Ste. 105
Phoenix, AZ 85007

Unsubscribe

--

Henry Staggs
Certified Roof Inspector
Preferred Roof Consultants of Arizona

Like us on FB https://www.facebook.com/preferredroofconsultantsofarizona/

www.preferredroofconsultants.com

prcofarizona@gmail.com

480-265-1613

This book is a must have for anyone who hires contractors
CLICK HERE to see it

From: Jim Knupp
To: "westconstructionaz@gmail.com"
Subject: RE: Updated language
Date: Monday, July 17, 2017 10:43:44 AM

Scott,

Apologies for just now replying but I'm now getting around to this answering as the public comment period is closed. Thank you for submitting your comments.

They will be submitted as part of our next step in this process. The mechanism to enable what you're wanting to do already exists and it is to simply apply for a new license, as it seems you've been advised. As you identified, the current proposal doesn't seek to amend what you're asking but we can keep it in mind for future rulemaking.

Best,

Jim

-----Original Message-----
From: westconstructionaz@gmail.com [mailto:westconstructionaz@gmail.com]
Sent: Thursday, June 22, 2017 2:13 PM
To: Jim Knupp
Subject: Updated language

Jim,

It would be nice if they also addressed opting back into dual status from single status talked about : Section R4-9-111 Opting Out of a Dual License represents 1) a mechanism to - upon renewal - allow (not force) licensees to retain their dual classification, switch to a residential-only license, or switch to a commercial-only license and by doing so 2) increases flexibility for a business to choose what is most approrpiate for their business.

I.E. we want to switch our license from a B to KB-1 but have been told we cannot keep our same license and would need a new license number. It seems ridiculous that we wouldn't be able to switch while maintaining the same number but can change from dual to single.

Thank you,

Scott West
West Construction and Development
Cell 602-541-9444
Office 480-451-4300
Fax 480-314-2436
8419 E. Cortez St.
Scottsdale,AZ 85260
ROC B 65195

www.westconstructionaz.com

Sent from my iPhone. Please excuse the brevity and grammatical errors.

From: westconstructionaz@gmail.com
To: Jim Knupp
Subject: Updated language
Date: Thursday, June 22, 2017 2:13:14 PM

Jim,

It would be nice if they also addressed opting back into dual status from single status talked about : Section R4-9-111 Opting Out of a Dual License represents 1) a mechanism to - upon renewal - allow (not force) licensees to retain their dual classification, switch to a residential-only license, or switch to a commercial-only license and by doing so 2) increases flexibility for a business to choose what is most approrpiate for their business.

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Sent from my iPhone. Please excuse the brevity and grammatical errors.

From: Jim Knupp
To: Tom Ford
Subject: Re: [FLAGGED] RE: ATTENTION - AZ ROC Rulemaking
Date: Friday, June 23, 2017 7:14:22 AM

Hi Tom,

We actually just recently hired an unlicensed investigator for just this idea. It was a recent initiative and, to be honest, we will have to work through how best to handle these cases.

Jim

On Jun 22, 2017, at 2:16 PM, Tom Ford <tom@libertyplumbingaz.com> wrote:

> Hi Jim, Is there something that can be done to un-licensed contractors advertising and selling jobs over their dollar limit on FB and other social media? Thank you!
>
> ---
>
> **From:** Jim Knupp [mailto:jim.knupp@azroc.gov]
> **Sent:** Thursday, June 22, 2017 2:03 PM
> **To:** tom@libertyplumbingaz.com
> **Subject:** ATTENTION - AZ ROC Rulemaking
>
> <!--[if !vml]--><image001.jpg><!--[endif]-->
> **Arizona Registrar of Contractors**
>
> *Thurs., June 22, 2017*
>
> **- RULEMAKING -**
>
> Good afternoon,
>
> On May 26, 2017, the Arizona Registrar of Contractors submitted a Notice of Proposed Rulemaking and Notice of Rulemaking Docket Opening. These were published in the Secretary of State's Register on June 16, 2017.
>
> Purposefully, there are many steps necessary to perform rulemaking and one of the first steps includes public comment; that's where you come in.
>
> All of the proposed rulemaking was developed from and submitted with the Agency's Five-Year-Review Report and the Governor's Office provided exemption for this rulemaking on Feb. 8, 2017.
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> So what are the proposed changes? Well, here is a summary…
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To submit public comment or inquire about proposed language, simply reply to this email or send me an email directly at jim.knupp@azroc.gov.

Thanks,

Jim Knupp
Legislative Liaison, AZ ROC

<image002.jpg>

This message was sent to **tom@libertyplumbingaz.com** from **jim.knupp@azroc.gov**

Jim Knupp
Jim Knupp
1700 W. Washington St., Ste. 105
Phoenix, AZ 85007

<~WRD000.jpg>

Unsubscribe

<image003.jpg>

From: Tom Ford
To: Jim Knupp
Subject: [FLAGGED] RE: ATTENTION - AZ ROC Rulemaking
Date: Thursday, June 22, 2017 2:16:52 PM
Importance: Low

Hi Jim, Is there something that can be done to un-licensed contractors advertising and selling jobs over their dollar limit on FB and other social media? Thank you!

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Sent: Thursday, June 22, 2017 2:03 PM
To: tom@libertyplumbingaz.com
Subject: ATTENTION - AZ ROC Rulemaking

Arizona Registrar of Contractors

Thurs., June 22, 2017

- RULEMAKING -

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To submit public comment or inquire about proposed language, simply reply to this email or send me an email directly at jim.knupp@azroc.gov.

Thanks,

Jim Knupp
Legislative Liaison, AZ ROC

Image removed by sender.

This message was sent to **tom@libertyplumbingaz.com** from **jim.knupp@azroc.gov**

Jim Knupp
Jim Knupp
1700 W. Washington St., Ste. 105
Phoenix, AZ 85007

Unsubscribe

From: Dan Sherwood
To: Jim Knupp
Subject: Re: ATTENTION - AZ ROC Rulemaking
Date: Thursday, June 22, 2017 2:34:00 PM

Jim,

Per some of the info I have shared with you previously and a couple of my experiences during my 30+ years also a licensed contractor, I would like to see a provision that anyone of the general public who uses a non licensed entity to do work during a licensed contractor doing work on a job, or the correction of work done by a licensed contractor, automatically forfeits their ability to file a claim with the roc on a licensed contractor.

Until such time that the general public has to pay a price for using unlicensed contractors, the practice will continue. If Az is really wanting to curb that happening, there has to be some kind of penalty or those hiring the unlicensed folks, just as there is for employers hiring those who are in the US illegally.

That's my thoughts, from what I've experienced and what I continue to see around Az. Thx.

Sent from my iPad

On Jun 22, 2017, at 2:03 PM, Jim Knupp <jim.knupp@azroc.gov> wrote:

Arizona Registrar of Contractors

Thurs., June 22, 2017

- RULEMAKING -

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Thanks,

Jim Knupp
Legislative Liaison, AZ ROC

This message was sent to **danbsherwood@yahoo.com** from **jim.knupp@azroc.gov**

Jim Knupp
Jim Knupp
1700 W. Washington St., Ste. 105
Phoenix, AZ 85007

Unsubscribe

From:	Chris Tortorello
To:	Jim Knupp
Cc:	Torel - Chris Tortorello
Subject:	Comments
Date:	Thursday, June 22, 2017 3:04:46 PM

Jim,

One thing I think needs to be addressed is when a warrantee should start. It should be from the CO not when some one moves in . I had a client that moved in 18 months after completion-CO and no one lived in the house, There was a roof leak no one was aware of because of the clients vacancy. It was a mess. I repaired it but I don't think the law is correct on when a warrantee should start. Upon move in isn't fir to anyone and I believe the state should change.

Your thoughts would be appreciated.

Chris Tortorello
President
Torel Custom Homes
PO 4449 Sedona Az 86340
O (928) 203-0365
C (928) 300-7882
Fax (928) 204-9798
www.torelbuilding.com

From: powersbr@qwestoffice.net
To: Jim Knupp
Subject: Re: [FLAGGED]
Date: Friday, June 23, 2017 8:49:43 AM

Thanks

On Fri 23/06/17 9:51 AM , Jim Knupp Jim.Knupp@azroc.gov sent:
> 111 would enable a licensee to choose to move away from the dual
> classification; enables.
> Since you work in both, it means nothing to you. If at some point in the
> future, however, you wanted to get out of commercial and continue working
> in residential, or vice versa, the rule would allow you to do that upon
> renewal.
> Sent from my iPhone
>
> > On Jun 23, 2017, at 6:05 AM, "powe
> rsbr@qwestoffice.net" rsbr@qwestoffice.net> wrote:>
> >
> > Jim
> > R4-9-111,does this mean do we need 2 license 1
> for res.> and 1 for com.? I work in both.
> > Thanks Chris Powers
> >
> >
>
>
>

From: Jim Knupp
To: powersbr@qwestoffice.net
Subject: Re: [FLAGGED]
Date: Friday, June 23, 2017 6:51:56 AM

---

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>
>
> Jim
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> Thanks Chris Powers
>
>

From:	powersbr@qwestoffice.net
To:	Jim Knupp
Subject:	[FLAGGED]
Date:	Friday, June 23, 2017 6:05:19 AM
Importance:	Low

Jim
R4-9-111,does this mean do we need 2 license 1 for res.
and 1 for com.? I work in both.
Thanks Chris Powers

From: Jim Knupp
To: Glenn Parham
Subject: Re: Rulemaking
Date: Friday, June 23, 2017 7:46:36 AM

Glenn,

I thank you for your comments and appreciate your understanding of other licensees (and applicants jus starting out, for that matter) who may not be able to or simply do not wish to pay to keep up both residential and commercial requirements.

Best,

Jim

> On Jun 23, 2017, at 1:02 AM, Glenn Parham <skylaner02@gmail.com> wrote:
>
> Speaking from my position as a 30 year painting contractor I think you have some great ideas, which I am all for.
> I have the dual and at first was not impressed, probably because I had no say in the matter.
> Although,I have never had to tighten finances to the point of carrying only one license, residential or commercial.
> Their are many not so fortunate as myself and with just one license he maybe able to stay legal and be another example of Arizona craftsmanship.
>
> Thank you for your time and work
>
> Glenn W Parham
>
> Parham Painting
>
> Thank you for your time
>
>

From: Glenn Parham
To: Jim Knupp
Subject: Rulemaking
Date: Friday, June 23, 2017 1:02:33 AM

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Thank you for your time and work

Glenn W Parham

Parham Painting

Thank you for your time

From:	Duane Yourko
To:	Jim Knupp
Subject:	[FLAGGED] RE: ATTENTION - AZ ROC Rulemaking
Date:	Friday, June 23, 2017 8:58:00 AM
Importance:	Low

ARCA is fully aware of the proposed changes impacting the CR-42 license classification and fully support the rulemaking. The changes will clarify the extent to which roofers can perform ancillary but necessary repairs to substrate. It will allow them to comply and maintain a high degree of workmanship standards and install a water impermeable membrane that meets and / or exceeds expected standards without the delays of subcontracting out replacement / repairs work.

Duane Yourko, Executive Director
Arizona Roofing Contractors Association
4745 N. 7th Street, Ste. 102 - Phoenix, Arizona 85014
Phone: 602 335-0133 Fax: 602 335-0118
Web: www.azroofing.org Email: dyourko@azroofing.org

From: Jim Knupp [mailto:jim.knupp@azroc.gov]
Sent: Thursday, June 22, 2017 2:04 PM
To: dyourko@azroofing.org
Subject: ATTENTION - AZ ROC Rulemaking

Arizona Registrar of Contractors

Thurs., June 22, 2017

- RULEMAKING -

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Thanks,

Jim Knupp
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This message was sent to dyourko@azroofing.org from jim.knupp@azroc.gov

Jim Knupp
Jim Knupp
1700 W. Washington St., Ste. 105
Phoenix, AZ 85007

Unsubscribe

From: Raul Rodriguez
To: Jim Knupp
Subject: Re: [FLAGGED] Re: ATTENTION - AZ ROC Rulemaking
Date: Friday, June 23, 2017 8:30:23 AM
Importance: Low

Sounds good, talk to you then.

On Jun 23, 2017 6:58 AM, "Jim Knupp" <Jim.Knupp@azroc.gov> wrote:

> You're reading it correctly. The only issue would be the effective date of the rulemaking amendments...they might not be effective by the time you renew this time around. I'm out of the office today but more than happy to talk to you about options and the rulemaking process to explain our hopeful timeline. Again, I'm out today but but feel free to give me a call at 602.711.6710, leave a message and I'll give you a call Monday.
>
> Best,
>
> Jim
>
> Sent from my iPhone
>
> On Jun 22, 2017, at 2:50 PM, Raul Rodriguez <dezertdesigns@gmail.com> wrote:
>
>> So if I am reading this right I will be able to opt out of the dual license and submit as commercial only and carry only a bond for Commercial when they expire this November?
>>
>> On Thu, Jun 22, 2017 at 2:03 PM, Jim Knupp <jim.knupp@azroc.gov> wrote:
>>
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>>
>> *Thurs., June 22, 2017*
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Legislative Liaison, AZ ROC

This message was sent to **dezertdesigns@gmail.com** from **jim.knupp@azroc.gov**

Jim Knupp
Jim Knupp
1700 W. Washington St., Ste. 105
Phoenix, AZ 85007

Unsubscribe

--
Regards,
Raul Rodriguez
Dezert Designs & Displays
Phoenix, AZ
p 602.486.6020
f 602.795.4487
e DezertDesigns@gmail.com

From: Jason Thibodeau
To: Jim Knupp
Subject: Re: [FLAGGED] Re: ATTENTION - AZ ROC Rulemaking
Date: Friday, June 23, 2017 8:14:09 AM
Importance: Low

Thank you Jim for the clarification.

Have a great weekend!

On Fri, Jun 23, 2017 at 7:08 AM, Jim Knupp <Jim.Knupp@azroc.gov> wrote:

> There are only conforming language changes proposed for the 39. By that, I mean there are no changes to the scope. The changes will make its language match language used by other scopes, I.e. "This classification allows the licensee to install" rather than "Installation of" and eliminates restricted classifications no one holds anymore, I.e. R-39R has refrigeration and R-39R Pre Coolers.
>
> Best,
>
> Jim
>
> Sent from my iPhone
> On Jun 22, 2017, at 2:36 PM, Jason Thibodeau <jase890@gmail.com> wrote:
>
>> Jim,
>>
>> Does this effect a CR-39 license?
>>
>> On Thu, Jun 22, 2017 at 2:03 PM, Jim Knupp <jim.knupp@azroc.gov> wrote:
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>> **Arizona Registrar of Contractors**
>>
>> *Thurs., June 22, 2017*
>>
>> **- RULEMAKING -**
>>
>> Good afternoon,
>>
>> On May 26, 2017, the Arizona Registrar of Contractors submitted a Notice of Proposed Rulemaking and Notice of Rulemaking Docket Opening. These were published in the Secretary of State's Register on June 16, 2017.
>>
>> Purposefully, there are many steps necessary to perform rulemaking and one of the first steps includes public comment; that's where you come in.
>>
>> All of the proposed rulemaking was developed from and submitted with the Agency's Five-Year-Review Report and the Governor's Office provided exemption for this rulemaking on Feb. 8, 2017.
>>
>> So what are the proposed changes? Well, here is a summary...
>>
>> Much of the rulemaking represents amendments to clarify language to

improve effectiveness of the ROC's rules. This is true of R4-9-102, R4-9-103, R4-9-104, R4-9-106, R4-9-108, R4-9-109, R4-9-113, R4-9-115, R4-9-117.

Changes in license classifications, as seen in proposed rulemaking for R4-9-102, R4-9-103, and R4-9-104, represent a reversal of 2014 rulemaking that eliminated many commercial and residential classifications and improve consistency within the rules. The move for reestablishing many of the commercial-only and residential-only classifications came as a direct result of hearing from you and your industry partners.

Section R4-9-111 Opting Out of a Dual License represents 1) a mechanism to - upon renewal - allow (not force) licensees to retain their dual classification, switch to a residential-only license, or switch to a commercial-only license and by doing so 2) increases flexibility for a business to choose what is most approrpiate for their business.

Beyond recreating residential-only and commercial-only licenses eliminated in 2014, the proposed rulemaking also amends the scope of work permitted by CR-21 Landscaping and Irrigation Systems and CR-42 Roofing licensees.

The proposed rulemaking changes to the -21's to a commercial C-21 Hardscaping and Irrigation Systems and residential R-21 Hardscaping and Irrigation Systems and expands the scope to represent a more accurate description of work performed by the industry under that classification and enables subcontracting of gas, electrical and plumbing as needed.

The proposed amendments to scopes of work for the -42's represents a more reasonable allowance of roof substrate replacement by allowing for 10 percent replacement, if need for replacement is found after execution of initial contract, and enables subcontracting if 10 percent limit is reached and increases facia replacements from 4 feet to 24 feet. Amendments also provide for clarification of allowances regarding lifting of HVAC equipment.

Finally, Section R4-9-118 Prehearing Disclosure Requirements is a new rule and increases transparency and efficiency in cases pending hearing at the Office of Administrative Hearings. By introducing prehearing disclosure requirements, cases set for hearing will be more effective and efficient.

As said, the proposed rulemaking is currently in the public comment period, which closes on July 16, 2017. For the full text of the proposed rulemaking, click here.

To submit public comment or inquire about proposed language, simply reply to this email or send me an email directly at jim.knupp@azroc.gov.

Thanks,

Jim Knupp
Legislative Liaison, AZ ROC

This message was sent to **jase890@gmail.com** from **jim.knupp@azroc.gov**

Jim Knupp
Jim Knupp
1700 W. Washington St., Ste. 105
Phoenix, AZ 85007

Unsubscribe

--

Thank you,

Jason Thibodeau
General Manager
Rescue One Air
602-273-7283 Office
www.RescueOneAir.com

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From: Strickland, Tracy
To: Jim Knupp
Subject: Satellite industry/SBCA
Date: Friday, June 23, 2017 7:58:46 AM

Hello Jim,

Please find my contact information below and feel free to reach out to me anytime regarding electrical licensing for our industry. Thank you for getting back to me so quickly on the current rule. I greatly appreciate it.

Hope you have a great weekend!

Tracy Ann Strickland
Research Coordinator
Satellite Broadcasting and Communications Association
1110 17th Street NW
Suite 1150
Washington, DC 20036
Direct: 202-870-2175
tstrickland@sbca.org

From: Jim Knupp
To: boothconstructionllc
Subject: Re: ? Are the B dual license subject to change I have a B 2 Joe booth
Date: Friday, June 23, 2017 11:35:00 AM

There are some changes to language but nothing significant compared to the change effective on June 11 increasing the limit to $2M.

Best,

Jim

Sent from my iPhone

On Jun 23, 2017, at 9:13 AM, boothconstructionllc <boothconstructionllc@gmail.com> wrote:

Sent from my Verizon, Samsung Galaxy smartphone

From: boothconstructionllc
To: Jim Knupp
Subject: ? Are the B dual license subject to change I have a B 2 Joe booth
Date: Friday, June 23, 2017 9:13:49 AM

Sent from my Verizon, Samsung Galaxy smartphone

From: John Jackson
To: Jim Knupp
Subject: Re: [FLAGGED] Change ?
Date: Friday, June 23, 2017 8:25:53 AM
Importance: Low

Hi,
I have more than one question. Please call when you have the time.
480 233 4437
John

On Jun 23, 2017 7:19 AM, "Jim Knupp" <Jim.Knupp@azroc.gov> wrote:

> Good morning John,
>
> What classification are you asking about specifically? The answer is very likely yes but subcontractors is too broad for me to answer accurately.
>
> Best,
>
> Jim
>
> > On Jun 22, 2017, at 2:10 PM, John Jackson <dirtch3ap@gmail.com> wrote:
> > >
> > > Hi
> > > Is this allowing sub contractors to go back to having a residential Lic than to be forced to have a dual Lic?
> > > John Jackson
> > > Dirt Cheap Tile, Inc
> > > 480 233 4437
> > > ROC 174242

From: Jim Knupp
To: "Ron Brown"
Subject: RE: ATTENTION - AZ ROC Rulemaking
Date: Monday, July 17, 2017 10:31:50 AM

Just getting around to this now the public comment period is closed. Thank you for submitting your comments. They will be submitted as part of our next step in this process.

Thank you again Ron,

Jim

From: Ron Brown [mailto:ron@jbsroofingaz.com]
Sent: Monday, June 26, 2017 11:17 AM
To: Jim Knupp
Subject: [FLAGGED] FW: ATTENTION - AZ ROC Rulemaking
Importance: Low

Jim,
Thank you for submitting the new rule changes for our industry, this will clear up a lot of confusion for us. I totally approve of these changes, thank you again.

Respectfully,
Ron Brown
President
JBS Roofing
Celebrating 35 years in business

From:	Ron Brown
To:	Jim Knupp
Subject:	[FLAGGED] FW: ATTENTION - AZ ROC Rulemaking
Date:	Monday, June 26, 2017 11:16:57 AM
Importance:	Low

Jim,
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Respectfully,
Ron Brown
President
JBS Roofing
Celebrating 35 years in business

From: Jim Knupp
To: "Candi"
Subject: RE: ATTENTION - AZ ROC Rulemaking
Date: Monday, July 17, 2017 10:30:26 AM

Just getting around to this now the public comment period is closed. Thank you for submitting your comments. They will be submitted as part of our next step in this process.

Thank you again Craig,

Jim

From: Candi [mailto:candi@redwallconstruction.com]
Sent: Friday, July 07, 2017 12:37 PM
To: Jim Knupp
Subject: RE: ATTENTION - AZ ROC Rulemaking

Mr. Knupp,
Please add my name and Redwall Construction Inc. name to any list or tally you may have going in support of the rule changes listed for review closing July 16, 2017.

Craig Cavolo
Redwall Construction Inc.
90 N. William Dillard Drive C-101
Gilbert, AZ 85233

(480) 491-5937 Office
(480) 755-0535 Fax

ROC 185419

From: Jim Knupp [mailto:jim.knupp@azroc.gov]
Sent: Thursday, June 22, 2017 2:04 PM
To: redwall@redwallconstruction.com
Subject: ATTENTION - AZ ROC Rulemaking

Arizona Registrar of Contractors

Thurs., June 22, 2017

- RULEMAKING -

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Thanks,

Jim Knupp
Legislative Liaison, AZ ROC

Image removed by sender.

This message was sent to redwall@redwallconstruction.com from jim.knupp@azroc.gov

Jim Knupp
Jim Knupp
1700 W. Washington St., Ste. 105
Phoenix, AZ 85007

Unsubscribe

From: Candi
To: Jim Knupp
Subject: RE: ATTENTION - AZ ROC Rulemaking
Date: Friday, July 07, 2017 12:37:31 PM

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Craig Cavolo
Redwall Construction Inc.
90 N. William Dillard Drive C-101
Gilbert, AZ 85233

(480) 491-5937 Office
(480) 755-0535 Fax

ROC 185419

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To: redwall@redwallconstruction.com
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Thanks,

Jim Knupp
Legislative Liaison, AZ ROC

Image removed by sender.

This message was sent to **redwall@redwallconstruction.com** from **jim.knupp@azroc.gov**

Jim Knupp
Jim Knupp
1700 W. Washington St., Ste. 105
Phoenix, AZ 85007

Unsubscribe

From: Jim Knupp
To: "Creative Finishing Services"
Subject: RE: Section R4-9-118 Comments
Date: Monday, July 17, 2017 10:29:01 AM

Mr. Landis,

Thank you for taking the time to put the information together. The prehearing disclosure requirements would apply to the Registrar in own motion cases; where the agency is bringing a case against a respondent.

In the majority of cases, however, including the example you provide with 2016-1138, the complainant and you as the respondent would be the parties responsible for disclosing all witness and document information intended to be presented in the hearing.

The section is proposed to increase efficiency and effectiveness in case and to reduce/eliminate last minute information that would have otherwise eliminated the need for a hearing all together.

I will keep your comments in mind especially if the ROC decides to rework rehearing portion of the rules.

Thank you again sir,

Jim

From: Creative Finishing Services [mailto:champion70@msn.com]
Sent: Wednesday, July 12, 2017 8:59 AM
To: Jim Knupp
Subject: Section R4-9-118 Comments

Mr. Knupp,

I have revised my comments and have resent them in this up to date attachment. I looked for the draft and see that the draft was already sent to you. Thank you for your interest. I will also use this revised attachment as an exhibit in my up-coming hearing.

Attached please find my comments to Section R4-9-118 as it has applied to my case.

I am a very hard working contractor who has hundreds of repeat customers. I love my work and go out of my way to make all my customers happy and satisfied one hundred percent of the time. I do not advertise, and I have a waiting list for certain projects, but also work with the **public**.

To date, I have been a victim of the lack of proper prehearing disclosure, along with the lack of proper efficiency between the ROC and the OAH regarding my case. Both sides of the story must be addressed, not just the complaint against the contractor. There are fraudulent cases being claimed by customers. I have been assured of this by your legal department. My case is definitely one of them!

I do work in multi-million dollar homes for customers who have numerous homes in the state of Arizona. In my next hearing, which is not yet scheduled, I will have affidavits from

many of them. I will be stating why the recovery fund should not pay the customer after being falsely accused of poor workmanship. The decisions made did not include the proper information.

Thank you for taking the time to properly review my comments and make the necessary changes in the rulings and statutes to protect the contractor; the ROC; the OAH; and the State of Arizona, from customer fraudulent claims and false accusations, for occasionally, they do occur.

Also it is of the utmost importance that transparency and efficiency take place between the ROC and the OAH regarding these cases. I had an unjust telephonic hearing, and when I requested a rehearing, I was denied a rehearing. Now I have to prove that a very large payout should not be made from the recovery fund.

Thank you for taking the time and effort to review my comments as I am a great example of the feedback that you are looking for. Hope this helps you make some very necessary and important decisions regarding these kinds of issues. If you would like any additional feedback please feel free to contact me anytime.

Best Regards,

David Landis
Creative Finishing Services, inc.
280445

From:	Creative Finishing Services
To:	Jim Knupp
Subject:	Section R4-9-118 Comments
Date:	Wednesday, July 12, 2017 8:59:12 AM
Attachments:	Section R4-9-118PDR.docx

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Best Regards,

David Landis
Creative Finishing Services, inc.
280445

From:	Tom Francois
To:	Jim Knupp
Subject:	Re: [FLAGGED] Feedback about Registrar and Bonding Fees
Date:	Monday, July 17, 2017 11:44:22 AM
Importance:	Low

JIM Thank you! I HOPE SO! This is a burden on me and I'm sure many other small operations.

Tom Francois
Custom Woodworking
480-982-6111 Office
602-390-0512 Cell
http://customwoodworkingaz.com

From: Jim Knupp <Jim.Knupp@azroc.gov>
To: 'Tom Francois' <tomfrancois@yahoo.com>
Sent: Monday, July 17, 2017 10:54 AM
Subject: RE: [FLAGGED] Feedback about Registrar and Bonding Fees

Good morning Tom,

Just getting around to this now the public comment period is closed. Thank you for submitting your comments; and much of what you describe is why this administration is looking to reverse the 2014 rulemaking. Your comments will be submitted as part of our next step in this process.

Thank you again Tom,

Jim

From: Tom Francois [mailto:tomfrancois@yahoo.com]
Sent: Thursday, June 22, 2017 4:44 PM
To: Jim Knupp
Subject: [FLAGGED] Feedback about Registrar and Bonding Fees
Importance: Low

I'm not real happy about having to pay more for my bond to include commercial when **I'm only licensed to do residential**.

I think this is an unfair burden for a one man operation like myself.

It really hurt me as business is slow for a while.

My Registrar 2 year fee went up from $540 to $650

My BOND for 3 years went up from $100 all the way to $525 to include

commercial! $425 increase! OUCH!

Just doesn't seem fair to us little guys!

License 097833007 C-30

Tom Francois
Custom Woodworking
1530 S Starr Rd Apache Junction AZ 85119
480-982-6111 Office
602-390-0512 Cell
http://customwoodworkingaz.com

_____

Virus-free. www.avg.com

ECONOMIC, SMALL BUSINESS, AND CONSUMER IMPACT STATEMENT

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 9. REGISTRAR OF CONTRACTORS

1. Identification of the rulemaking:

   Much of the rulemaking represents amendments to clarify language to improve effectiveness of the rule. This is true of R4-9-102, R4-9-103, R4-9-104, R4-9-106, R4-9-108, R4-9-109, R4-9-113, R4-9-115, and R4-9-117.

   Changes in license classifications, as seen in proposed rulemaking for R4-9-102, R4-9-103, and R4-9-104, represent a reversal of 2014 rulemaking that eliminated many commercial and residential classifications and forced license holders into a dual classification. Specifically, this rulemaking reestablishes 28 commercial and 28 residential license classifications and additionally moves to improve consistency. The scopes of the C- and R-21 and C- and R-42 are expanded and allow for subcontracting of specific types of work. The C- and R-34 are also clarified to include "liquid floor and wall coatings."

   Section R4-9-111 represents 1) a mechanism to reverse 2014 rulemaking that forced contractors into dual license classifications when the agency eliminated many commercial and residential license classifications and 2) increases flexibility for a business to choose to opt out of dual license classification and move to a residential-only or commercial-only license once in the license's lifetime.

   Section R4-9-118 increases transparency and efficiency in cases pending hearings at the Office of Administrative Hearings. By introducing prehearing disclosure requirements, cases set for hearing will be more effective and efficient.

   a. The conduct and its frequency of occurrence that the rule is designed to change:

      As of July 17, 2017, there are 37,221 active current licensees and much of the rulemaking, not related to license scope amendments, seeks to improve clarity of Agency rules. Of those approximately 37,000 licensees, though, 11,040 currently hold a dual license which they may opt out of in favor of a less costly residential-only or commercial-only license after the proposed amendments become effective.

      There are 1,418 CR-21 Landscaping and Irrigation Systems licensees and 799 CR-42 Roofing licensees and the proposed rulemaking seeks to expand or permit subcontracting of certain work appropriate to their industries.

      There are 1,342 CR-34 Painting licensees.

   b. The harm resulting from the conduct the rule is designed to change and the likelihood it will continue to occur if the rule is not changed:

      The rule is not intended to remedy a harmful conduct by an industry actor.

   c. The estimated change in frequency of the targeted conduct expected from the rule change:

The rule is not intended to decrease a harmful conduct. The rulemaking is intended to make more clear language in rules and reduce barrier to entry for certain classifications.

2. A brief summary of the information included in the economic, small business, and consumer impact statement:

With regards to reestablishing classifications eliminated in 2014, the Agency foresees minor economic impacts based on the proposed change; minor but beneficial to the regulated community. These impacts will benefit licensees and potentially consumers as proposed changes in license classifications will enable reduced barrier to entry and reduced licensing and bond fees, if the licensee or applicant chooses to perform only commercial or only residential work.

Depending on actual bond prices, on average, a current licensee holding a dual license classification would save $485 per year by choosing to opt out of the dual classification in favor of a commercial-only license or $355 per year if choosing to opt to a residential-only. Variance in savings occurs due to the Registrar's Residential Recovery Fund assessment and differences in bond prices.

For new license applicants, who are looking to enter one of these classifications, the barrier to entry may be reduced with regards to examination requirements, licensing fees and, if applying for a commercial license, not being assessed by the Recovery Fund.

By amending the C- and R-21 scope to eliminate the need to be licensed to install top soil and plants, seemingly in line with ARS 32-1121(A)(16), there may exist complete deregulation for some to maintain a license if only licensed in order to perform this work. This would clearly represent a beneficial economic impact for those in this situation, but frequency is unknown as scope allows for more than those two items.

The prehearing disclosure requirements add a cost to complainants and respondents preparing for an administrative hearing, however, the cost is believed to be outweighed by efficiencies and benefits observed at hearing.

3. The person to contact to submit or request additional data on the information included in the economic, small business, and consumer impact statement:

Name:	Jim Knupp
	Legislative Liaison
Address:	Arizona Registrar of Contractors
	1700 W. Washington St., Ste. 105
	Phoenix, AZ 85007
Telephone:	(602) 771-6710
E-mail:	jim.knupp@azroc.gov
Web site:	roc.az.gov

4. Persons who will be directly affected by, bear the costs of, or directly benefit from the rulemaking:

Of the approximately 37,000 businesses possessing a ROC license, 11,040 currently hold a dual license which they may opt out of in favor of a less costly residential-only or commercial-only license after the proposed rules become effective. An unknown number of new applicants, who apply for an impacted license, will benefit from the reduced barrier to entry as they are currently required to pass a dual trade examination.

There are 1,418 CR-21 Landscaping and Irrigation Systems licensees and 799 CR-42 Roofing licensees and the proposed rulemaking seeks to expand or permit subcontracting of certain work appropriate to their industries.

There are 1,342 CR-34 Painting licensees and the rulemaking adds a commonly questioned scope of work to clarify its inclusion in the classification..

This Rulemaking adds a prehearing disclosure for parties scheduled for an administrative hearing. Due to case resolutions, settlements, and continuances, the number of hearings actually held is difficult to ascertain from in-house reports. In FY2017, however, there were 538 Notices of Hearings issued, meaning 538 hearings were scheduled to be held at the Office of Administrative Hearings. There were only 356 recommended decisions issued by Administrative Law Judges, meaning a hearing was held and the parties did not come to a settlement prior to, at, or directly following the hearing. From these numbers, we understand the prehearing disclosure rule would impact a number somewhere between these two data points.

5. Cost-benefit analysis:
    a. Costs and benefits to state agencies directly affected by the rulemaking:
    The Agency does not anticipate this rulemaking having an impact on any other state agency. The Agency believes this rule will ensure licensees are able to contract for work envisioned by the construction industry and the Agency.

        The number of new full-time employees at the implementing agency required to implement and enforce the proposed rule:
        The Agency will not require new full-time employees as a result of this rulemaking.

    b. Costs and benefits to political subdivisions directly affected by the rulemaking:
    The Agency does not anticipate this rulemaking having an impact on political subdivisions.

    c. Costs and benefits to businesses directly affected by the rulemaking:
    With regards to reestablishing classifications eliminated in 2014, the Agency anticipates this rulemaking having a benefit for businesses.
    Of the approximately 37,000 businesses possessing a ROC license, 11,040 currently hold a dual license which they may opt out of in favor of a less costly residential-only or commercial-only license after the proposed rules become effective.

Depending on actual bond prices, on average, a current licensee holding a dual license classification would save $485 per year by choosing to opt out of the dual classification in favor of a commercial-only license or $355 per year if choosing to opt to a residential-only.

Class	Renew/2yr	RF/2yr	Bond/yr	Total/yr	Save/yr
Dual	$380	$270	$700	$1025	**$ ---**
C	480	0	300	540	**$ 485**
R	270	270	400	670	**$ 355**

Specifically, this rulemaking reestablishes 28 residential-only and 28 commercial-only classifications and as a result reduces fees for applicants or those who opt out of a dual into one of those classifications. Due to this, the Agency anticipates an overall savings for contracting businesses. The following provides a total annual licensee savings at a 20 percent conversion rate:

Conversion	**Rate**	**Total**	**Savings**	
CR > C	10%	1,104	$	535,440
CR > R	10%	1,104	$	391,920
			$	**927,360**

Separate from the reestablishment of commercial-only and residential-only classifications, there are 1,418 CR-21 Landscaping and Irrigation Systems licensees and 799 CR-42 Roofing licensees and the rulemaking seeks to expand or permit subcontracting of certain work appropriate to their industries.

Currently, property owners would be required to separately hire a second licensed contractor to perform work being expanded or permitted to be subcontracted. By enabling subcontracting or expanding the scope, the Agency anticipates impacted licensees and subcontractors will see minimal to no benefit in increased work as this work is already being performed, though not as streamlined as this will allow. The property owner will certainly benefit in time however.

The prehearing disclosure requirements add a cost to complainants and respondents proceeding to an administrative hearing, however, the cost is believed to be outweighed by efficiency observed at hearing.

6. Impact on private and public employment:
   The Agency does not believe this proposal will have an impact on private or public employment.

7. Impact on small businesses:
   a. Identification of the small business subject to the rulemaking:
      Arizona's licensed contractors will be beneficially affected by the rulemaking.
   b. Administrative and other costs required for compliance with the rulemaking:

The Registrar of Contractors does not anticipate a cost for complying with this rulemaking.

c. Description of methods that may be used to reduce the impact on small businesses:
   i. Establish less costly or less stringent compliance or reporting requirements:
      This rulemaking does not create or increase reporting requirements.
   ii. Establish less costly schedules or less stringent deadlines for compliance:
      This rulemaking does not create or increase deadlines for compliance.
   iii. Consolidate or simplify compliance or reporting requirements:
      This rulemaking does not create or increase reporting requirements.
   iv. Establish separate performance standards:
      This rulemaking does not establish disproportionate standards on small businesses.
   v. Exempt small businesses from any or all requirements:
      This rulemaking does not establish disproportionate requirements on small businesses.

8. Cost and benefit to private persons and consumers who are directly affected by the rulemaking:
   When considering the splitting of the dual licenses apart, license and bond costs will decrease for licensees choosing to only hold a commercial-only or residential-only license. This decreased cost may be passed on to consumers or otherwise increase competition by increasing the number of licensees as a result of reducing barriers to entry.

   By expanding the work permitted by C-21 and R-21 Hardscaping and Irrigation Systems licensees to include subcontracting for certain work, consumers also may observe decreased costs in not needing to separately hire two contractors. A similar cost savings may be seen for consumers needing to replace roof substrate and being able to have the hired roofing licensee replace the substrate or by enabling the licensee to subcontract for the work; instead of hiring two separate contractors. In either case, the permitting of subcontracting certainly may save time for these projects.

   A cost to private persons may be observed if they are a complainant in an Agency case with the newly proposed section on prehearing disclosure requirements. This cost would exist on the front end of a hearing by requiring submission of evidence and witnesses' information but expected benefits will outweigh the cost by increasing efficiency and effectiveness of proceedings held at the Office of Administrative Hearings.
9. Probable effects on state revenues:
   The Registrar of Contractors is a 90/10 agency. This means 90% of revenue is deposited in the Registrar of Contractors Fund and 10% is deposited in the General Fund. The impact of a 20 percent conversion rate, as shown, would represent a decrease in the General Fund deposits at approximately $56,304 per year.

   From this rulemaking, there will be 11,040 licensees eligible to opt out of their dual license upon renewal. The option to opt out of the dual classification, being at the time of renewal,

will cause a two year lag period until all licensees will have had the opportunity to convert their license to a commercial-only or residential-only.

In addition to saving licensees on fees, the Agency also anticipates that this proposal may reduce the rate of increase within the Registrar of Contractor Residential Recovery Fund as commercial-only licensees will no longer be forced to obtain a dual license resulting in an assessment for the Recovery Fund.

10. Less intrusive or less costly alternative methods considered:
    a. Monetizing of the costs and benefits for each option:
       The Registrar of Contractors anticipates this rulemaking will have minimal to no cost.
    b. Rationale for not using non-selected alternatives:
       No other alternative was offered.
11. Description of any data on which a rule is based:
    a. Description of any data on which a rule is based:
       Data used includes:
       - Number of licenses issued by the Agency and known to be active and current
       - Cost of licensure, to include license fees, Recovery Fund assessment, and average bonding costs.
       - Average bonding costs from SuretyBonds.com - https://www.suretybonds.com/states/arizona/contractor-license-bond.html
    b. How the data was obtained:
       This data was obtained through the Agency's case management system and a general search for bond prices.
    c. Why the data is acceptable:
       The data is acceptable because it is accurate and verifiable.

ARTICLE 1. GENERAL PROVISIONS

R4-9-101. Definitions

A. Appurtenances means all structures and improvements subordinate to a residence within residential property lines, excluding the residential structure itself, such as driveways, fences, patios, swimming pools, landscaping, sport courts, and gazebos.

B. Licensee means a business entity (sole proprietor, partnership, limited liability company or corporation) to which a license is issued and not the individuals comprising the ownership or management of the licensee, except for a sole proprietor. The license is held by the licensee and not the qualifying party.

Historical Note

Former Rule I. Former Section R4-9-01 repealed, new Section R4-9-01 adopted effective February 23, 1976 (Supp. 76-1). Amended effective November 21, 1979 (Supp. 79-6). Amended effective April 18, 1984 (Supp. 84-2). Former Section R4-9-01 amended effective July 9, 1987, and renumbered as Section R4-9-101 (Supp. 87-3). Amended effective January 20, 1998 (Supp. 98-1). Amended by final rulemaking at 20 A.A.R. 568, effective July 1, 2014 (Supp. 14-1).

R4-9-102. Commercial Contractor License Classifications and Scopes of Work

A. Commercial contractor license classifications. License classifications for commercial contractors are as follows:

ENGINEERING CONTRACTING

A	General Engineering
A-4	Drilling
A-5	Excavating, Grading and Oil Surfacing
A-7	Piers and Foundations
A-9	Swimming Pools
A-11	Steel and Aluminum Erection
A-12	Sewers, Drains and Pipe Laying
A-14	Asphalt Paving
A-15	Seal Coating
A-16	Waterworks
A-17	Electrical and Transmission Lines
A-19	Swimming Pools, Including Solar

GENERAL COMMERCIAL CONTRACTING

B-1	General Commercial Contractor
B-2	General Small Commercial Contractor

SPECIALTY COMMERCIAL CONTRACTING

C-4	Boilers, Steamfitting and Process Piping
C-6	Swimming Pool Service and Repair
C-9	Concrete
C-11	Electrical
C-16	Fire Protection Systems
C-27	Lightweight Partitions
C-37	Plumbing
C-39	Air Conditioning and Refrigeration
C-49	Refrigeration
C-53	Water Well Drilling
C-58	Comfort Heating, Ventilating, Evaporative Cooling
C-74	Boilers, Steamfitting and Process Piping, Including Solar
C-77	Plumbing Including Solar
C-78	Solar Plumbing Liquid Systems Only
C-79	Air Conditioning and Refrigeration, Including Solar

B. Commercial contracting scopes. The scope of work which may be done under the commercial contracting license classifications is as follows:

A- GENERAL ENGINEERING

This classification allows the licensee to construct or repair:

1. Fixed works
2. Streets
3. Roads
4. Power and utility plants
5. Dams
6. Hydroelectric plants
7. Sewage and waste disposal plants
8. Bridges
9. Tunnels
10. Overpasses
11. Public parks

Also included are the scopes of work allowed by the A-4 through A-19 and CR-2 through CR-80 classifications. This classification does not include work authorized by the B-1, B-2, B-, or B-3 scopes.

A-4 DRILLING

Drilling includes horizontal and vertical drilling or boring, constructing, deepening, repairing, or abandoning wells; exploring for water, gas, and oil; and constructing dry wells, and monitor wells. Also included is the erection of rigs, derricks and related substructures, and installation, service and repair of pumps and pumping equipment.

A-5 EXCAVATING, GRADING AND OIL SURFACING

This classification allows the licensee to apply oil surfacing or other similar products; place shoring, casing, geotextiles or liners; and perform incidental blasting or drilling as required for the licensee to move, alter, or repair earthen materials by:

1. Digging
2. Trenching
3. Grading
4. Horizontal boring
5. Compacting
6. Filling

This license does not allow the licensee to excavate for water, gas or oil wells.

A-7 PIERS AND FOUNDATIONS

Installation of piers and foundations using concrete, rebar, post tension and other materials common to the industry. Includes pile driving, excavation, forming and other techniques and equipment common to the industry.

A-9 SWIMMING POOLS

Construction, service, and repair of swimming pools and spas, including water and gas service lines from point of service to pool equipment, wiring from pool equipment to first readily accessible disconnect, pool piping, fittings, backflow prevention devices, waste lines, and other integral parts of a swimming pool or spa.

Also included is the installation of swimming pool accessories, covers, safety devices, and fencing for protective purposes, if in the original contract.

A-11 STEEL AND ALUMINUM ERECTION

Field fabrication, erection, repair, and alteration of architectural and structural steel and aluminum

materials common to the industry, including field layout, cutting, assembly, and erection by welding, bolting, wire tying or riveting.

A-12 SEWERS, DRAINS AND PIPE LAYING

Installation and repair of any project involving sewer access holes, the laying of pipe for storm drains, water and gas lines, irrigation, and sewers. Includes connecting sewer collector lines to building drains and the installation of septic tanks, leach lines, dry wells, all necessary connections, liners and related excavating and backfilling.

A-14 ASPHALT PAVING

Installation of asphalt paving, and all related fine grading on streets, highways, driveways, parking lots, tennis courts, running tracks, play areas, and gas station driveways and areas, using materials and accessories common to the industry. Includes the necessary excavation and grading only for height adjustment of existing sewer access holes, storm drains, water valves, sewer cleanouts, and drain gates. Also included is the scope of work allowed by the A-15 Seal Coating Classification.

A-15 SEAL COATING

Application of seal coating to asphalt paving surfaces. Includes repair of surface cracks and application of painted marking symbols.

A-16 WATERWORKS

All work necessary for the production and distribution of water including drilling well, setting casing and pump, related electrical work, related concrete work, excavation, piping for storage and distribution, storage tanks, related fencing, purification and chlorination equipment.

A-17 ELECTRICAL AND TRANSMISSION LINES

Installation, alteration, and repair of transmission lines on public right-of-ways, including erection of poles, guying systems, tower line erection, street lighting of all voltages, and all underground systems including ducts for signal, communication, and similar installations. Installing transformers, circuit breakers, capacitors, primary metering devices and other related equipment of all electrical construction is included.

All electrical systems of less than 600 volts on or inside a building are excluded.

A-19 SWIMMING POOLS, INCLUDING SOLAR

Construction, service, and repair of swimming pools and spas, with or without solar water heating devices, including water and gas service lines from point of service to pool equipment, wiring from pool equipment to first readily accessible disconnect, pool piping, fittings, backflow prevention devices, waste lines and other integral parts of a swimming pool, spa and attached solar water heating device.

Also included are swimming pool accessories, covers, safety devices, and fencing for protective purposes, if in the original contract.

B-1 GENERAL COMMERCIAL CONTRACTOR

Construction, alteration, and repair in connection with any structure built, being built, or to be built for the support, shelter, and enclosure of persons, animals, chattels, or movable property of any kind. This scope includes the supervision of all or any part of the above and includes the management, or direct or indirect supervision of any work performed.

Also included are the scopes of work allowed by the CR-2 through CR-80 license classifications. Work related to electrical, plumbing, air conditioning systems, boilers, swimming pools, spas and water wells must be subcontracted to an appropriately licensed contractor. This classification does not include work authorized by the A-, B-, or B-3 scopes.

B-2 GENERAL SMALL COMMERCIAL CONTRACTOR

Small commercial construction in connection with any new structure or addition built, being built, or to be built for the support, shelter and enclosure of persons, animals, chattels or movable property of any kind for which the total amount paid to the licensee does not exceed $2,000,000. This scope includes the supervision of all or any part of the above and includes the management or direct or indirect supervision of any work performed.

Work related to electrical, plumbing, fire protection systems, air conditioning systems, boilers, swimming pools, spas and water wells must be subcontracted to an appropriately licensed contractor. This classification does not include work authorized by the A-, B-, B-3, or residential scopes.

C-4 BOILERS, STEAMFITTING AND PROCESS PIPING

Installation, alteration, and repair of steam and hot water systems and boilers, including chimney connections, flues, refractories, burners, piping, fittings, valves, thermal insulation, and accessories; fuel and water lines from source of supply to boilers; process and specialty piping and related equipment; pneumatic and electrical controls.

If necessary, a new circuit may be added to the existing service panel or sub-panel. Excluded is the installation of a new service panel or sub-panel.

C-6 SWIMMING POOL SERVICE AND REPAIR

Service, replacement, and repair of swimming pools including all existing connections and equipment. Pool gas heaters and gas piping from meter to heater may be installed only if the existing line and gas supply are adequate.

Application of pool coatings to interior of pool in conjunction with minor repairs to pool tile, plaster, and decks.

Excluded are chlorine gas connections, connections to potable water, and electric connections beyond first readily accessible disconnect. This classification excludes a complete replacement of plaster or pebble pool interiors and decks.

C-9 CONCRETE

All work in connection with the processing, proportioning, batching, mixing, conveying, and placing of

concrete composed of materials common to the concrete industry, including finishing, coloring, curing, repairing, testing, drilling, sawing, grinding, chipping, and grouting. Placing film barriers, sealing, and waterproofing are included.

Construction, centering, and assembling forms, molds, insulating concrete forms, slipforms, and pans.

Trenching, excavating, backfilling, and grading in connection with concrete construction.

Installation of embedded items essential to or comprising an integral part of the concrete or concrete construction, including reinforcing elements and accessories.

C-11 ELECTRICAL

Installation, alteration, and repair of any wiring, related electrical material and equipment used in the generating, transmitting, or utilization of electrical energy less than 600 volts, including all overhead electrical wiring on public right-of-ways for signs and street decorations, and all underground electrical distribution systems of less than 600 volts serving private properties.

Installation, alteration, and repair on other than public right-of-ways of all outside, overhead, and underground electrical construction and all wiring in or on any building of less than 600 volts.

C-16 FIRE PROTECTION SYSTEMS

Installation, alteration, and repair of fire protection systems using water, steam, gas, or chemicals. Included is any required excavation, trenching, backfilling and grading, piping from structure, and connections to off-premise water supply adjacent to property involving a fire protection system.

Systems may include the following areas of work and related equipment: restaurant hood protection systems; fire pumps and drivers; pressure and storage tanks; all piping and valves; sprinkler heads and nozzles; and application of materials for the prevention of corrosion or freezing.

Also included are air compressors, air receivers, bottled inert gases, pressurized chemicals, manifolds, pneumatic, hydraulic, or electrical controls, low voltage signaling systems, control piping, and the flushing and testing of systems.

C-27 LIGHTWEIGHT PARTITIONS

Installation of lightweight (not to exceed 14 gauge) metal wall partitions, including suspended metal ceiling grid systems, as supporting members for the application of building materials such as: application and repair of gypsum plaster, cement, acoustical plaster, or a combination of materials and aggregates, that create a permanent coating; the application of such materials over any surface which offers either a mechanical or suction type bond, sprayed, dashed, or troweled to the surface; surface sandblasting preparatory to plastering or stucco; installation of plastering accessories and lath products manufactured to provide a key or suction type bond for the support of various type plaster coatings; and installation and repair of gypsum wall board, pointing, accessories, taping, and texturing on structures both interior and exterior.

Upon the effective date of these rules, no new applications for the C-27 classification will be accepted and no new C-27 licenses will be issued.

C-37 PLUMBING

Installation, alteration, and repair of all plumbing when performed solely within property lines and not on public easements or right-of-ways, except as hereinafter provided.

Installation, alteration, and repair of all piping, fixtures, and appliances related to water supply, including pressure vessels and tanks (excluding municipal or related water supply systems); venting and sanitary drainage systems for all fluid, semifluid, and organic wastes; septic tanks and leaching lines; roof leaders; lawn sprinklers; water conditioning equipment; piping; and equipment for swimming pools.

Also included are piping, fixtures, appliances, and pressure vessels for manufactured and natural gases, compressed air and vacuum systems, petroleum, fuel oil, nonpotable liquids, hot water heating, and hot water supply systems operating at pressures not exceeding 30 PSIG, or temperatures not exceeding 220° F; steam heating and steam supply systems not exceeding 15 PSIG operating pressure; gas or oil fired space heaters and furnaces, excluding duct work. Piping for water cooling systems, excluding the refrigerant piping and equipment. Testing and balancing of hydronics systems.

Sewer, gas, water lines, and connections from structure to the nearest point of public supply or disposal may cross public or private easements or be installed within private easements or right-of-ways. Pipe installed across public property may not be increased in size, or make any other connection between the point of exit from private property to the point of connection at public supply or disposal. These lines shall not be installed parallel to main lines in public easements or right-of-ways.

C-39 AIR CONDITIONING AND REFRIGERATION

Installation, alteration, and repair of refrigeration and evaporative cooling systems.

Installation, alteration, and repair of heating systems of “wet”, “dry” or radiant type. “Wet” systems include steam or hot water boilers and coils, or baseboard convectors, and are limited to 30 PSIG operating pressure of 220° F for hot water and 15 PSIG operating pressure for steam. Dry systems include gas fired furnaces and space heaters.

Installation, alteration, and repair of ventilation systems includes duct work, air filtering devices, water treatment devices, pneumatic or electrical controls, and control piping. Thermal and acoustical insulation of refrigerant pipes and ductwork, vibration isolation materials and devices, liquid fuel piping and tanks, water and gas piping from service connection to the equipment it serves. Testing and balancing of refrigerant, cooling, heating circuits, and air handling systems.

If necessary, a new circuit may be added to the existing service panel or sub-panel. Excluded is the installation of a new service panel or sub-panel.

C-49 REFRIGERATION

Installation, alteration, and repair of refrigeration equipment and systems used for processing, storage, and display of food products and other perishable commodities.

Includes commercial, industrial, and manufacturing processes requiring refrigeration excluding comfort air conditioning.

Systems may also include the following areas of work and related equipment: temperature, safety and capacity controls, thermal insulation, vibration isolation materials and devices; water treatment devices; construction and installation of walk-in refrigeration boxes, liquid fuel piping and tanks, water and gas piping from equipment to service connection; and testing and balancing of refrigeration equipment and systems.

If necessary, a new circuit may be added to the existing service panel or sub-panel. Excluded is the installation of a new service panel or sub-panel.

C-53 WATER WELL DRILLING

Drill new water wells or deepen existing water wells by use of standard practices including the use of cable tools, compressed air percussion, rotary, air rotary, or reverse circulation rotary methods. Includes installing casing, gravel pack, perforating and sanitary seals. Repair existing wells by sand pumping, jetting, acidizing, swabbing, clean out, reperforating, swaging, installation of annealed lines, and the removal of debris.

Includes photographing interior of wells with appropriate equipment. Installation of jet and submersible pumps; electrical pump controls and wiring from pump equipment to first readily accessible disconnect; and water line to storage or pressure tank, not to exceed 50 linear feet. Use of a test pump to develop a new well, or repair an existing well, when provided in contract, is limited to 5 horsepower.

Installation of concrete pump bases not to exceed 50 square feet.

Installation of protective fencing when included in original contract.

C-58 COMFORT HEATING, VENTILATING, EVAPORATIVE COOLING

Installation, alteration, and repair of warm air heating systems, gas fired furnaces and space heaters, ventilation and evaporative cooling units, or any combination of these.

Systems may include the following areas of work and related equipment; duct work, air filtering devices, pneumatic or electrical controls, control piping, thermal and acoustical insulation, vibration isolation materials and devices, liquid fuel piping and tanks, water and gas piping from service connection to equipment it serves. Testing and balancing of air handling systems.

If necessary, a new circuit may be added to the existing service panel or sub-panel. Excluded is the installation of a new service panel or sub-panel.

C-74 BOILERS, STEAMFITTING AND PROCESS PIPING, INCLUDING SOLAR

Installation, alteration, and repair of steam and hot water systems and boilers including solar. Also included are chimney connections, flues, refractories, burners, piping, fittings, valves, thermal insulation and accessories; fuel and water lines from source of supply to boilers; process and specialty piping and related equipment; pneumatic and electrical controls.

If necessary, a new circuit may be added to the existing service panel or sub-panel. Excluded is the installation of a new service panel or sub-panel.

C-77 PLUMBING INCLUDING SOLAR

Installation, alteration, and repair of all plumbing including solar, when performed solely within property lines and not on public easements or right-of-ways except as hereinafter provided.

Installation, alteration, and repair of all piping, fixtures and appliances related to water supply, including pressure vessels and tanks (excluding municipal or related water supply systems); venting and sanitary drainage systems for all fluid, semifluid, and organic wastes; septic tanks and leaching lines; roof leaders; lawn sprinkler systems; water conditioning equipment; piping and equipment for swimming pools.

Also included are piping, fixtures, appliances, and pressure vessels for manufactured and natural gases, compressed air and vacuum systems, petroleum, fuel oil, nonpotable liquids, hot water heating and hot water supply systems operating at pressures not exceeding 30 PSIG or temperatures not exceeding 220° F; steam heating and steam supply systems not exceeding 15 PSIG operating pressure; gas or oil fired space heaters and furnaces excluding duct work. Piping for water cooling systems, excluding the refrigerant piping and equipment. Testing and balancing of hydronics systems.

Sewer, gas, water lines, and connections from structure to the nearest point of public supply or disposal may cross public or private easements or be installed within private easements. Pipe installed across public property may not be increased in size or make any other connection between the point of exit from private property to point of connection at public supply or disposal. These lines shall not be installed parallel to main lines in public easements or right-of-ways.

C-78 SOLAR PLUMBING LIQUID SYSTEMS ONLY

Installation, alteration, and repair of solar water heating systems operating at temperatures not exceeding 220° F, including thermosyphon, direct (open loop), and indirect (closed loop), but excludes air as a transfer medium.

Includes installation of collectors, storage and expansion tanks, heat exchangers, piping valves, pumps, sensors and low voltage controls which con-

nect to existing plumbing and electrical stubouts at the water tank location.

Installation of solar water heating systems for swimming pools which tie into and operate from the conventional pool systems, but excludes all non-solar plumbing, electrical and mechanical systems and components.

Installation of backup and auxiliary heating systems only when such systems are included in the original contract and when such systems are an integral part of the solar collector or storage equipment.

C-79 AIR CONDITIONING AND REFRIGERATION INCLUDING SOLAR

Installation, alteration, and repair of refrigeration and evaporative cooling systems, including solar.

Installation, alteration, and repair of heating systems of "wet", "dry" or radiant type. "Wet" systems include steam, or hot water boilers and coils, or baseboard convectors and are limited to 30 PSIG operating pressure of 220° F for hot water and 15 PSIG operating pressure for steam. Dry systems include gas fired furnaces and space heaters.

Installation, alteration, and repair of ventilation systems.

Installation of these systems include duct work, air filtering devices, water treatment devices, pneumatic or electrical controls, and control piping. Thermal and acoustical insulation, vibration isolation materials and devices, liquid fuel piping and tanks, and water and gas piping from service connection to equipment it serves. Testing and balancing of refrigerant, cooling and heating circuits, and air handling systems.

If necessary, a new circuit may be added to the existing service panel or sub-panel. Excluded is the installation of a new service panel or sub-panel.

Historical Note

Former Rule 2. Amended effective May 20, 1975, Amended effective June 13, 1975, Amended effective August 8, 1975, Amended effective August 25, 1975 (Supp. 75-1). Amended effective January 9, 1976, subsection (B) of this Section R4-9-02 renumbered as Section R4-9-03 effective February 23, 1976 (Supp. 76-1). Amended effective October 14, 1977 (Supp. 77-5). Amended effective September 13, 1978 (Supp. 78-5). Amended by adding A-20 effective July 10, 1980; adding A-21 effective July 11, 1980; adding C-77 and C-78 effective July 28, 1980; adding C-74 and C-79 effective August 15, 1980; adding C-75 and C-80 effective August 19, 1980 (Supp. 80-4). Amended by adding A-19 effective September 5, 1980 (Supp. 80-5). Repealed effective April 18, 1984 (Supp. 84-2). New Section R4-9-02 adopted effective July 9, 1987, and renumbered as Section R4-9-102 (Supp. 87-3). Amended effective January 20, 1998 (Supp. 98-1). Amended by final rulemaking at 20 A.A.R. 568, effective July 1, 2014 (Supp. 14-1). Amended by final rulemaking at 23 A.A.R. 1029, effective June 11, 2017.

R4-9-103. Residential Contractor License Classifications and Scopes of Work

A. Residential contracting license classifications. License classifications for residential contractors are as follows:

GENERAL RESIDENTIAL CONTRACTING

B- General Residential Contractor

B-3 General Remodeling and Repair Contractor

B-4 General Residential Engineering Contractor
- B-4R Corrosion Control
- B-4R Sport Court Accessories
- B-4R Soil Stabilization

B-5 General Swimming Pool Contractor
- B-5R Swimming Pool Covers
- B-5R Fiberglassing of Swimming Pools
- B-5R Reservoir Linings and Covers
- B-5R Factory Fabricated Pools and Accessories

B-6 General Swimming Pool Contractor, Including Solar

B-10 Pre-Manufactured Spas and Hot Tubs

SPECIALTY RESIDENTIAL CONTRACTING

R-2 Excavating, Grading and Oil Surfacing

R-4 Boilers, Including Solar
- R-4R Boilers

R-6 Swimming Pool Service and Repair

R-9 Concrete

R-11 Electrical

R-13 Asphalt Paving

R-16 Fire Protection

R-17 Structural Steel and Aluminum

R-22 House Moving

R-37 Plumbing, Including Solar
- R-37R Plumbing
- R-37R Built-In Central Vacuum Systems
- R-37R Kitchen and Bathroom Fixture Refinishing
- R-37R Swimming Pool Plumbing and Equipment
- R-37R Gas Piping
- R-37R Sewers, Drains and Pipe Laying
- R-37R Solar Plumbing Liquid Systems Only

R-39 Air Conditioning and Refrigeration, Including Solar
- R-39R Air Conditioning and Refrigeration
- R-39R Gas Refrigeration
- R-39R Temperature Control Systems
- R-39R Warm Air Heating, Evaporative Cooling and Ventilating
- R-39R Evaporative Cooling and Ventilators
- R-39R Pre-Coolers

R-53 Drilling

R-62 Minor Home Improvements

B. RESIDENTIAL CONTRACTING SCOPES. The "R" designation after the license classification means that the licensee's scope of work is restricted to the description stated in the license title. The scope of work which may be done under the residential contracting license classifications is as follows:

B- GENERAL RESIDENTIAL CONTRACTOR

Construction of all or any part of a residential structure or appurtenance. Also included are the scopes of work allowed by the B-3 and CR-2 through CR-80 license classifications. Work related to electrical, plumbing, air conditioning systems, boilers, swimming pools, spas and water wells must be subcontracted to an appropriately licensed contractor. This classification does not include work authorized by the A-, B-1, or B-2 scopes.

B-3 GENERAL REMODELING AND REPAIR CONTRACTOR
Remodeling or repair of an existing residential structure or appurtenance except for electrical, plumbing, mechanical, boilers, swimming pools, spas and water wells, which must be subcontracted to an appropriately licensed contractor. The scope of work allowed under the CR-7 carpentry classification is included within this scope. This classification does not include work authorized by the A-, B-1, or B-2 scopes.

B-4 GENERAL RESIDENTIAL ENGINEERING CONTRACTOR
Construction and repair of appurtenances to residential structures. Work related to electrical, plumbing, air conditioning systems, boilers, and water wells must be subcontracted to an appropriately licensed contractor. This scope includes the CR-21, B-5, and all B-4R subclassifications.

B-4R Corrosion Control

B-4R Sport Court Accessories

B-4R Soil Stabilization

Upon the effective date of these rules, no new applications for the B-4R license classifications will be accepted and no new B-4R licenses will be issued.

B-5 GENERAL SWIMMING POOL CONTRACTOR
Construction and repair of swimming pools and spas. Installation of code-required pool barriers around the swimming pool or spa and installation of utilities from the point of service to the pool equipment. Construction of other structures or appurtenances is excluded. This scope includes all B-5R subclassifications.

B-5R Swimming Pool Covers

B-5R Fiberglassing of Swimming Pools

B-5R Reservoir Linings & Covers

B-5R Factory Fabricated Pools & Accessories

Upon the effective date of these rules, no new applications for the B-5R classifications will be accepted and no new B-5R licenses will be issued.

B-6 GENERAL SWIMMING POOL CONTRACTOR, INCLUDING SOLAR
The scope of work allowed in this classification is the same as B-5 (including all B-5R subclassifications) with the inclusion of solar heating devices.

B-10 PREMANUFACTURED SPAS AND HOT TUBS
Construction and repair of spas and hot tubs. Installation of code-required pool barriers around the spa or hot tub and installation of utilities from the point of service to the spa equipment are included.

R-2 EXCAVATING, GRADING AND OILSURFACING
This classification allows the licensee to apply oil surfacing or other similar products and place shoring, casing, geotextiles or liners as required for the licensee to move, alter, or repair earthen materials by:

1. Digging
2. Trenching
3. Grading
4. Horizontal boring
5. Compacting
6. Filling

R-4 BOILERS, INCLUDING SOLAR
Installation and repair of steam and hot water boilers.

If necessary, a new circuit may be added to the existing service panel or sub-panel. Excluded is the installation of a new service panel or sub-panel. This scope includes the C-4R subclassification.

R-4R Boilers

R-6 SWIMMING POOL SERVICE AND REPAIR
Service and minor repair of residential pools and accessories, excluding plumbing connections to a potable water system, gas lines, gas chlorine systems, and electrical work beyond the first disconnect. This classification does not include a complete replacement of plaster or pebble pool interiors and decks.

R-9 CONCRETE
Installation and repair of concrete, concrete products, and accessories common to the industry.

R-11 ELECTRICAL
Installation and repair of electrical systems.

R-13 ASPHALT PAVING
Installation and repair of paved areas using materials and methods common to the industry, including asphalt curbs, concrete bumper curbs, headers, and striping.

R-16 FIRE PROTECTION SYSTEMS
Installation and repair of approved types of fire prevention and fire protection systems including all mechanical apparatus, devices, piping, low voltage signaling systems, and equipment common to the fire protection industry. Installation of all other electrical devices, apparatus, and wiring must be subcontracted to a properly licensed contractor.

R-17 STRUCTURAL STEEL AND ALUMINUM
Installation and repair of architectural and structural shapes and members common to the industry, including reinforcing steel which may be used as structural members for buildings, equipment, and structures.

R-22 HOUSE MOVING
Disconnection of utilities is permitted, but connection of utilities and construction of foundations are not.

R-37 PLUMBING, INCLUDING SOLAR
Installation and repair of water and gas piping systems, fire protection systems, and sewage treatment systems. Included are all fixtures, vents, and devices common to the industry, as well as solar applica-

tions. This scope includes all C-37R subclassifications.

R-37R Plumbing

R-37R Built-in Central Vacuum Systems

R-37R Kitchen and Bathroom Fixture Refinishing

R-37R Swimming Pool Plumbing and Equipment

R-37R Gas Piping

R-37R Sewers, Drains and Pipe Laying

R-37R Solar Plumbing Liquid Systems Only

Upon the effective date of these rules, no new applications for the R-37R Built-in Central Vacuum Systems, Kitchen and Bathroom Fixture Refinishing, Swimming Pool Plumbing and Equipment, Gas Piping, Sewers, Drains and Pipe Laying, and Solar Plumbing Liquid Systems Only license classifications will be accepted and no new R-37R licenses in these classifications will be issued.

R-39 AIR CONDITIONING AND REFRIGERATION, INCLUDING SOLAR

Installation and repair of comfort air conditioning systems, including refrigeration, evaporative cooling, ventilating, and heating with or without solar equipment. Installation and repair of machinery, units, accessories, refrigerator rooms, and insulated refrigerator spaces, and controls in refrigerators.

If necessary, a new circuit may be added to the existing service panel or sub-panel. Excluded is the installation of a new service panel or sub-panel. This scope includes all C-39R subclassifications.

R-39R Air Conditioning and Refrigeration

R-39R Gas Refrigeration

R-39R Temperature Control Systems

R-39R Warm Air Heating, Evaporative Cooling and Ventilating

R-39R Evaporative Cooling and Ventilators

R-39R Pre-Coolers

Upon the effective date of these rules, no new applications for the R-39R Gas Refrigeration, Temperature Control Systems, Warm Air Heating, Evaporative Cooling and Ventilating, Evaporative Cooling and Ventilators, and Pre-Coolers license classifications will be accepted and no new R-39R licenses in these classifications will be issued.

R-53 DRILLING

Installation and repair of wells, including test boring, exploratory drilling and all materials and devices common to the industry.

R-62 MINOR HOME IMPROVEMENTS

Remodeling, repairs, and improvements to existing structures or appurtenances not to exceed $5,000 for labor and materials per project per dwelling or appurtenance. The minor home improvement contractor shall not perform structural work to any existing structures or appurtenances, including load bearing masonry or concrete work (with the exception of on-grade flat work), and load bearing carpentry work (with the exception of patio or porch covers). All electrical, plumbing, air conditioning, heating, boiler, and roofing work shall be performed by an appropriately licensed contractor.

Historical Note

Former Rule 3. Amended effective May 20, 1975, Amended effective June 13, 1975, Amended effective August 8, 1975, Amended effective August 25, 1975 (Supp. 75-1). Amended effective January 9, 1976, subsection (B) of former Section R4-9-02 renumbered as Section R4-9-03 effective February 23, 1976 (Supp. 76-1). Amended effective March 11, 1976 (Supp. 76-2). Correction, Historical Note for Supp. 76-1 should read former Section R4-9-03 repealed, new Section R4-9-03 adopted effective February 23, 1975 (Supp. 76-4). Amended effective November 23, 1976 (Supp. 76-5). Amended effective October 14, 1977 (Supp. 77-5). C-4 and C-37 amended effective December 9, 1977 (Supp. 77-6). Correction, Historical Note for Supp. 76-4 should read former Section R4-9-03 repealed, new Section R4-9-03 adopted effective February 23, 1976 (Supp. 78-1). Amended effective September 13, 1978 (Supp. 78-5). Amended effective April 2, 1979 (Supp. 79-2). Amended effective November 21, 1979 (Supp. 79-6). Amended effective July 10, 1980 (Supp. 80-4). Amended effective July 11, 1980 (Supp. 80-4). Amended effective July 28, 1980 (Supp. 80-4). Amending effective August 15, 1980 (Supp. 80-4). Amended effective August 19, 1980 (Supp. 80-4). Amended effective September 5, 1980 (Supp. 80-5). Amended effective April 18, 1984 (Supp. 84-2). Former Section R4-9-03 renumbered without change as Section R4-9-103 (Supp. 87-3). Amended effective September 13, 1989 (Supp. 89-3). Amended effective January 20, 1998 (Supp. 98-1). Amended to correct typographical errors (Supp. 99-4). Amended by final rulemaking at 20 A.A.R. 568, effective July 1, 2014 (Supp. 14-1).

R4-9-104. Dual Contractor License Classifications and Scopes of Work

A. Dual license contracting classifications. License classifications for dual contractors are as follows:

GENERAL DUAL ENGINEERING CONTRACTING

KA- Dual Engineering

KA-5 Dual Swimming Pool Contractor

KA-6 Dual Swimming Pool Contractor Including Solar

KE- (As restricted by Registrar)

GENERAL DUAL LICENSE CONTRACTING

KB-1 Dual Building Contractor

KB-2 Dual Residential and Small Commercial

KO- (As restricted by Registrar)

SPECIALTY DUAL LICENSE CONTRACTING

CR-1 Acoustical Systems

CR-2 Excavating, Grading and Oil Surfacing

CR-3 Awnings, Canopies, Carports and Patio Covers

CR-4 Boilers, Steamfitting and Process Piping

CR-5 (As restricted by Registrar)

CR-6 Swimming Pool Service and Repair

CR-7 Carpentry

CR-8 Floor Covering

CR-9 Concrete

CR-10 Drywall
CR-11 Electrical
CR-12 Elevators
CR-14 Fencing
CR-15 Blasting
CR-16 Fire Protection Systems
CR-17 Steel and Aluminum Erection
CR-21 Landscaping and Irrigation Systems
CR-24 Ornamental Metals
CR-29 Machinery (As restricted by Registrar)
CR-31 Masonry
CR-34 Painting and Wall Covering
CR-36 Plastering
CR-37 Plumbing
CR-38 Signs
CR-39 Air Conditioning, Refrigeration and Heating
CR-40 Insulation
CR-41 Septic Tanks and Systems
CR-42 Roofing
CR-45 Sheet Metal
CR-48 Ceramic, Plastic and Metal Tile
CR-53 Water Well Drilling
CR-54 Water Conditioning Equipment
CR-56 Welding
CR-57 Wrecking
CR-58 Comfort Heating, Ventilating, Evaporative Cooling
CR-60 Finish Carpentry
CR-61 Carpentry, Remodeling and Repairs
CR-62 Reinforcing Bar and Wire Mesh
CR-63 Appliances
CR-65 Glazing
CR-66 Seal Coating
CR-67 Low Voltage Communication Systems
CR-69 Asphalt Paving
CR-74 Boilers, Steamfitting and Process Piping, including Solar
CR-77 Plumbing including Solar
CR-78 Solar Plumbing Liquid Systems Only
CR-79 Air Conditioning and Refrigeration including Solar
CR-80 Sewers, Drains and Pipe Laying

B. Dual license contracting scopes. The scope of work which may be done under the dual license contracting classifications allow a contractor to combine commercial and residential contracting licenses in one license. These classifications are as follows:

KA- DUAL ENGINEERING
This classification allows the scope of work permitted by the commercial A- General Engineering and the B-4 General Residential Engineering licenses.

KA-5 DUAL SWIMMING POOL CONTRACTOR
This classification allows the scope of work permitted by the commercial A-9 Swimming Pools and the residential B-5 General Swimming Pool licenses.

KA-6 DUAL SWIMMING POOL CONTRACTOR INCLUDING SOLAR
This classification allows the scope of work permitted by the commercial A-19 Swimming Pools, Including Solar and the residential B-6 General Swimming Pools, Including Solar licenses.

KE- (AS RESTRICTED BY REGISTRAR)

KB-1 DUAL BUILDING CONTRACTOR
This classification allows the scope of work permitted by the B-1 General Commercial Contractor and the B- General Residential Contractor licenses.

KB-2 DUAL RESIDENTIAL AND SMALL COMMERCIAL
This classification allows the scope of work permitted by the B-2 General Small Commercial and the B- General Residential Contractor licenses.

KO- (AS RESTRICTED BY REGISTRAR)

CR-1 ACOUSTICAL SYSTEMS
This classification allows the licensee to install or repair pre-manufactured acoustical ceiling and wall systems.

This classification does not allow the licensee to install or repair electrical or mechanical systems.

CR-2 EXCAVATING, GRADING AND OIL SURFACING
This classification allows the scope of work permitted by the commercial A-5 Excavating, Grading, and Oil Surfacing and the residential R-2 Excavating, Grading, and Oil Surfacing licenses.

CR-3 AWNINGS, CANOPIES, CARPORTS AND PATIO COVERS
This classification allows the licensee to place concrete footings and concrete slabs as required for the licensee to install or repair:

1. Window awnings
2. Door hoods
3. Freestanding or attached canopies
4. Carport and patio covers constructed of metal, fabric, fiberglass, or plastic
5. Screened and paneled enclosures, which are not intended for use as habitable spaces, using metal panels, plastic inserts, and screen doors. A minimum of 60% of the wall area of an enclosure shall be constructed of screening material.
6. Fascia panels
7. Flashing and skirting
8. Exterior, detached metal storage units

This classification does not allow the licensee to install or repair electrical, plumbing, or air conditioning systems.

CR-4 BOILERS, STEAMFITTING AND PROCESS PIPING
This classification allows the scope of work permitted by the commercial C-4 Boilers, Steamfitting and Process Piping and the residential R-4R Boilers licenses.

CR-5 (AS RESTRICTED BY REGISTRAR)

CR-6 SWIMMING POOL SERVICE AND REPAIR
This classification allows the scope of work permitted by the commercial C-6 Swimming Pool Service and Repair and the residential R-6 Swimming Pool Service and Repair licenses.

CR-7 CARPENTRY
This classification allows the licensee to install or repair:
1. Rough carpentry
2. Finish carpentry
3. Hardware
4. Millwork
5. Metal studs
6. Metal doors or door frames

CR-8 FLOOR COVERING
This classification allows the licensee to prepare a surface as required for the licensee to install or repair the following floor covering materials:
1. Carpet
2. Floor tile
3. Wood
4. Linoleum
5. Vinyl
6. Asphalt
7. Rubber
8. Concrete coatings

CR-9 CONCRETE
This classification allows the scope of work permitted by the commercial C-9 Concrete and the residential R-9 Concrete licenses.

CR-10 DRYWALL
This classification allows the licensee to install or repair:
1. Gypsum wall board
2. Ceiling grid systems as supporting members for gypsum drywall
3. Movable partitions
4. Wall board tape and texture
5. Non-load bearing, lightweight, steel wall partitions

CR-11 ELECTRICAL
This classification allows the scope of work permitted by the commercial C-11 Electrical and residential R-11 Electrical licenses.

CR-12 ELEVATORS
This classification allows the licensee to install or repair:
1. Elevators
2. Dumbwaiters
3. Escalators
4. Moving walks and ramps
5. Stage and orchestra lifts

CR-14 FENCING
This classification allows the licensee to install or repair:
1. Metal, wood, and cement block fencing
2. Automatic gates
3. Fire access strobes
4. Highway guard rails
5. Cattle guards
6. Low voltage U.L. approved electrical fence protective devices of less than 25 volts and 100 watts

This classification does not allow the licensee to install or repair retaining walls.

CR-15 BLASTING
This classification allows the licensee to drill, bore, move earth, and build temporary shelters or barricades, as required for the licensee's use of explosives and explosive devices for:
1. Excavation
2. Demolition
3. Geological exploration
4. Mining
5. Construction related blasting

CR-16 FIRE PROTECTION SYSTEMS
This classification allows the scope of work permitted by the commercial C-16 Fire Protection Systems and the residential R-16 Fire Protection licenses.

CR-17 STEEL AND ALUMINUM ERECTION
This classification allows the scope of work permitted by the commercial A-11 Steel and Aluminum Erection and the residential R-17 Structural Steel and Aluminum licenses.

CR-21 LANDSCAPING AND IRRIGATION SYSTEMS
This classification allows the licensee to treat, condition, prepare, and install:
1. Topsoil
2. Plants and decorative vegetation
3. Non-loadbearing concrete
4. Uncovered patios, walkways, driveways made of brick, stone, pavers or gravel
5. Wooden decks no higher than 29 inches above finish grade
6. Decorative garden walls up to six feet from finish grade
7. Fences and screens up to six feet from finish grade
8. Retaining walls up to three feet from the finish grade of the lower elevation
9. Wood-burning fire pit no higher than 16 inches above finish grade
10. Low voltage landscape lighting
11. Water features that are not attached to swimming pools; including any necessary: electrical wiring of 120 volts or less, connection to potable water lines, backflow prevention devices, hose bibs, excavating, trenching, boring, backfilling, or grading
12. Irrigation systems, including any necessary: electrical wiring of 120 volts or less, connection to potable water lines, backflow prevention devices, hose bibs, excavating, trenching, boring, backfilling, or grading

This classification does not allow the licensee to install, contract for, or subcontract new electrical service panels, gas or plumbing lines, blasting, outdoor kitchens, gazebos, room additions, swimming pools, pool deck coatings, barbeques, concrete driveways, load bearing walls, or perimeter fencing.

CR-24 ORNAMENTAL METALS
This classification allows the licensee to fabricate, install, or repair non-structural ornamental metal, such as:
1. Metal folding gates

2. Guard and hand rails
3. Wrought iron fencing and gates
4. Window shutters and grilles
5. Room dividers and shields
6. Metal accessories common to the industry

This classification does not allow the licensee to install fire escapes and stairs.

CR-29 MACHINERY (AS RESTRICTED BY THE REGISTRAR)

CR-31 MASONRY
This classification allows the licensee to grout, caulk, sand blast, tuckpoint, mortar wash, parge, clean and weld reinforcing steel as required for the licensee to install or repair:
1. Masonry
2. Brick
3. Concrete block
4. Insulating concrete forms
5. Adobe units
6. Stone
7. Marble
8. Slate
9. Mortar-free masonry products

CR-34 PAINTING AND WALL COVERING
This classification allows the licensee to perform surface preparation, caulking, drywall patching, drywall taping, sanding, and cleaning as required for the licensee to install, apply or repair:
1. Wallpaper
2. Wall covering cloth
3. Wall covering vinyl
4. Decorative texture
5. Paint

CR-36 PLASTERING
This classification allows the licensee to install laths, metal studs, metal grid systems, or other bases as required for the licensee to coat surfaces by trowel or spray with combinations of:
1. Sand mixtures (e.g. stucco)
2. Gypsum plaster
3. Cement
4. Acoustical plaster
5. Swimming pool interiors (excluding tile)

CR-37 PLUMBING
This classification allows the scope of work permitted by the commercial C-37 Plumbing and the residential R-37R Plumbing licenses.

CR-38 SIGNS
This classification allows the licensee to install or repair posts, poles, supports, paint, and electrical wiring as required for the licensee to fabricate, install or repair:
1. Signs
2. Displays
3. Flagpoles

CR-39 AIR CONDITIONING AND REFRIGERATION
This classification allows the scope of work permitted by the commercial C-39 Air Conditioning and Refrigeration and the residential R-39R Air Conditioning and Refrigeration licenses.

CR-40 INSULATION
This classification allows the licensee to install supports, fastening systems, adhesives, mastics, or plastics as required for the licensee to install or repair:
1. Insulation materials
2. Preformed architectural acoustical materials
3. Insulation protecting materials

CR-41 SEPTIC TANKS AND SYSTEMS
This classification allows the licensee to excavate, install or repair pipe, backfill, and compact soil as required for the licensee to install or repair:
1. Septic tanks
2. Aerobic digesters
3. Leaching fields

CR-42 ROOFING
This classification allows the licensee to apply or install weatherproofing (i.e. asphaltum, pitch, tar, felt, glass fabric, or flax) or roof accessories (i.e. flashing, valleys, gravel stops, or sheet metal) as required for the licensee to install or repair:
1. Roof tile
2. Shingles
3. Shakes
4. Slate
5. Metal roofing systems
6. Urethane foam
7. Roof insulation or coatings on or above the roof deck

This classification allows the licensee to replace up to three sheets (96 square feet) of plywood on the roof substrate; and install new or replace existing skylights where it does not require changes to the roof framing or roof structure.

CR-45 SHEET METAL
This classification allows the licensee to cut, fabricate, install or repair:
1. Sheet metal
2. Cornices
3. Flashings
4. Gutters
5. Leaders
6. Pans
7. Kitchen equipment
8. Duct work
9. Skylights
10. Patented chimneys
11. Metal flues
12. Metal roofing systems

CR-48 CERAMIC, PLASTIC AND METAL TILE
This classification allows the licensee to prepare a surface as required for the licensee to install or repair the following tile products on horizontal and vertical surfaces:
1. Ceramic
2. Clay
3. Faience
4. Metal
5. Mosaic
6. Glass mosaic
7. Paver
8. Plastic
9. Quarry
10. Stone tiles such as marble or slate
11. Terrazzo

Installation of shower doors and tub enclosures are included when a part of the original contract.

CR-53 WATER WELL DRILLING

This classification allows the scope of work permitted by the commercial C-53 Water Well Drilling and the residential R-53 Drilling licenses.

CR-54 WATER CONDITIONING EQUIPMENT
This classification allows the licensee to perform trenching, backfilling, and grading; and install and repair piping, fittings, valves, concrete supports, and electrical control panels of less than 25 volts and required grounding devices; as required for the licensee to install or repair:
1. Water conditioning equipment
2. Misting systems
3. Exchange tanks
4. Indirect waste pipe carrying brine, backwash and rinse water to the point of disposal

CR-56 WELDING
This classification allows the licensee to weld metals.

CR-57 WRECKING
This classification allows the licensee to install or repair temporary ramps, barricades, and pedestrian walkways as required for the licensee to demolish, dismantle, or remove structures not intended for reuse. This classification does not allow the licensee to use explosives.

CR-58 COMFORT HEATING, VENTILATING, EVAPORATIVE COOLING
This classification allows the scope of work permitted by the commercial C-58 Comfort Heating, Ventilating, Evaporative Cooling and the residential R-39R Warm Air Heating, Evaporative Cooling, and Ventilating licenses.

CR-60 FINISH CARPENTRY
This classification allows the licensee to install or repair millwork such as:
1. Cabinets
2. Counter tops
3. Case sash
4. Door trim
5. Metal doors
6. Automatic door closers
7. Wood flooring

CR-61 CARPENTRY, REMODELING AND REPAIRS
For projects of $50,000 or less, this classification allows the licensee, on existing structures, to install or repair:
1. Rough carpentry
2. Finish carpentry
3. Roofing
4. Hardware
5. Millwork
6. Metal studs
7. Metal doors or door frames

Work related to electrical, plumbing, air conditioning systems, boilers, swimming pools, spas and water wells must be subcontracted to an appropriately licensed contractor.

CR-62 REINFORCING BAR AND WIRE MESH
This classification allows the licensee to install or repair:
1. Reinforcing bar
2. Post-tension
3. Wire mesh

CR-63 APPLIANCES
This classification allows the licensee to install and repair appliances. This classification does not allow the licensee to install or repair gas, electrical, or plumbing lines.

CR-65 GLAZING
This classification allows the licensee to install or repair weatherproofing, caulking, sealants, and adhesives as required for the licensee to assemble, install or repair:
1. Glass products
2. Window film
3. Window treatments
4. Steel and aluminum glass holding members

CR-66 SEAL COATING
This classification allows the scope of work permitted by the commercial A-15 Seal Coating and the residential R-13 Asphalt Paving licenses.

CR-67 LOW VOLTAGE COMMUNICATION SYSTEMS
This classification allows the licensee to build antenna towers on existing structures as required for the licensee to install, service or repair:
1. Alarm systems
2. Telephone systems
3. Sound systems
4. Intercommunication systems
5. Public addressing systems
6. Television or video systems
7. Low voltage signaling devices
8. Low voltage landscape lighting that does not exceed 91 volts
9. Master and program clocks (only low voltage wiring and needed equipment)

CR-69 ASPHALT PAVING
This classification allows the scope of work permitted by the commercial A-14 Asphalt Paving and the residential R-13 Asphalt Paving licenses.

CR-74 BOILERS, STEAMFITTING AND PROCESS PIPING, INCLUDING SOLAR
This classification allows the scope of work permitted by the commercial C-74 Boilers, Steamfitting and Process Piping, Including Solar and the residential R-4 Boilers Including Solar licenses.

CR-77 PLUMBING INCLUDING SOLAR
This classification allows the scope of work permitted by the commercial C-77 Plumbing Including Solar and the residential R-37 Plumbing Including Solar licenses.

CR-78 SOLAR PLUMBING LIQUID SYSTEMS ONLY
This classification allows the scope of work permitted by the commercial C-78 Solar Plumbing Liquid Systems Only and the residential R-37R Solar Plumbing Liquid Systems Only licenses.

CR-79 AIR CONDITIONING AND REFRIGERATION INCLUDING SOLAR
This classification allows the scope of work permitted by the commercial C-79 Air Conditioning and Refrigeration Including Solar and the residential R-39 Air Conditioning and Refrigeration Including Solar licenses.

CR-80 SEWERS, DRAINS AND PIPE LAYING
This classification allows the scope of work permitted by the commercial A-12 Sewers, Drains, and

Pipe Laying and the residential R-37R Sewers, Drains and Pipe Laying licenses.

Historical Note

Former Section R4-9-04 repealed, new Section R4-9-04 adopted effective February 23, 1976 (Supp. 76-1). Amended effective April 18, 1984 (Supp. 84-2). Amended subsection (A) effective July 9, 1987 (Supp. 87-3). Former Section R4-9-04 renumbered as Section R4-9-104 (Supp. 87-3). Former Section R4-9-104 renumbered to R4-9-105 and amended; new Section R4-9-104 adopted effective January 20, 1998 (Supp. 98-1). Amended to correct typographical errors (Supp. 99-4). Amended by final rulemaking at 20 A.A.R. 568, effective July 1, 2014 (Supp. 14-1).

R4-9-105. Restricted License Classifications

A. A restricted license is a specialty or general license that confines the scope of allowable contracting work to a specialized area of construction which the Registrar of Contractors grants on a case-by-case basis. The restricted licenses classifications are KE, KO, CR-5 or CR-29. The Registrar assigns a restricted license classification based upon the nature and complexity of the work, the degree of unusual expertise involved and the applicability of existing classifications to the specialized area of construction.

B. When applying for a restricted license classification an applicant, if requested, shall submit to the Registrar the following:

1. A detailed statement of the type and scope of contracting work that the applicant proposes to perform.
2. Any brochures, catalogs, photographs, diagrams, or other material, which the applicant has, that will further clarify the scope of the work that the applicant proposes to perform.

C. The Registrar shall determine the classification of the restricted license and notify the applicant of the classification. The applicant must then apply for the restricted license according to the Registrar of Contractor's application process in accordance with A.R.S. § 32-1122.

D. A contractor issued a restricted license shall confine the contractor's activities to the field and scope of operations as described in the license classification.

Historical Note

Former Section R4-9-05 repealed, new Section R4-9-05 adopted effective February 23, 1976 (Supp. 76-1). Amended effective July 9, 1987 (Supp. 87-3). Former Section R4-9-05 renumbered without change as Section R4-9-105 (Supp 87-3). Former Section R4-9-105 renumbered to R4-9-106 and amended; new Section R4-9-105 renumbered from R4-9-104 and amended effective January 20, 1998 (Supp. 98-1). Amended by final rulemaking at 20 A.A.R. 568, effective July 1, 2014 (Supp. 14-1).

R4-9-106. Examinations

A. Examinations are given weekly or more often as prescribed by the Registrar or the contracted vendor.

B. The applicant's qualifying party must take and pass the appropriate examination with a passing grade of at least 70% for each examination taken.

C. A person is allowed to retake a failed examination subject to the following limitations:

1. Waiting 30 calendar days after a first failed attempt,
2. Waiting 30 calendar days after a second failed attempt, and
3. Waiting 180 calendar days after the third and any subsequent failed attempts.

D. Pursuant to A.R.S. §§ 32-1122(A)(4) and 32-1122(F) the Registrar may decide a trade exam is not required where the qualifying party has been the qualifying party within the preceding five years for a license in good standing in the same classification in this state, or a classification the Registrar deems comparable in another state.

Historical Note

New Section R4-9-106 renumbered from R4-9-105 and amended effective January 20, 1998 (Supp. 98-1). Amended by final rulemaking at 20 A.A.R. 568, effective July 1, 2014 (Supp. 14-1).

R4-9-107. Classifying and Reclassifying Contractor Licenses

A. In accordance with A.R.S § 32-1105 and 32-1122, the Registrar may establish, add to, take away from, or eliminate license classifications.

B. Where a license classification is eliminated, but the Registrar determines a comparable license classification remains, the Registrar shall reclassify the eliminated licenses with the remaining license classification.

C. The following license reclassifications are effective July 1, 2014.

Prior License	New License
A-3 Blasting	CR-15 Blasting
C-15 Blasting	
A-21 Landscaping and Irrigation Systems	CR-21 Landscaping and Irrigation Systems
L-26 Landscaping	
L-44 Irrigation Systems	
C-21 Landscaping and Irrigation Systems	
C-21R Landscaping	
C-21R Irrigation Systems	
K-26 Landscaping	
K-44 Irrigation Systems	
AE (As Restricted by the Registrar)	KE (As Restricted by the Registrar)
BE (As Restricted by the Registrar)	KO (As Restricted by the Registrar)
L-1 Acoustical Systems	CR-1 Acoustical Systems
C-1 Acoustical Systems	
L-3 Awnings, Canopies, Carports and Patio Covers	CR-3 Awnings, Canopies, Carports and Patio Covers
C-3 Awnings and Canopies	
L-5 (As Restricted by the Registrar)	CR-5 (As Restricted by the Registrar)
C-5 (As Restricted by the Registrar)	
L-7 Carpentry	CR-7 Carpentry
C-7 Carpentry	
C-7R Doors, Gates, Windows and Accessories	
C-7R Removable Formwork and Shoring	
C-7R Nailing and Stapling	

L-8 Floor Covering	CR-8 Floor Covering
L-13 Carpets	
L-64 Wood Floor Laying and Finishing	
C-8 Floor Covering	
C-8R Wood Flooring	
C-8R Carpet	
C-8R Composition Flooring	
C-8R Nonconventional Floor Covering	
C-8R Ceramic and Clay Floor Covering	
K-13 Carpet	
K-64 Wood Floor Laying and Finishing	
C-9R Gunite and Shotcrete	R-9 Concrete
C-9R Lightweight Concrete	
C-9R Fence Footings	
C-9R PreCast Concrete	
C-9R Sawing, Coring, Epoxy Panels and Bonding	
C-9R Terrazzo	
L-10 Drywall	CR-10 Drywall
C-10 Drywall	
L-12 Elevators	CR-12 Elevators
C-18 Elevators	
C-13R Asphalt Coating and Parking Appurtenances	R-13 Asphalt Paving
L-14 Fencing	CR-14 Fencing
C-14 Fencing	
C-14R Fencing Other Than Masonry	
C-16R CO2, Dry and Wet Chemical Systems	R-16 Fire Protection Systems
L-24 Ornamental Metals	CR-24 Ornamental Metals
C-17R Ornamental Metals	
C-17R Steel Floor, Sub Floor and Form Systems	R-17 Structural Steel and Aluminum
C-17R Tanks	
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L-29 Machinery (As Restricted by the Registrar)	CR-29 Machinery (As Restricted by the Registrar)
C-29 Machinery (As Restricted by the Registrar)	
L-31 Masonry	CR-31 Masonry
C-31 Masonry	
C-31R Flagstone	
C-31R Stone Masonry	
L-34 Painting and Wall Covering	CR-34 Painting and Wall Covering
C-34 Painting and Wall Covering	
C-34R Surface Preparation and Waterproofing	
C-34R Wallpaper	

L-36 Plastering	CR-36 Plastering
C-36 Plastering	
C-36R Swimming Pool Plastering	
C-36R Lathing	
L-38 Sign	CR-38 Signs
C-38 Signs	
L-40 Insulation	CR-40 Insulation
C-40 Insulation	
C-40R Foam Insulation	
L-41 Septic Tanks and Systems	CR-41 Septic Tanks and Systems
C-41 Sewage Treatment Systems	
C-41R Precast Waste Treatment Systems	
L-42 Roofing	CR-42 Roofing
C-42 Roofing	
C-42R Foam and Foam Panel Roofing	
C-42R Liquid Applied Roofing	
C-42R Roofing Shingles and Shakes	
L-45 Sheet Metal	CR-45 Sheet Metal
C-45 Sheet Metal	
C-45R Premanufactured Fire Places	
L-48 Ceramic, Plastic and Metal Tile	CR-48 Ceramic, Plastic and Metal Tile
C-48 Ceramic, Plastic and Metal Tile	
C-48R Swimming Pool Tile	
L-54 Water Conditioning Equipment	CR-54 Water Conditioning Equipment
C-37R Water Conditioning Equipment	
L-56 Welding	CR-56 Welding
C-17R Welding	
L-57 Wrecking	CR-57 Wrecking
C-22R Wrecking	
L-60 Finish Carpentry	CR-60 Finish Carpentry
C-30 Finish Carpentry	
C-30R Kitchen and Bathroom Components	
C-30R Doors, Windows, Gates, Tub and Shower Enclosures	
C-30R Cultured Marble	
C-30R Weatherstripping	
L-61 Carpentry, Remodeling and Repairs	CR-61 Carpentry, Remodeling and Repairs
C-61 Limited Remodeling and Repair Contractor	
C-68 Mobile Home Remodeling and Repair	
L-62 Reinforcing Bar and Wire Mesh	CR-62 Reinforcing Bar and Wire Mesh
C-17R Rebar and Wire Mesh	

L-63 Appliances	CR-63 Appliances
C-63 Appliances	
L-65 Glazing	CR-65 Glazing
C-65 Glazing	
C-65R Skylights	
C-65R Storm Windows and Doors	
C-65R Mirrors	
C-65R Window Treatment	
L-67 Low Voltage Communications Systems	CR-67 Low Voltage Communication Systems
C-12 Low Voltage Communication Systems	

Historical Note

Former Rule 7. Former Section R4-9-07 repealed, new Section R4-9-07 adopted effective February 23, 1976 (Supp. 76-1). Former Section R4-9-07 repealed, new Section R4-9-07 adopted effective April 18, 1984 (Supp. 84-2). Former Section R4-9-07 renumbered without change as Section R4-9-107 (Supp 87-3). Repealed effective October 22, 1992 (Supp. 92-4). New Section R4-9-107 made by final rulemaking at 20 A.A.R. 568, effective July 1, 2014 (Supp. 14-1).

R4-9-108. Minimum Construction Standards

A. A contractor shall perform all work in a professional manner.

B. A contractor shall perform all work in accordance with any applicable building codes and professional industry standards. For work to be performed in accordance with professional industry standards, a contractor shall use such skills, prudence, and diligence in performing and completing tasks undertaken that the completed work meets the standards of a similarly licensed contractor possessing ordinary skill and capacity.

C. All work performed by a contractor in a county, city, or town that has not adopted building codes or where any adopted building codes do not contain specific provisions applicable to that aspect of construction work shall be performed in accordance with professional industry standards.

Historical Note

Former Rule 8. Former Section R4-9-08 repealed, new Section R4-9-08 adopted effective February 23, 1976 (Supp. 76-1). Amended effective October 18, 1979 (Supp. 79-5). Amended subsection (C) effective April 23, 1981 (Supp. 81-2). Amended subsection (C) effective April 18, 1984 (Supp. 84-2). Former Section R4-9-08 renumbered without change as Section R4-9-108 (Supp. 87-3). Amended effective April 20, 1993 (Supp. 93-2). Amended effective January 20, 1998 (Supp. 98-1). Amended by final rulemaking at 9 A.A.R. 5028, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 20 A.A.R. 568, effective July 1, 2014 (Supp. 14-1).

R4-9-109. Name of Licensee or Applicant

A. A licensee shall do business under the name on the license issued and ensure that the same name is used on the license bond.

B. If a corporation is doing business in the name of a division or using a trade name, the corporation shall ensure that all names are shown on any application.

C. If applying for a license or a name change, a corporation shall submit written evidence that it is in good standing or that the new name has been filed with the Arizona Corporation Commission.

D. The Registrar shall grant a request for name change if there is no change in the legal entity, the name is available, and the request is submitted in writing, together with the required license fee and a cash deposit or bond rider that reflects the name change.

E. The Registrar may elect to reject an application, refuse to issue a license, or deny the name change of an existing license, based on a review of whether the proposed name is identical or so similar to that of an existing licensee or license applicant that it may cause confusion.

F. The Registrar shall not accept an application or issue a license if it contains the name of a building trade or craft for which the contractor is not qualified.

Historical Note

Former Rule 9. Former Section R4-9-09 repealed, new Section R4-9-09 adopted effective February 23, 1976 (Supp. 76-1). Amended effective September 27, 1976 (Supp. 76-4). Amended subsections (B), (C), and (D) effective April 18, 1984 (Supp. 84-2). Former Section R4-9-09 renumbered without change as Section R4-9-109 (Supp. 87-3). Amended by final rulemaking at 10 A.A.R. 5185, effective February 5, 2005 (04-4).

R4-9-110. Change of Legal Entity and Cancellation of License

A. Pursuant to A.R.S. § 32-1124, licenses are nontransferable. A new license is required whenever the licensee's legal entity changes. A change in legal entity includes, but is not limited to:

1. Changes in ownership of a sole proprietorship;
2. Change of a controlling partner in a partnership;
3. Changing from one corporate entity to a different corporate entity;
4. Changing business entities, regardless of whether ownership changes, (e.g. from a corporation or a sole proprietor to a limited liability company); or
5. Merging with another business, where the business holding the license becomes the inactive business after the merger.

B. A license may be cancelled upon the written request of the owner of a sole proprietorship, a controlling partner of a partnership, or in the case of a corporation or a limited liability company any person with written evidence of authority to cancel the license.

Historical Note

Former Rule 10. Former Section R4-9-10 repealed, new Section R4-9-10 adopted effective February 23, 1976 (Supp. 76-1). Former Section R4-9-10 renumbered without change as Section R4-9-110 (Supp. 87-3). Amended by final rulemaking at 10 A.A.R. 5185, effective February 5, 2005 (04-4). Amended by final rulemaking at 20 A.A.R. 568, effective July 1, 2014 (Supp. 14-1).

R4-9-111. Repealed

Historical Note

Former Rule 11. Former Section R4-9-11 repealed effective February 23, 1976 (Supp. 76-1). Adopted effective July 26, 1976 (Supp. 76-4). Amended effective April 18, 1979 (Supp. 84-2). Correction: Previous Historical Note should read: "Amended effective April 18, 1984"; Former Section R4-9-11 renumbered without change as Section R4-9-111 (Supp. 87-3). Repealed effective January 20, 1998 (Supp. 98-1).

R4-9-112. Bond Limits; Applications; Renewals; Increases and Decreases of Bond Amounts; Effective Date of Bond and

Deposits

A. Bond limits. In accordance with the provisions of A.R.S. § 32-1152, license bonds are established in the following amounts, based upon the estimated annual volume of work anticipated by the contractor within the State of Arizona for the ensuing fiscal year:

License Category	Estimated Annual Volume (Per License Category)	Bond Amount
1. General Commercial Contracting and Engineering Contracting	Less than $150,000	$5,000
	$150,000 or more, but less than $500,000	$15,000
	$500,000 or more, but less than $1,000,000	$25,000
	$1,000,000 or more, but less than $5,000,000	$50,000
	$5,000,000 or more, but less than $10,000,000	$75,000
	$10,000,000 or more	$100,000
2. Specialty Commercial Contracting	Less than $150,000	$2,500
	$150,000 or more, but less than $500,000	$7,000
	$500,000 or more, but less than $1,000,000	$17,500
	$1,000,000 or more, but less than $5,000,000	$25,000
	$5,000,000 or more, but less than $10,000,000	$37,500
	$10,000,000 or more	$50,000
3. General Residential Contracting	Less than $750,000	$9,000
	$750,000 or more	$15,000
4. Specialty Residential Contracting	Less than $375,000	$4,250
	$375,000 or more	$7,500

5. General Dual License Contracting. The amount of a General Dual License Contracting bond is determined under subsection (A)(3), based on the contractor's estimated volume of general residential contracting, and subsection (A)(1), based on the contractor's estimated volume of general commercial contracting. The contractor shall ensure that the bond issuer separately specifies on the bond the bond amounts applicable to general residential contracting and general commercial contracting.
6. Specialty Dual License Contracting. The amount of a Specialty Dual license Contracting bond is determined under subsection (A)(4), based on the contractor's estimated volume of specialty residential contracting, and subsection (A)(2), based on the contractor's estimated volume of specialty commercial contracting. The contractor shall ensure that the bond issuer separately specifies on the bond the bond amounts applicable to specialty residential contracting and specialty commercial contracting.

B. New licenses. On an application for a new license for any license category listed above, an applicant shall estimate the applicant's annual volume of work within the state of Arizona and comply with the bond requirements of this Section for the relevant category of license. The Registrar considers the filing of a bond or deposit in a specified amount to be the equivalent of submitting a volume estimate within the dollar limitations applicable for the bond amount.

C. Renewal. To renew a license an applicant shall complete a form provided by the Registrar of Contractors. If the contractor files a new bond or continues a bond or deposit in a specified amount, the Registrar considers these actions to be the equivalent of submitting a volume estimate within the dollar limitations applicable for the bond amount. The Registrar of Contractors is not responsible for over or under estimates of volume of work made by the licensee or for the sufficiency of any bond or deposit. The Registrar considers a gross underestimate knowingly made by a licensee to be a material misrepresentation, which can subject the licensee to suspension or revocation of license.

D. Increases and decreases of bond amounts. Based on the actual amount of the contractor's gross volume of work, a contractor may increase the bond amount at any time. A surety bond or cash deposit in lieu of a bond cannot be decreased except at the time of license renewal.

E. Effective date of bonds and deposits. A license bond or cash deposit is not effective until the licensee files it at a Registrar of Contractors office. If a license bond is filed before the effective date indicated on the bond, the bond becomes effective on the indicated date.

F. The changes to bond amounts made in this Section become enforceable on the next license renewal after June 30, 2014.

Historical Note

Former Rule 12. Former Section R4-9-12 repealed, new Section R4-9-12 adopted effective February 23, 1976 (Supp. 76-1). Amended effective October 17, 1978 (Supp. 78-5). Amended subsection (C) effective August 15, 1980 (Supp. 80-4). Amended subsections (A), (B), and (C) effective July 9, 1987; former Section R4-9-12 renumbered as Section R4-9-112 (Supp. 87-3). Amended effective January 20, 1998 (Supp. 98-1). Amended by final rulemaking at 10 A.A.R. 5185, effective February 5, 2005 (04-4). Amended by final rulemaking at 20 A.A.R. 568, effective July 1, 2014 (Supp. 14-1).

R4-9-113. Application Process

A. In accordance with the provisions of A.R.S. § 32-1122 an applicant for licensure shall submit a verified application on form prescribed by the Registrar of Contractors.

B. For the purposes of A.R.S. § 41-1073, the Registrar establishes the following time-frames for the issuance of a contractor license.
1. Administrative completeness review time-frame: 40 calendar days
2. Substantive review time-frame: 20 calendar days
3. Overall agency time-frame: 60 calendar days

C. During the administrative completeness review time-frame the Registrar shall review an application for administrative completeness and either issue the license or mail a written notice of completeness or deficiencies within 40 days from the date of receipt. If deficiencies are found in the application, the Registrar shall mail the applicant a written notice containing a comprehensive list of the specific deficiencies. The 40-day time-frame for the Registrar to finish the review for completeness shall be suspended from the date the notice of deficiencies is mailed until the Registrar receives all requested information.

D. During the substantive review time-frame the Registrar shall complete a substantive review of the applicant's qualifications and grant, deny, or mail a final comprehensive notice of deficiencies within 20 days after expiration of the administrative completeness review time-frame. If the Registrar finds deficiencies during the substantive review of the application, the Registrar shall mail one final comprehensive request for additional information to the applicant. The 20 day time-frame for the Registrar to finish the substantive review shall be suspended from the date the request for additional information is mailed until the Registrar receives all requested information.

E. Compliance with the administrative completeness review, substantive review and overall time-frames:
1. By mutual agreement, an applicant and the Registrar may agree to extend the substantive review and overall time-frames by 15 calendar days.
2. The Registrar may return an application if it does not receive the information it requests during the administrative completeness review or substantive review periods within 30 calendar days from the date the registrar mailed the request for additional information. The return of a license application shall result in the forfeiture of the application fee, but all other license fees shall be returned to the applicant. An applicant shall pay an application fee each time it submits a returned license application.

F. For the purpose of this Section, 1st-class mail sent to the address on the application shall serve as legal notice.

G. In computing any period of time prescribed or allowed by this Section, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday.

H. Notwithstanding any provisions of this Section the applicant may apply to the Registrar in writing to withdraw a license application. The withdrawal of a license application shall result in the forfeiture of the application processing fee, but all other license fees shall be returned to the applicant.

Historical Note

Adopted effective January 20, 1998 (Supp. 98-1). Amended by final rulemaking at 20 A.A.R. 568, effective July 1, 2014 (Supp. 14-1).

R4-9-114. Reserved

R4-9-115. Posting

A. The Registrar shall not issue a license until expiration of the posting period in A.R.S. § 32-1104(C).

B. The Registrar may waive part of the posting period for applicants and personnel of applicants who have previously undergone the 20-day posting period.

C. The Registrar may increase the posting period beyond 20 days, but no more than 60 days for applicants who have been on a license that was disciplined.

D. Posting shall be done on the Registrar's web site.

Historical Note

Former Rule 15. Former Section R4-9-15 repealed, new Section R4-9-15 adopted effective February 23, 1976 (Supp. 76-1). Former Section R4-9-15 renumbered without change as Section R4-9-115 (Supp. 87-3). Amended by final rulemaking at 10 A.A.R. 5185, effective February 5, 2005 (04-4). Amended by final rulemaking at 20 A.A.R. 568, effective July 1, 2014 (Supp. 14-1).

R4-9-116. License Renewal

A. To renew a license, a licensee shall submit the following information to the Registrar and advise the Registrar of any change in the information within 30 days of the change:
1. If the licensee is a corporation or a limited liability company, evidence that the entity is in good standing with the Arizona Corporation Commission.
2. The licensee's current privilege license number, issued under A.R.S. § 42-5005.

B. A licensee shall renew each license on or before the renewal date. Failure to comply results in suspension of the license on the day following the renewal date by operation of law. The Registrar shall collect a $50.00 late fee if renewal is completed after the renewal date. Based on the severity of the violation, the Registrar may refuse to renew a license after determining that a licensee has committed or been found guilty of any act listed in A.R.S. § 32-1154(A).

C. To renew a contracting license, a licensee shall submit an application for renewal to the Registrar, accompanied by the required renewal fee. Timely submission of an application is evidenced by the date stamped on the documents by the Registrar or the date on "postage prepaid" documents if the submission is deposited in the United States mail, postage prepaid, on or before the renewal date. Timely submission authorizes the licensee to operate as a contractor until actual issuance of the renewal license.

D. If a license has been suspended by operation of law for failure to renew, a licensee may still renew the license within one year of its suspension by submitting an application for renewal and paying the applicable renewal fee and a $50.00 late fee. If a license has been suspended for one or more years for failure to renew, the license shall expire and the former licensee must submit an application for a new license.

Historical Note

Former Rule 16. Former Section R4-9-16 repealed, new Section R4-9-16 adopted effective February 23, 1976 (Supp. 76-1). Amended effective October 14, 1977 (Supp. 77-5). Amended effective October 26, 1978 (Supp. 78-5). Amended effective April 18, 1984 (Supp. 84-2). Former Section R4-9-16 renumbered without change as Section R4-9-116 (Supp. 87-3). Amended by final rulemaking at 10 A.A.R. 5185, effective February 5, 2005 (04-4). Amended by final rulemaking at 20 A.A.R. 568, effective July 1, 2014 (Supp. 14-1).

R4-9-117. Prior Record

In any disciplinary proceeding the Administrative Law Judge and the Registrar may consider the licensee's entire license file including the record of prior warning letters, complaints, cease and desist

orders, citations and final administrative decisions or orders, or both.

Historical Note

Former Rule 17. Former Section R4-9-17 repealed, new Section R4-9-17 adopted effective February 23, 1976 (Supp. 76-1). Former Section R4-9-17 renumbered without change as Section R4-9-117 (Supp. 87-3). Amended by final rulemaking at 9 A.A.R. 3182, effective August 30, 2003 (Supp. 03-3). Amended by final rulemaking at 20 A.A.R. 568, effective July 1, 2014 (Supp. 14-1).

R4-9-118. Reserved

R4-9-119. Reserved

R4-9-120. Rehearing or Review of Decision

A. The Registrar of Contractors shall provide an opportunity for a rehearing or review of its decisions on a hearing under A.R.S. Title 41, Chapter 6, Article 10 and the rules established by the Office of Administrative Hearings.

B. Except as provided in subsection (F), any party who is aggrieved by the decision on a hearing in a contested case or appealable agency action before the Registrar of Contractors may file with the Registrar of Contractors a written motion for rehearing or review of the decision specifying the particular grounds for the rehearing or review.

C. The Registrar of Contractors may grant a rehearing or review of a decision for any of the following causes materially affecting the moving party's rights:

1. Irregularity in the proceedings of the Registrar of Contractors or the Administrative Law Judge, or any order or abuse of discretion that deprived the moving party of a fair hearing;
2. Misconduct of the Registrar of Contractors, Office of Administrative Hearings, Administrative Law Judge, or prevailing party;
3. Accident or surprise that could not have been prevented by ordinary prudence;
4. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the hearing;
5. Excessive or insufficient penalties;
6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing or during the progress of the proceeding; or
7. The decision is not justified by the evidence or is contrary to law.

D. The Registrar of Contractors may affirm or modify a decision on a hearing or grant a rehearing or review to all or any of the parties on all or part of the issues for any of the reasons in subsection (C). After giving the parties notice and an opportunity to be heard, the Registrar of Contractors may grant a motion for rehearing for a reason not stated in the motion. An order modifying a decision or granting a rehearing shall specify the particular ground for the order. A rehearing shall cover only the matter specified in the order.

E. Not later than 35 days after the date of a decision, and after giving the parties notice and an opportunity to be heard, the Registrar of Contractors may, on its own initiative, order a rehearing or review of its decision on a hearing for any reason for which it might have granted relief on motion of a party.

F. If the Registrar of Contractors makes a specific finding that the immediate effectiveness of a decision on a hearing is necessary for the preservation of the public health, safety, or welfare and that a rehearing or review of the decision on a hearing is impracticable, unnecessary, or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review. If a decision on a hearing is issued as a final decision without an opportunity for review or rehearing, an application for judicial review of the decision may be made within the time limits permitted for applications for judicial review of the Registrar of Contractors' final decisions.

G. For purposes of this Section the terms "contested case" and "party" have the same meanings as in A.R.S. § 41-1001.

H. To the extent that the provisions of this Section are in conflict with the provisions of any statute providing for review or rehearing of a decision of the Registrar of Contractors, the statutory provisions govern.

Historical Note

Former Rule 20. Repealed effective February 23, 1976 (Supp. 76-1). New Section R4-9-20 adopted effective June 18, 1982 (Supp. 82-3). Former Section R4-9-20 renumbered without change as Section R4-9-120 (Supp. 87-3). Amended by final rulemaking at 9 A.A.R. 1350, effective June 6, 2003 (Supp. 03-2). Amended by final rulemaking at 20 A.A.R. 568, effective July 1, 2014 (Supp. 14-1).

R4-9-121. Unauthorized Communications

A. The purpose of this rule is to assist the Registrar of Contractors and its employees in avoiding the possibility of prejudice, real or apparent, in proceedings before the Registrar.

B. The provisions of this rule apply in the following contested proceedings: after a letter is issued denying a license application or a license renewal, a citation is issued, or an order is issued denying or reducing the amount of a recovery fund claim.

C. Prohibitions:

1. A person shall not make or cause to be made an oral or written communication, not on the public record, concerning the substantive merits of a contested proceeding to the Registrar or an employee involved in the decision-making process for that proceeding.
2. Neither the Registrar nor its employees who are involved in the decision-making process of a contested proceeding shall make, request, entertain, or consider an unauthorized communication concerning the merits of the proceeding.
3. The provisions of this rule do not prohibit:
   a. Communications regarding procedural matters;
   b. Communications regarding any other proceedings;
   c. Intra-agency or non-party communications regarding purely technical and legal matters;
   d. Communications among hearing officers, non-party staff and the Registrar.

D. Remedy:

1. The Registrar and its decision-making employees who receive an oral or written offer of any communication prohibited by this rule shall decline to receive such communication and explain that the matter is pending for determination and that all communication regarding it must be made on the public record. If unsuccessful in preventing such communications, the recipient shall advise the communicator that the communication will not be considered, a brief signed statement setting forth the substance of the communication and the circumstances under which it was made will be prepared, and the statement will be filed in the public record of the case or proceeding.
2. Any person affected by an unauthorized communication will have an opportunity to rebut on the record any facts or contentions contained in the communication.

3. If a party to a contested proceeding makes or causes to be made an unauthorized communication, the party may be required to show cause why its claim or interest in the proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected on account of such violation.

Historical Note
Repealed effective February 23, 1976 (Supp. 76-1). New Section R4-9-21 adopted effective April 18, 1984 (Supp. 84-2). Amended effective July 9, 1987; former Section R4-9-21 renumbered as Section R4-9-121 (Supp. 87-3). Amended effective February 4, 1993 (Supp. 93-1). Repealed by final rulemaking at 9 A.A.R. 3182, effective August 30, 2003 (Supp. 03-3). New Section R4-9-121 made by final rulemaking at 20 A.A.R. 568, effective July 1, 2014 (Supp. 14-1).

R4-9-122. Repealed

Historical Note
Adopted effective November 4, 1992 (Supp. 92-4). Repealed effective December 17, 1993 (Supp. 93-4).

R4-9-123. Repealed

Historical Note
Adopted effective November 4, 1992 (Supp. 92-4). Repealed effective December 17, 1993 (Supp. 93-4).

R4-9-124. Repealed

Historical Note
Adopted effective November 4, 1992 (Supp. 92-4). Repealed effective December 17, 1993 (Supp. 93-4).

R4-9-125. Repealed

Historical Note
Adopted effective November 4, 1992 (Supp. 92-4). Repealed effective December 17, 1993 (Supp. 93-4).

R4-9-126. Repealed

Historical Note
Adopted effective November 4, 1992 (Supp. 92-4). Repealed effective December 17, 1993 (Supp. 93-4).

R4-9-127. Repealed

Historical Note
Adopted effective November 4, 1992 (Supp. 92-4). Repealed effective December 17, 1993 (Supp. 93-4).

R4-9-128. Repealed

Historical Note
Adopted effective November 4, 1992 (Supp. 92-4). Repealed effective December 17, 1993 (Supp. 93-4).

R4-9-129. Repealed

Historical Note
Adopted effective November 4, 1992 (Supp. 92-4). Repealed effective December 17, 1993 (Supp. 93-4).

R4-9-130. Schedule of Fees
An applicant shall submit a separate application for each classification of license. The following application fees, biennial license fees, biennial license renewal fees and fees for other services shall be applicable in accordance with the provisions of A.R.S. §§ 32-1123.01, 32-1126 and 32-1132. The fee for an annual license granted pursuant to A.R.S. § 32-1123.01, as an exception to the biennial license renewal requirement, shall be one-half of the fee for the biennial license renewal.

Classification of License	Application Processing Fee	Fee for Each Biennial License	Fee for Each Biennial License Renewal
1. COMMERCIAL CONTRACTING			
a. General Commercial Contracting (Includes all A and B Commercial classifications)	$200	$580	$580
b. Specialty Commercial Contracting (Includes all C classifications)	$100	$480	$480
2. RESIDENTIAL CONTRACTING			
a. General Residential Contracting (Includes all B Residential classifications)	$180	$320	$320
b. Specialty Residential Contracting (Includes all R classifications)	$80	$270	$270
3. GENERAL DUAL LICENSED CONTRACTING			
General Dual Licensed Contracting (Includes all KA, KB, KE and KO classifications)	$200	$480	$480
4. SPECIALTY DUAL LICENSE CONTRACTING			
Class CR	$100	$380	$380
5. PARTICIPATION IN RECOVERY FUND			
Recovery Fund Assessment		$370	$270
6. FEES FOR OTHER SERVICES			
a. Application to change qualifying party		$100	
b. Application to change name of licensee		$30	

Historical Note
Adopted effective February 4, 1993 (Supp. 93-1). Amended effective January 20, 1998 (Supp. 98-1). Amended by final rulemaking at 7 A.A.R. 3160, effective July 2, 2001 (Supp. 01-3). Amended by final rulemaking at 20 A.A.R. 568, effective July 1, 2014 (Supp. 14-1).

R4-9-131. Assessment of Civil Penalties
In assessing a civil penalty as provided for under A.R.S. § 32-1166(A), the Registrar shall give due consideration to whether the person cited or any individual acting on that person's behalf has committed one or more of the following acts in determining the gravity of the cited violation:

1. Falsely represented to be a licensed contractor.
2. Failed to perform any work for which money was received.
3. Executed or used any false or misleading documents for the purpose of inducing a person to enter into a contract or to pay money for work to be performed.
4. Made false or misleading statements for the purpose of inducing a person to enter into a contract or to pay money for work to be performed.
5. Failed or neglected to apply funds which were received for the purpose of obtaining or paying for services, labor, materials, or equipment.
6. Performed work that was or had the potential to become hazardous to the health, safety, or general welfare of the public.
7. Performed work that deliberately was in violation of building codes, safety laws, labor laws, workers' compensation laws, or unemployment insurance laws.
8. Performed work that failed to meet minimum acceptable trade or industry standards or practices or was not performed in a good and workmanlike manner.
9. Has committed any other act which would otherwise be cause for disciplinary action if the person cited had been properly licensed pursuant to A.R.S. Title 32, Chapter 10.
10. Has committed two or more prior violations.
11. Performed work that has caused loss or damage to the structure, its appurtenances, or property being worked upon or has caused loss or injury to any person.

Historical Note

Adopted effective May 26, 1994 (Supp. 94-2).

32-1104. Powers and duties

A. The registrar, in addition to other duties and rights provided for in this chapter, shall:

1. Maintain an office in Phoenix and in such other cities and towns in the state as the registrar deems advisable and necessary.

2. Maintain a complete indexed record of all applications and licenses issued, renewed, terminated, cancelled, revoked or suspended under this chapter, including timely notation of any judicial disposition on appeal, for a period of not less than seven years.

3. Furnish a certified copy of any license issued or an affidavit that no license exists or that a license has been cancelled or suspended including information as to the status on appeal of such cancellation or suspension, upon receipt of the prescribed fee, and such certified copy shall be received in all courts and elsewhere as prima facie evidence of the facts stated therein. The registrar shall also furnish certified copies of license bonds or cash deposit certificates upon receipt of the prescribed fee. Fees charged pursuant to this paragraph shall be at a rate of ten dollars per hour, except that the minimum fee charged pursuant to this paragraph shall be ten dollars.

4. Employ such deputies, investigators and assistants subject to title 41, chapter 4, article 4, and procure such equipment and records, as are necessary to enforce this chapter. With respect to the enforcement of section 32-1164, the registrar or the registrar's investigators are vested with the authority to issue a citation to any violators of this chapter in accordance with section 13-3903. When the registrar or the registrar's investigators conduct investigations they are authorized to receive criminal history record information from the department of public safety and other law enforcement agencies.

5. Make rules the registrar deems necessary to effectually carry out the provisions and intent of this chapter. Such rules shall include the adoption of minimum standards for good and workmanlike construction. In the adoption of such rules of minimum standards, the registrar shall be guided by established usage and procedure as found in the construction business in this state. If the rules of minimum standards adopted by the registrar are in any manner inconsistent with a building or other code of the state, a county, city or other political subdivision or local authority of the state, compliance with such code shall constitute good and workmanlike construction for the purposes of this chapter.

6. Apply the following to proposed rule changes:

(a) The registrar of contractors, at the time the registrar files notice of proposed rule change with the secretary of state in compliance with title 41, chapter 6, shall mail to each trade association that qualifies in accordance with subdivision (b) and any other individual holding a bona fide contractor's license who qualifies in accordance with subdivision (b) a copy of the notice of proposed rule change.

(b) Every trade association in this state allied with the contracting business that files a written request that a notice be mailed to it and shows that the association has an interest in the rules of the registrar of contractors shall receive a copy thereof, as set forth in subdivision (a). Such filing of a request shall be made every two years during the month of January, and it shall contain information as to the nature of the association and its mailing address. Any duly licensed contractor who files a written request shall receive a copy of the proposed rule changes in accordance with this paragraph. Each such request shall be made every two years during the month of January.

7. Prepare and furnish decals and business management books when deemed advisable by the registrar. A reasonable fee may be charged for such decals and business management books.

8. Refer criminal violations of this chapter committed by persons previously named on a license which has been revoked to the appropriate law enforcement agency or prosecuting authority.

B. The registrar may develop and institute programs to do any of the following:

1. Educate the public and contractors licensed pursuant to this chapter regarding statutes, rules, policies and operations of the agency.

2. Assist in the resolution of disputes in an informal process before a reportable written complaint is filed. The registrar shall notify the licensed contractor in an alleged dispute before a written complaint is filed and allow the contractor the opportunity to be present at any inspection regarding the alleged dispute. The registrar shall give the contractor at least five days' notice before the inspection. Issues in the alleged dispute under this section shall not be limited in number and shall not be considered formal written complaints. The homeowner reserves the right to deny access to the contractor under this informal complaint process. The registrar shall notify the contractor and the homeowner in writing of the registrar's findings within five days after the date of the inspection. The registrar shall not post any information regarding the informal complaint process as part of a licensee's record on the registrar's web site.

3. Develop, manage, operate and sponsor construction related programs designed to benefit the public in conjunction with other private and public entities.

C. The registrar may adopt rules for the posting of names of applicants and personnel of applicants for contractors' licenses and furnish copies of such posting lists upon written request. The name and address of the applicant, together with the names and addresses and official capacity of all persons associated with the applicant who have signed the application, shall be publicly posted in the place and manner to be prescribed by the registrar for a period of not less than twenty days, except as otherwise provided in this subsection, commencing on the day designated by the registrar of contractors. The registrar may waive a part of the posting period when the records reflect that the applicant or qualifying party has previously undergone the twenty day posting for a previous license. A reasonable charge of not to exceed two dollars per month may be made for compilation, printing and postage for such posting lists.

D. The registrar may accept voluntary gifts, grants or matching monies from public agencies or enterprises for the conduct of programs that are authorized by this section or that are consistent with the purpose of this chapter.

32-1105. Rule making powers for purposes of classifying and reclassifying contractors

A. The registrar may adopt rules necessary to effect the classification of contractors in a manner consistent with established usage and procedure as found in the construction business, and may limit the field and scope of operations of a licensed contractor within any of the branches of the contracting business, as described in this chapter, to those divisions thereof in which the contractor is classified and qualified to engage.

B. The registrar shall establish by rule license classifications for dual licensed contractors. A contractor classified as a dual licensed contractor may perform equivalent construction work on both commercial and residential projects under a single license. The registrar shall adopt rules necessary to establish the scope of work that may be done under the dual license classifications.

C. A licensee may apply for classification and be classified in more than one classification or division thereof after the licensee meets the qualifications prescribed by the registrar for such additional classification or classifications. A single form of application shall be adopted for all licenses issued by the registrar.

D. Nothing in this chapter shall prohibit a specialty contractor from taking and executing a contract involving the use of two or more crafts or trades if the performance of the work in the crafts or trades other than those in which the specialty contractor is licensed is incidental and supplemental to the performance of work in the craft for which the specialty contractor is licensed.

32-1122. Qualifications for license

A. A contractor's license shall be issued only by act of the registrar of contractors. The registrar shall:

1. Classify and qualify applicants for a license.

2. If necessary, change the license classification of a licensee in the case of a title reclassification, with or without a bond rider for the purpose of continuing liability on the bond.

3. Conduct investigations the registrar deems necessary.

4. Establish written examinations if deemed necessary to protect the health and safety of the public.

B. To obtain or renew a license under this chapter, the applicant shall:

1. Submit to the registrar of contractors a verified application on forms that are prescribed by the registrar of contractors and that contain the following information and shall advise the registrar of any change in the information within thirty days:

(a) A designation of the classification of license that is sought by the applicant.

(b) If the applicant is an individual, the applicant's name and address.

(c) If the applicant is a partnership, the names and addresses of all partners with a designation of any limited partners.

(d) If the applicant is a corporation, an association or any other organization, the names and addresses of the president, vice-president, if any, secretary and treasurer or the names and addresses of the functional equivalent of these officers, the directors and the owners of twenty-five percent or more of the stock or beneficial interest.

(e) The name and address of the qualifying party.

(f) If the applicant is a corporation, evidence that the corporation is in good standing with the corporation commission.

(g) The address or location of the applicant's place of business and the mailing address if it is different from the applicant's place of business.

(h) Proof that the applicant has complied with the statutes or rules governing workers' compensation insurance.

2. Submit the appropriate bond and fee required under this chapter.

C. To obtain a contractor's license under this chapter other than a residential contractor's license, the applicant shall submit a detailed statement of current financial condition containing information required by the registrar of contractors on a form furnished by or acceptable to the registrar of contractors. Notwithstanding any other law, a swimming pool contractor shall also submit a detailed statement of current financial condition as required by this subsection.

D. To obtain or renew a license under this chapter, each person shall be of good character and reputation. Lack of good character and reputation may be established by showing that a person has engaged in contracting without a license or committed any act that, if committed or done by any licensed contractor, would be grounds for suspension or revocation of a contractor's license or by showing that the person was named on a contractor's license that was suspended or revoked in another state.

E. To obtain a license under this chapter, a person shall not have had a license refused or revoked, within one year before the person's application, or shall not have engaged in the contracting business, nor shall the person

have submitted a bid without first having been licensed within one year before the person's application, nor shall a person act as a contractor between the filing of the application and actual issuance of the license. The registrar may find any of those actions or circumstances to be excusable if there was reasonable doubt as to the need for licensure or the actions of the applicant did not result in an unremedied hardship or danger or loss to the public. A person who has been convicted of contracting without a license is not eligible to obtain a license under this chapter for one year after the date of the last conviction.

F. Before a license is issued, the qualifying party shall:

1. Have had a minimum of four years' practical or management trade experience, at least two of which must have been within the last ten years, dealing specifically with the type of construction, or its equivalent, for which the applicant is applying for a license. Technical training in an accredited college or university or in a manufacturer's accredited training program may be substituted for a portion of such experience, but in no case may credited technical training exceed two years of the required four years' experience. The registrar of contractors may reduce the four years' practical or management experience requirement if in the registrar's opinion it has been conclusively shown by custom and usage in the particular industry or craft involved that the four-year requirement is excessive. The registrar may waive the work experience documentation and verification or the examination requirement if the records reflect that the qualifying party is currently or has previously been a qualifying party for a licensee in this state in the same classification within the preceding five years.

2. Successfully show, by written examination taken not more than two years before application, if required, qualification in the kind of work for which the applicant proposes to contract, the applicant's general knowledge of the building, safety, health and lien laws of the state, administrative principles of the contracting business and the rules adopted by the registrar of contractors pursuant to this chapter, demonstrate knowledge and understanding of construction plans and specifications applicable to the particular industry or craft and of the standards of construction work and techniques and practices in the particular industry or craft and demonstrate a general understanding of other related construction trades, in addition to any other matters as may be deemed appropriate by the registrar to determine that the qualifying party meets the requirements of this chapter. The registrar shall maintain multiple versions of examinations for each type of license that requires an examination.

G. No license shall be issued to a minor, to any partnership in which one of the partners is a minor or to any corporation in which a corporate officer is a minor.

H. Before receiving, renewing and holding a license pursuant to this chapter, the registrar may require a license applicant or licensee to submit to the registrar a full set of fingerprints and the fees required in section 41-1750. The registrar shall submit the fingerprints and fees to the department of public safety for the purpose of obtaining a state and federal criminal records check pursuant to section 41-1750 and Public Law 92-544. The department of public safety may exchange this fingerprint data with the federal bureau of investigation.

32-1124. Issuance and display of license; suspension

A. On receipt by the registrar of the fee required by this chapter and an application furnishing complete information as required by the registrar, the registrar shall notify the applicant within sixty days from the date of the filing of a complete application of the action taken on the application, and if the registrar determines that the applicant is qualified to hold a license in accordance with this chapter, the registrar shall issue a license to the applicant permitting the applicant to engage in business as a contractor under the terms of this chapter.

B. Licenses issued under this chapter and any renewals shall be signed by the registrar or the registrar's designated representative and by the licensee. The license shall be nontransferable, and satisfactory evidence of possession shall be exhibited by the licensee on demand. The license number appearing on any licenses held by the licensee shall be preceded by the acronym "ROC" and shall be posted in a conspicuous place on premises where any work is being performed, shall be placed on all written bids submitted by the licensee and shall be placed on all broadcast, published, internet or billboard advertising, letterheads and other documents used by the licensee to correspond with the licensee's customers or potential customers in the conduct of business regulated by this chapter. A violation of this subsection relating to posting and placement of license numbers shall be, at the discretion of the registrar, grounds for disciplinary action pursuant to section 32-1154, subsection A, paragraph 12, but not grounds for preventing the award of a contract, voiding an awarded contract, or any other claim or defense against the licensee. For the purposes of this subsection, advertising does not include a trade association directory listing that is distributed solely to the members of the association and not to the general public.

C. If an application for a license is denied for any reason provided in this chapter, the application fee paid by the applicant shall be forfeited and deposited pursuant to section 32-1107. A reapplication for a license shall be accompanied by the fee fixed by this chapter.

D. On issuance or renewal of a license, the registrar, at the request of a licensee, shall issue a single license certificate showing all contracting licenses held by the licensee that are currently in good standing and their dates of expiration.

E. The registrar may establish procedures to allow a licensee to establish a common expiration or renewal date for all licenses issued to the licensee and may provide for proration of license fees for that purpose.

F. The registrar shall suspend by operation of law a license issued under this chapter if any of the following occurs:

1. The licensed entity is dissolved. The dissolution of the licensed entity includes the death of a sole owner, a change to the partnership by either adding or removing a partner, the revocation or dissolution of corporate authority or the dissolution of a limited liability company or limited liability partnership.

2. The licensed entity does not have authority to do business in this state.

3. The license is obtained or renewed with an insufficient funds check. The license remains suspended until the registrar receives a certified check, a money order or cash as payment for the license fees and assessments.

32-1126. Fees

A. The license fees prescribed by this chapter shall be as follows:

1. Application and license fees for an original biennial license:

(a) For general residential contracting and subclassifications of general residential contracting, not more than five hundred dollars.

(b) For general commercial contracting and subclassifications of general commercial contracting, not more than one thousand five hundred dollars.

(c) For general dual licensed contracting, not more than two thousand dollars.

(d) For specialty residential contracting, not more than three hundred fifty dollars.

(e) For specialty commercial contracting, not more than one thousand dollars.

(f) For specialty dual licensed contracting, not more than one thousand three hundred fifty dollars.

2. Biennial license renewal fee:

(a) For general residential contracting and subclassifications of general residential contracting, not more than three hundred twenty dollars.

(b) For general commercial contracting and subclassifications of general commercial contracting, not more than one thousand dollars.

(c) For general dual licensed contracting, not more than one thousand three hundred twenty dollars.

(d) For specialty residential contracting, not more than two hundred seventy dollars.

(e) For specialty commercial contracting, not more than nine hundred dollars.

(f) For specialty dual licensed contracting, not more than one thousand one hundred seventy dollars.

B. The fee for an annual license renewal granted pursuant to section 32-1123.01 shall be one-half of the biennial license renewal fee.

C. The registrar may establish reasonable fees for services performed by the registrar relating to reexaminations, processing of applications, changes of qualifying party and approval of name changes on licenses.

D. The penalty for failure to apply for renewal of a license within the time prescribed by this chapter shall be fifty dollars.

E. The registrar may establish a separate fee for examination.

F. The registrar may contract with private testing services to establish and administer such examinations and may authorize the payment of the examination fee to the private testing service.

32-1151.01. Change in ownership; notice to registrar

A corporation, association or other organization which is a licensed contractor shall immediately notify the registrar of any transfer of ownership of fifty per cent or more of the stock or beneficial interest in the company.

32-1152. Bonds

A. Before granting an original contractor's license, the registrar shall require of the applicant a surety bond in a form acceptable to the registrar or a cash deposit as provided in this section. No contractor's license may be renewed unless the applicant's surety bond or cash deposit is in full force and effect.

B. The bonds, or the cash deposit as provided in this section, shall be in the name of the licensee in amounts fixed by the registrar with the following schedules after giving due consideration to the volume of work and the classification contemplated by the applicant:

1. General commercial building contractors and subclassifications of general commercial contractors shall furnish a surety bond or cash deposit in an amount that is determined as follows:

(a) If the estimated annual volume of construction work of the applicant is ten million dollars or more, the applicant shall furnish a surety bond or cash deposit of not less than fifty thousand dollars or more than one hundred thousand dollars.

(b) If the estimated annual volume of construction work of the applicant is more than five million dollars and less than ten million dollars, the applicant shall furnish a surety bond or cash deposit of not less than thirty-five thousand dollars or more than seventy-five thousand dollars.

(c) If the estimated annual volume of construction work of the applicant is more than one million dollars and less than five million dollars, the applicant shall furnish a surety bond or cash deposit of not less than fifteen thousand dollars or more than fifty thousand dollars.

(d) If the estimated annual volume of construction work of the applicant is more than five hundred thousand dollars and less than one million dollars, the applicant shall furnish a surety bond or cash deposit of not less than ten thousand dollars or more than twenty-five thousand dollars.

(e) If the estimated annual volume of construction work of the applicant is more than one hundred fifty thousand dollars and less than five hundred thousand dollars, the applicant shall furnish a surety bond or cash deposit of not less than five thousand dollars or more than fifteen thousand dollars.

(f) If the estimated annual volume of construction work of the applicant is less than one hundred fifty thousand dollars, the applicant shall furnish a surety bond or cash deposit of five thousand dollars.

2. Specialty commercial contractors shall furnish a surety bond or cash deposit in an amount that is determined as follows:

(a) If the estimated annual volume of construction work of the applicant is ten million dollars or more, the applicant shall furnish a surety bond or cash deposit of not less than thirty-seven thousand five hundred dollars or more than fifty thousand dollars.

(b) If the estimated annual volume of construction work of the applicant is more than five million dollars and less than ten million dollars, the applicant shall furnish a surety bond or cash deposit of not less than seventeen thousand five hundred dollars or more than thirty-seven thousand five hundred dollars.

(c) If the estimated annual volume of construction work of the applicant is more than one million dollars and less than five million dollars, the applicant shall furnish a surety bond or cash deposit of not less than seven thousand five hundred dollars or more than twenty-five thousand dollars.

(d) If the estimated annual volume of construction work of the applicant is more than five hundred thousand dollars and less than one million dollars, the applicant shall furnish a surety bond or cash deposit of not less than five thousand dollars or more than seventeen thousand five hundred dollars.

(e) If the estimated annual volume of construction work of the applicant is more than one hundred fifty thousand dollars and less than five hundred thousand dollars, the applicant shall furnish a surety bond or cash deposit of not less than two thousand five hundred dollars or more than seven thousand five hundred dollars.

(f) If the estimated annual volume of construction work of the applicant is less than one hundred fifty thousand dollars, the applicant shall furnish a surety bond or cash deposit of two thousand five hundred dollars.

3. The total amount of the surety bond or cash deposit required of a licensee who holds more than one license under paragraphs 1 and 2 of this subsection shall be the sum of the surety bond or cash deposit required for each license based on the estimated annual volume of construction work of the applicant allocated to and performed under each license. The applicant at his option may post a single surety bond or cash deposit that is the sum of the bonds or deposits determined under this subsection for all such licenses.

4. General dual licensed contractors and subclassifications of general dual licensed contractors shall furnish a single surety bond or cash deposit with amounts for each classification of license that are determined based on the volume of commercial work as determined under paragraph 1 of this subsection and the volume of residential work as determined under paragraph 5 of this subsection. Liability under the bond or cash deposit shall be limited to the amount established for each commercial or residential license and is subject to the limitations and requirements set forth in subsection E of this section.

5. General residential contractors and subclassifications of general residential contractors shall furnish a surety bond or cash deposit in an amount of not more than fifteen thousand dollars and not less than five thousand dollars.

6. Specialty dual licensed contractors shall furnish a single surety bond or cash deposit with amounts for each classification of license that are determined based on the volume of commercial work as determined under paragraph 2 of this subsection and the volume of residential work as determined under paragraph 7 of this subsection. Liability under the bond or cash deposit shall be limited to the amount established for each commercial or residential license and is subject to the limitations and requirements set forth in subsection E of this section.

7. Specialty residential contractors shall furnish a surety bond or cash deposit in an amount of not more than seven thousand five hundred dollars and not less than one thousand dollars.

8. Dual licensed swimming pool contractors and residential swimming pool general contractors shall furnish a surety bond or cash deposit in the same amounts based on the volume of work as determined under paragraph 1 of this subsection for a general commercial contractor.

C. Dual licensed contractors and residential contractors shall also either:

1. Furnish an additional surety bond or cash deposit in the amount of two hundred thousand dollars solely for actual damages suffered by persons injured as described in section 32-1131. This bond shall be subject to the limitations on the amounts that may be awarded to individual claimants as established in section 32-1132.

2. Participate in the residential contractors' recovery fund and pay the assessment prescribed by section 32-1132.

D. The surety bonds shall be executed by the contractor as principal with a corporation duly authorized to transact surety business in this state. Evidence of a surety bond shall be submitted to the registrar in a form acceptable to the registrar. The contractor in the alternative may establish a cash deposit in the amount of the bond with the state treasurer in accordance with rules adopted by the registrar. Such cash bond monies shall be deposited, pursuant to sections 35-146 and 35-147, in the contractors' cash bond fund. The state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the state general fund. Such cash deposits may be withdrawn, if there are no outstanding claims against them, two years after the termination of the license in connection with which the cash is deposited. The

cash deposit may be withdrawn two years after the filing of a commercial surety bond as a replacement to the cash deposit.

E. The bonds or deposit required by subsection B of this section shall be for the benefit of and shall be subject to claims by the registrar of contractors for failure to pay any sum required pursuant to this chapter. The bond or deposit required by subsection B, paragraphs 1, 2 and 3 of this section is for the benefit of and subject to claims by a licensee under this chapter or a lessee, owner or co-owner of nonresidential real property including, but not limited to, a tenant in common or joint tenant, or their successors in interest, who has a direct contract with the licensee against whose bond or deposit the claim is made and who is damaged by the failure of the licensee to build or improve a structure or appurtenance on that real property at the time the work was performed in a manner not in compliance with the requirements of any building or construction code applicable to the construction work under the laws of this state or any political subdivision, or if no such code was applicable, in accordance with the standards of construction work approved by the registrar. The residential bond or deposit required by subsection B, paragraphs 4 through 8 of this section is for the benefit of and subject to claims by any person furnishing labor, materials or construction equipment on a rental basis used in the direct performance of a construction contract involving a residential structure or by persons injured as defined in section 32-1131. The bond or deposit required by subsection C, paragraph 1 of this section is for the benefit of and is subject to claims only by persons injured as described in section 32-1131. The person seeking recovery from the bond or cash deposit shall maintain an action at law against the contractor if claiming against the cash deposit or against the contractor and surety if claiming against the surety bond. If the person seeking recovery is required to give the notice pursuant to section 33-992.01, he is entitled to seek recovery only if he has given such notice and has made proof of service. The surety bond or cash deposit shall be subject to claims until the full amount thereof is exhausted. The court may award reasonable attorney fees in a judgment against a contractor's surety bond or cash deposit. No suit may be commenced on the bond or for satisfaction from the cash deposit after the expiration of two years following the commission of the act or delivery of goods or rendering of services on which the suit is based, except that time for purposes of claims for fraud shall be measured as provided in section 12-543. The surety bond or cash deposit shall be continuous in form and shall be conditioned so that the total aggregate liability of the surety or cash deposit for all claims, including reasonable attorney fees, shall be limited to the face amount of the surety bond or cash deposit irrespective of the number of years the bond or cash deposit is in force. If the corporate surety desires to make payment without awaiting court or registrar action, the amount of any bond filed in compliance with this chapter shall be reduced to the extent of any payment or payments made by the corporate surety in good faith thereunder. Any such payments shall be based on priority of written claims received by the corporate surety before court or registrar action. If more than one cash deposit exists, the judgment against the contractor shall state which cash deposit shall be used to satisfy the judgment. A certified copy of the judgment shall then be filed with the registrar, and such judgment shall specify that it may be satisfied from the contractor's cash deposit. Priority for payment shall be based on the time of filing with the registrar. On receipt of a certified copy of the judgment or on a final disciplinary order of the registrar, the registrar may authorize payment from the cash deposit of the amount claimed or of whatever lesser amount remains on file. In any action against a cash deposit, the claimant, at the time of filing suit, may notify the registrar in writing of the action against the cash deposit, but shall not name as a defendant in the action the registrar, the treasurer or the state. Failure to so notify the registrar at the time of filing suit may result in the cash deposit being withdrawn by the licensee before judgment pursuant to subsection D of this section.

F. When a corporate surety cancels a bond, the surety, not less than thirty days before the effective date of the cancellation, shall give the principal and the registrar a written notice of the cancellation. Notice to the principal shall be by certified mail in a sealed envelope with postage fully prepaid. Proof of notice to the principal shall be made available to the registrar on request. On reduction or depletion of the cash deposit, the registrar shall immediately notify the licensee of said reduction or depletion and that the licensee must replenish the cash deposit or furnish a surety bond on or before thirty days from the date of said reduction or depletion or the contractor's license shall be suspended on the thirtieth day without further notice or hearing. Notice to the contractor shall be by certified mail in a sealed envelope with postage fully prepaid thereon, addressed to the contractor's latest address of record in the registrar's office. The contractor's license shall be suspended by operation of law on the date the bond is canceled or thirty days from the date of reduction or depletion of the cash deposit unless a replacement bond or cash deposit is on file with the registrar.

G. The registrar and the state treasurer shall have no personal liability for the performance of duties relating to the bonds, cash deposits, certificates of deposit, investment certificates or share accounts required or permitted by this chapter as long as such duties are performed in good faith.

H. In the following instances the registrar, after a hearing, may require, as a condition precedent to issuance, renewal, continuation or removal of suspension of a license, a surety bond or cash deposit in an amount and duration to be fixed by the registrar based on the seriousness of the violations, which shall be not more than ten times the amount required by subsection B of this section:

1. When a license of either the applicant or the qualifying party has been suspended or revoked or a surety bond or cash deposit requirement has been increased under section 32-1154 previously as the result of disciplinary action for a violation of this chapter.

2. When either the applicant or qualifying party was an officer, member, partner or qualifying party for a licensee at any time during which cause for disciplinary action occurred resulting in suspension or revocation of such licensee's license and such applicant or qualifying party had knowledge of or participated in the act or omission that was the cause of such disciplinary action for a violation of this chapter.

3. The bonds required by this subsection shall be in addition to any other bond or cash deposit required by this chapter or any other bond required of a contractor by an owner or any other contracting party on any contract undertaken by him pursuant to the authority of such license.

32-1152.01. Alternatives to cash deposit

A. As an alternative to the cash deposit provided for in section 32-1152, subsection B, a contractor may substitute any of the following:

1. Certificates of deposit assigned to the registrar, issued by banks doing business in this state and insured by the federal deposit insurance corporation.

2. Investment certificates or share accounts assigned to the registrar and issued by a savings and loan association doing business in this state and insured by the federal deposit insurance corporation.

B. The terms and conditions surrounding each of such types of security shall be prescribed by the registrar.

32-1156. Hearings

A. Title 41, chapter 6, article 10 applies to hearings under this chapter.

B. In a hearing or rehearing conducted pursuant to this section a corporation may be represented by a corporate officer or employee who is not a member of the state bar if:

1. The corporation has specifically authorized the officer or employee to represent it.

2. The representation is not the officer's or employee's primary duty to the corporation but is secondary or incidental to the officer's or employee's duties relating to the management or operation of the corporation.

32-1166. Injunctive relief; civil penalty

A. In addition to all other remedies, when it appears to the registrar, either upon complaint or otherwise, that any person, firm, partnership, corporation, association or other organization, or a combination of any of them, has engaged in or is engaging in any act of contracting, practice or transaction which constitutes a violation of this chapter, or any rule or order of the registrar, the registrar may serve upon such person, firm, partnership, corporation, association or other organization not currently licensed under this chapter, by certified mail or by personal service, a cease and desist order requiring the person, firm, partnership, corporation, association or other organization to cease and desist immediately, upon receipt of the notice, from engaging in such act, practice or transaction. In conjunction with the cease and desist order, the registrar may issue a citation for a violation. Each citation shall be in writing and shall clearly describe the violation for which the citation was issued. Each citation shall contain an order to cease and desist and an assessment of a civil penalty in an amount of at least two hundred dollars for each violation but not more than two thousand five hundred dollars for the multiple violations committed on the same day. If after the issuance of a citation by the registrar, the person or organization receiving the citation fails to cease and desist in the violation or violations described in the citation, the registrar may assess an additional civil penalty of up to two thousand five hundred dollars for each day the violation or violations continue. The registrar shall adopt rules covering the assessment of a civil penalty that give due consideration to the gravity of the violation and any history of previous violations. The penalties authorized under this section are separate from, and in addition to, all other remedies either civil or criminal.

B. Each violation of this chapter or a rule or order of the registrar by a person who is required to be licensed by this chapter and who does not possess the required license shall constitute a separate offense, and the registrar may impose a civil penalty of not to exceed two thousand five hundred dollars for each violation except that for multiple violations committed on the same day the civil penalty shall not exceed two thousand five hundred dollars for all such violations. Monies collected from civil penalties shall be deposited in the state general fund.

C. The registrar of contractors may issue citations containing orders to cease and desist and of civil penalties against persons who have never been licensed under this chapter who are acting in the capacity of or engaging in the business of a contractor in this state.

32-1170.02. Qualification examination

A. To qualify as a solar contractor under this article, the applicant shall:

1. Submit to the registrar an application on forms prescribed by the registrar, identifying the applicant and the classification of license held or sought by the applicant, and pay the prescribed fee.

2. Pass an examination approved and conducted by the registrar that is specific to the solar requirements of the classification of license held or sought by the applicant.

3. Meet all other provisions of this chapter relating to obtaining and retaining an appropriate license.

B. The examination shall be given by the registrar at the times and places prescribed by the registrar.

C. The license of a successful applicant shall be appropriately marked or supplemented by the registrar to indicate qualification as a solar contractor within the scope of that license.

41-1073. Time frames; exception

A. No later than December 31, 1998, an agency that issues licenses shall have in place final rules establishing an overall time frame during which the agency will either grant or deny each type of license that it issues. Agencies shall submit their overall time frame rules to the governor's regulatory review council pursuant to the schedule developed by the council. The council shall schedule each agency's rules so that final overall time frame rules are in place no later than December 31, 1998. The rule regarding the overall time frame for each type of license shall state separately the administrative completeness review time frame and the substantive review time frame.

B. If a statutory licensing time frame already exists for an agency but the statutory time frame does not specify separate time frames for the administrative completeness review and the substantive review, by rule the agency shall establish separate time frames for the administrative completeness review and the substantive review, which together shall not exceed the statutory overall time frame. An agency may establish different time frames for initial licenses, renewal licenses and revisions to existing licenses.

C. The submission by the department of environmental quality of a revised permit to the United States environmental protection agency in response to an objection by that agency shall be given the same effect as a notice granting or denying a permit application for licensing time frame purposes. For the purposes of this subsection, "permit" means a permit required by title 49, chapter 2, article 3.1 or section 49-426.

D. In establishing time frames, agencies shall consider all of the following:

1. The complexity of the licensing subject matter.

2. The resources of the agency granting or denying the license.

3. The economic impact of delay on the regulated community.

4. The impact of the licensing decision on public health and safety.

5. The possible use of volunteers with expertise in the subject matter area.

6. The possible increased use of general licenses for similar types of licensed businesses or facilities.

7. The possible increased cooperation between the agency and the regulated community.

8. Increased agency flexibility in structuring the licensing process and personnel.

E. This article does not apply to licenses issued either:

1. Pursuant to tribal state gaming compacts.

2. Within seven days after receipt of initial application.

3. By a lottery method.

ARIZONA STATE RETIREMENT SYSTEM
Title 2, Chapter 8, Article 1, Retirement System

New Section: R2-8-124; R2-8-125

GOVERNOR'S REGULATORY REVIEW COUNCIL
M E M O R A N D U M

MEETING DATE: September 6, 2017 **AGENDA ITEM: D-5**

TO: Members of the Governor's Regulatory Review Council

FROM: Justin Larson, Legal Intern

DATE: August 23, 2017

SUBJECT: **ARIZONA STATE RETIREMENT SYSTEM (R-17-0702)**
Title 2, Chapter 8, Article 1, Retirement System

New Section: R2-8-124; R2-8-125

Purpose of the Agency and Summary of What the Rulemaking Does

The purpose of the Arizona State Retirement System (ASRS) is to provide an incentive in the recruitment and retention of high quality employees; contribute toward providing a total compensation package that is generally equivalent to comparable employment in other public and private organizations in Arizona; provide a retirement system that encourages employees to remain in service for periods of time that will provide public employers with the full benefit of the training and experience gained by the employees; provide an orderly method of promoting and maintaining a high level of service to the public; and provide a base retirement benefit that is less than one hundred percent of a member's post-retirement income requirements. A.R.S. § 38-712.

This rulemaking follows a 2015 finding by the Office of the Auditor General that the ASRS needs to implement rules in order to better enforce A.R.S. § 38-749. Further, in the same year, the Arizona Court of Appeals held that A.R.S. § 38-749 was unenforceable without a rule and directed the ASRS to return Arizona State University's unfunded liability payment with interest. *See Ariz. State Univ. ex rel. Ariz. Bd. of Regents v. Ariz. State Ret. Sys.*, 349 P.3d 220 (2015).

With this rulemaking, the ASRS seeks to clarify how it assesses and collects an unfunded liability that is created by an employer implementing a Termination Incentive Program (TIP) pursuant to A.R.S. § 38-749(D). The ASRS indicates that these clarifications will ensure employers have notice about how a potential TIP may create an unfunded liability and how ASRS collects the unfunded liability from the employer.

Proposed Action

The ASRS proposes to create the following two rules:

R2-8-124 Termination Incentive Program by Agreement; Unfunded Liability Calculations
Defines relevant terms and lays out requirements for employers participating in a TIP pursuant to A.R.S. § 38-749(D)(2). This rule also stipulates how the ASRS must calculate the unfunded liability amount that results from the implementation of an employer's TIP.

R2-8-125 Termination Incentive Program by 30% Salary Increase; Unfunded Liability Calculations
Defines relevant terms and lays out requirements for employers participating in a TIP pursuant to A.R.S. § 38-749(D)(1). This rule also stipulates how the ASRS must calculate the unfunded liability amount that results from the implementation of an employer's TIP.

Exemption or Request and Approval for Exception from the Moratorium

The ASRS requested approval for an exception from the moratorium on May 26, 2016, and the request was approved on June 24, 2016.

Substantive or Procedural Concerns

None.

1. **Are the rules legal, consistent with legislative intent, and within the agency's statutory authority?**

Yes. A.R.S. § 38-714(E)(4) authorizes the ASRS Board to "[a]dopt, amend or repeal rules for the administration of the plan, [article 2] and articles 2.1 and 7 of [chapter 5]." Further, A.R.S. § 38-749 guides the implementation of the employer TIP by the ASRS.

2. **Are the rules written in a manner that is clear, concise, and understandable to the general public?**

Yes. The rules are clear, concise, and understandable.

3. **Does the agency adequately address the comments on the proposed rules and any supplemental proposals?**

Yes. The ASRS indicates that it received no written comments regarding the rulemaking, and that no one attended the oral proceeding held on May 2, 2017.

4. **Are the final rules a substantial change, considered as a whole, from the proposed rules and any supplemental proposals?**

   No. There were no changes between the proposed rulemaking and the final rules.

5. **Does the preamble disclose a reference to any study relevant to the rules that the agency reviewed and either did or did not rely on in the agency's evaluation of or justification for the rules?**

   No. The ASRS indicates that it did not review a study for this rulemaking.

6. **Are the rules more stringent than corresponding federal law and, if so, is there statutory authority that allows the agency to exceed the requirements of federal law?**

   No. There are no federal laws applicable to these rules.

7. **Do the rules require a permit or license and if so, does the agency use a general permit or is any exception applicable under A.R.S. § 41-1037?**

   No. The rules do not require a permit.

8. **Do the rules establish a new fee or contain a fee increase?**

   No. The rules do not establish a new fee or contain a fee increase.

Conclusion

As specified under A.R.S. § 41-1032, the Department has chosen to delay the effective date of these rules to January 1, 2018, so that the Department may communicate the effect of these rules to employers in order to provide adequate notice of how an employer may incur liability. This analyst recommends approval of the rules.

GOVERNOR'S REGULATORY REVIEW COUNCIL
M E M O R A N D U M

MEETING DATE: September 6, 2017 **AGENDA ITEM: D-5**

TO: Members of the Governor's Regulatory Review Council

FROM: GRRC Economic Team

DATE : August 23, 2017

SUBJECT: **ARIZONA STATE RETIREMENT SYSTEM (R-17-0702)**
Title 2, Chapter 8, Article 1, Retirement System

New Section: R2-8-124; R2-8-125

The economic analysis team has reviewed the economic, small business, and consumer impact statement for compliance and makes the following comments. These comments are made to assist the Council in its review and may be used as the Council determines.

The ASRS is proposing to adopt two rules to clarify various aspects of how the ASRS assesses and collects an unfunded liability that is created by an employer implementing a Termination Incentive Program (TIP). Clarifying these aspects will ensure employers have notice about how a potential TIP may create an unfunded liability, and how the ASRS collects the unfunded liability from the employer.

Since the program became effective in 2005, the ASRS has invoiced those employers collected approximately $17,408,479.00 in unfunded liabilities that were created by the implementation of TIPs. The proposed rules clarify how the ASRS may identify an employer's TIP, and charge the employer an unfunded liability amount resulting from the implementation of the TIP. This rulemaking will allow the ASRS to maintain the funded status of the ASRS more efficiently.

1. **Costs and Benefits for:**

a. The implementing agency:

The ASRS incurred the cost of completing this rulemaking and will incur the minimal cost of implementing it.

b. Political subdivisions:

This rulemaking does not provide any benefits or impose any costs on political subdivisions.

c. Businesses:

No businesses are directly affected by the rulemaking.

d. Small businesses:

No businesses are directly affected by the rulemaking.

e. Consumers directly affected by the rulemaking:

The ASRS indicates that all ASRS employers will be directly affected by this rulemaking.

2. Do the probable benefits outweigh the probable costs?

Based on the information provided, the ASRS indicates that the benefit from the proposed amendments outweigh the costs. The proposed rules will have minimal economic impact because it merely increases the understandability of how the ASRS shall assess and collect an unfunded liability.

3. Analysis of methods to reduce the small business impact:

An analysis was not submitted because the ASRS estimated that there will be no economic impact to small businesses.

4. The probable effect on state revenues:

The proposed rulemaking will have no effect on state revenues.

5. Analysis of any less intrusive or less costly alternative methods:

The ASRS believes this is the least costly and least intrusive method.

6. Whether an analysis was submitted to the agency regarding the rule's impact on the competitiveness of businesses in this state as compared to the competitiveness of businesses in other states:

No analysis was submitted that compares the rule’s impact of the competitiveness of businesses in this state to the impact on businesses in other states.

7. <u>A description of any data on which a rule is based with an explanation of how the data was obtained and why the data is acceptable data, and the methods used by the agency to evaluate the costs and benefits in the EIS.</u>

The ASRS indicates that no outside data or studies were used in the development of the proposed rule amendment.

8. <u>Conclusion:</u>

The submitted economic, small business and consumer impact statement is generally accurate, and contains the information required for compliance with A.R.S. §§ 41-1035, 41-1052(D)(1-3), and 41-1055. This analyst recommends that the proposed rule amendments be approved.

ARIZONA STATE RETIREMENT SYSTEM

3300 NORTH CENTRAL AVENUE • PO BOX 33910 • PHOENIX, AZ 85067-3910 • PHONE (602) 240-2000
4400 EAST BROADWAY BOULEVARD • SUITE 200 • TUCSON, AZ 85711-3554 • PHONE (520) 239-3100
TOLL FREE OUTSIDE METRO PHOENIX AND TUCSON 1 (800) 621-3778
WWW.AZASRS.GOV

Paul Matson
Director

April 5, 2017

RECEIVED
MAY 11 2017
GRRC

Ms. Nicole A. Ong, Chair
The Governor's Regulatory Review Council
100 North 15th Avenue, Ste. 402
Phoenix, AZ 85007

Re: A.A.C. Title 2. Administration
Chapter 8. State Retirement System Board

Dear Ms. Ong:

The attached final rule package is submitted for review and approval by the Council. The following information is provided for Council's use in reviewing the rule package:

1. Close of record date: The rulemaking record was closed on March 20, 2017 following a period for public comment and an oral proceeding.
2. Relation of the rulemaking to a five-year-review report: This rulemaking does not relate to a Five-year Review Report.
3. New fee or fee increase: This rulemaking does not establish a new fee or increase an existing fee.
4. Immediate effective date: An immediate effective date is not requested.
5. Certification regarding studies: I certify that the Board did not rely on any studies for this rulemaking.
6. Certification that the preparer of the EIS notified the JLBC of the number of new full-time employees necessary to implement and enforce the rule: I certify that the rules in this rulemaking will not require a state agency to employ a new full-time employee. No notification was provided to JLBC.

7. List of documents enclosed:
    a. Cover letter signed by the Board's Assistant Director;
    b. Notice of Final Rulemaking including the preamble, table of contents for the rulemaking, and rule text; and
    c. Economic, Small Business, and Consumer Impact Statement.

Sincerely,

Dave King
Assistant Director

NOTICE OF FINAL RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

PREAMBLE

1. Articles, Parts, and Sections Affected	**Rulemaking Action**
R2-8-124	New section
R2-8-125	New section

2. Citations to the agency's statutory rulemaking authority to include both the authorizing statute (general) and the implementing statute (specific):

Authorizing statute: A.R.S. § 38-714(E)(4)

Implementing statutes: A.R.S. § 38-749

3. The effective date for the rules:

a. If the agency selected a date earlier than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):

Not applicable.

b. If the agency selected a date later than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):

The agency has chosen to delay the effective date of these rules to January 1, 2018. This will allow the agency to communicate the effect of these rules to Employers in order to provide adequate notice of how an Employer may incur a liability.

4. Citations to all related notices published in the *Register* as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:

Notice of Rulemaking Docket Opening: 23 A.A.R. 667, March 24, 2017

Notice of Proposed Rulemaking: 23 A.A.R. 647, March 24, 2017

5. The agency's contact person who can answer questions about the rulemaking:

Name: Jessica A.R. Thomas, Rules Writer
Address: Arizona State Retirement System
3300 N. Central Ave., Ste. 1400

Phoenix, AZ 85012-0250
Telephone: (602) 240-2039
E-Mail: JessicaT@azasrs.gov

6. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:

In 2015, the Office of the Auditor General found that the ASRS needed to implement rules in order to better enforce A.R.S. § 38-749. Specifically, the ASRS needs to adopt approximately two rules to clarify various aspects of how the ASRS assesses and collects an unfunded liability that is created by an Employer implementing a Termination Incentive Program pursuant to A.R.S. § 38-749(D). Clarifying these aspects will ensure Employers have notice about how a potential termination incentive program may create an unfunded liability and how the ASRS collects the unfunded liability from the Employer.

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

No study was reviewed.

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

Not applicable.

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

There is little to no economic, small business, or consumer impact, other than the minimal cost to the ASRS to prepare the rule package. The rules will have minimal economic impact, if any, because the rulemaking simply clarifies statutory requirements that already exist. There may be some economic impact to provide the documentation necessary for the ASRS to assess and collect an unfunded liability from an Employer. Clarifying what documentation must be submitted will increase understandability of how the ASRS determines and collects an unfunded liability, thereby reducing the regulatory burden imposed on the public. This clarification will ensure that ASRS Employers have notice about how the ASRS enforces A.R.S. § 38-749. Thus, the economic impact is minimized.

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

None

11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:

The ASRS received no written comments regarding the rulemaking. No one attended the oral proceeding on May 2, 2017.

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

None.

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

The rules do not require a permit.

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

There are no federal laws applicable to these rules.

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

No analysis was submitted.

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

No materials are incorporated by reference.

14. Whether the rule was previously made, amended, or repealed as an emergency rule. If so, cite the notice published in the *Register* as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:

Not applicable.

15. The full text of the rules follows:

TITLE 2. ADMINISTRATION

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

ARTICLE 1. RETIREMENT SYSTEM

Section

R2-8-124. Termination Incentive Program by Agreement; Unfunded Liability Calculations

R2-8-125. Termination Incentive Program by 30% Salary Increase; Unfunded Liability Calculations

ARTICLE 1. RETIREMENT SYSTEM

R2-8-124. Termination Incentive Program by Agreement; Unfunded Liability Calculations

A. The following definitions apply to this Section unless otherwise specified:

1. "Compensation" means the same as in A.R.S. § 38-711(7).

2. "Termination Incentive Program" means the same as in A.R.S. § 38-749(D)(2).

B. An Employer that intends to implement a Termination Incentive Program shall provide the following information to the ASRS through the Employer's secure ASRS account:

1. Within 90 days before implementation of the program, a complete description of the program terms and conditions, including the program contract, understanding, or agreement; and

2. Within 90 days before implementation of the program, the following information for each member who may be eligible to participate in the program:

a. The member's full name;

b. The member's date of birth; and

c. The member's current Compensation;

C. The ASRS may use the information provided by the Employer pursuant to subsection (B) and the information on file with the ASRS to determine an estimated unfunded liability amount in consultation with the ASRS actuary, which may result from the implementation of the Employer's Termination Incentive Program.

D. If the ASRS determines an estimated unfunded liability amount pursuant to subsection (C), the ASRS may send a Notice of Estimated Liability to the Employer through the Employer's secure ASRS account, in order to notify the Employer of the estimated unfunded liability amount the Employer may owe to the ASRS as a result of

implementing the Termination Incentive Program identified under subsection (B). An Employer may owe the ASRS more or less than the estimated unfunded liability amount based on actual employee participation in the Employer's Termination Incentive Program pursuant to subsection (F).

E. Within 30 days of termination of employment of each member who participated in a Termination Incentive Program identified under subsection (B), the Employer shall provide the following information to the ASRS through the Employer's secure ASRS account:

1. The member's full name;
2. The member's date of birth;
3. The member's Compensation at termination;
4. The date the member terminated employment; and
5. The amount and type of any additional pay the member received, or was entitled to receive, from the Employer as a result of participating in the Employer's Termination Incentive Program.

F. Upon receipt of all the information identified in subsection (E) and in consultation with the ASRS actuary, the ASRS shall calculate the actual unfunded liability amount which resulted from the implementation of the Employer's Termination Incentive Program.

G. If the ASRS calculates an unfunded liability of less than $0.00 for any member who participated in the Employer's Termination Incentive Program, the amount will be applied against the aggregate unfunded liability of the Employer.

H. Upon calculating the unfunded liability pursuant to subsections (F) and (G), the ASRS shall send the Employer a Termination Incentive Program Liability Invoice through the Employer's secure ASRS account.

I. An Employer that owes an unfunded liability amount to the ASRS pursuant to A.R.S. § 38-749, shall remit full payment of the unfunded liability amount by the due date specified in the Termination Incentive Program Liability Invoice.

J. Pursuant to A.R.S. § 38-735(C), if the ASRS does not receive full payment from the Employer of the unfunded liability amount by the due date specified in the Termination Incentive Program Liability Invoice, the unpaid portion of the unfunded liability amount shall accrue interest at the assumed actuarial interest and investment rate contained in R2-8-118(A).

K. The ASRS may collect any unfunded liability amount pursuant to A.R.S. §§ 38-723 and 38-735(C).

R2-8-125. Termination Incentive Program by 30% Salary Increase; Unfunded Liability Calculations

A. The following definitions apply to this Section unless otherwise specified:

1. "Average monthly compensation" means the same as in A.R.S. § 38-711(5).

2. "Baseline salary" means a member's Average Monthly Compensation during the 12 consecutive months in which the member received Compensation immediately preceding the first month of Compensation used to calculate the member's retirement benefit. The Baseline Salary shall include only Compensation from the Same Employer that paid the Compensation used in the calculation of a member's

retirement benefit. If the member has less than 12 consecutive months in which the member received Compensation immediately preceding the first month of Compensation used to calculate the member's retirement benefit, then the ASRS will calculate the member's Baseline Salary as the total of the 12 months of Compensation the member received:

a. Starting with the first month of Compensation the member received in the 12 months immediately preceding the member's Average Monthly Compensation, or within the Average Monthly Compensation; and

b. Ending with the 12th month of Compensation the member received after the first month of Compensation used in subsection (A)(2)(a).

3. "Compensation" means the same as in A.R.S. § 38-711(7).

4. "Job reclassification" means a change in the classification of an employment position made by the Employer when it finds the duties and responsibilities of the position have changed significantly, materially, and permanently from when the position was last classified.

5. "Promotion" means, excluding a Salary Regrade or Job Reclassification, the act of advancing an employee to a higher salary or higher rank within the organization, which is characterized by:

a. A change in the employee's primary job responsibilities; and

b. A pay increase that is supported by a standard salary administration practice that is documented by the Employer; and

c. A competitive selection process or a noncompetitive selection process supported by a standard hiring practice that is documented by the Employer.

6. "Salary regrade" means a change in the salary scale of an employment position made by the Employer in order to align the position's salary scale with market factors and/or the Employer's current salary practices.

7. "Same employer" means the Employer has the same ownership as another Employer, except that for purposes of this section, each agency, board, commission, and department of the State of Arizona shall be considered a separate Employer.

8. "Termination Incentive Program" means the same as in A.R.S. § 38-749(D)(1).

B. Upon a member's retirement on or after January 1, 2018, the ASRS shall compare the member's Baseline Salary to the Average Monthly Compensation for each consecutive 12 months of Compensation used to calculate the member's retirement benefit in order to determine whether an Employer utilized a Termination Incentive Program as defined in A.R.S. § 38-749(D)(1). This subsection only applies to members who earned the Compensation used to calculate the member's Baseline Salary, on or after July 1, 2005.

C. Upon determining that a Termination Incentive Program exists under subsection (B), the ASRS shall send a Request for Documentation to the Employer through the Employer's secure ASRS account, in order to notify the Employer that the ASRS has identified a Termination Incentive Program for a particular member and the Employer may be required to pay the ASRS for the unfunded liability resulting from the Termination

Incentive Program, unless the Employer can prove the increase in the member's salary was the result of a Promotion.

D. Within 90 days of the date on the Request for Documentation, the Employer shall respond to the Request for Documentation by:

   1. Submitting documentation through the Employer's secure ASRS account that shows the member's increase in Compensation was the result of a Promotion; or

   2. Acknowledging in writing that the increase in the member's salary was not the result of a Promotion.

E. Pursuant to subsection (D), the Employer bears the burden of producing evidence that a Promotion has occurred as defined in subsection (A)(5).

F. The ASRS shall use any evidence the Employer submits to the ASRS pursuant to subsection (D) to determine whether a Promotion occurred.

G. If the Employer does not respond to the Request for Documentation within 90 days of the date on the Request for Documentation, the ASRS shall determine that the increase in the member's salary was not the result of a Promotion.

H. If the ASRS determines that the increase in the member's salary was not the result of a Promotion pursuant to subsections (F) or (G), the ASRS shall calculate the unfunded liability amount pursuant to subsection (I).

I. In consultation with the ASRS actuary, the ASRS shall use a determination under subsection (B) to calculate the unfunded liability resulting from the implementation of the Employer's Termination Incentive Program.

J. Upon calculating an unfunded liability amount pursuant to subsection (I), the ASRS shall send a Termination Incentive Program Liability Invoice to the Employer through the

Employer's secure ASRS account, in order to notify the Employer of the unfunded liability amount the Employer shall owe to the ASRS as a result of implementing the Termination Incentive Program identified under subsection (B).

K. An Employer that owes an unfunded liability amount to the ASRS pursuant to A.R.S. § 38-749, shall remit full payment of the unfunded liability amount by the due date specified in the Termination Incentive Program Liability Invoice.

L. Pursuant to A.R.S. § 38-735(C), if the ASRS does not receive full payment from the Employer of the unfunded liability amount by the due date specified in the Termination Incentive Program Liability Invoice, the unpaid portion of the unfunded liability amount shall accrue interest at the assumed actuarial interest and investment rate contained in R2-8-118(A).

M. The ASRS may collect any unfunded liability amount pursuant to A.R.S. §§ 38-723 and 38-735(C).

ECONOMIC, SMALL BUSINESS, AND CONSUMER IMPACT STATEMENT[1]

TITLE 2. ADMINISTRATION

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

1. Identification of the rulemaking:

   The ASRS needs to adopt approximately two rules to clarify various aspects of how the ASRS assesses and collects an unfunded liability that is created by an Employer implementing a Termination Incentive Program pursuant to A.R.S. § 38-749(D). Clarifying these aspects will ensure Employers have notice about how a potential termination incentive program may create an unfunded liability and how the ASRS collects the unfunded liability from the Employer.

   a. The conduct and its frequency of occurrence that the rule is designed to change:

      Since A.R.S. § 38-749 became effective in 2005, the ASRS has identified termination incentive programs at approximately 107 Employers. The ASRS has invoiced those Employers collected approximately $17,408,479.00 in unfunded liabilities that were created by the implementation of termination incentive programs. The ASRS needs to promulgate rules that clarify how it may identify an Employer's termination incentive program and charge the Employer an unfunded liability amount resulting from the implementation of the termination incentive program. Such clarification will increase the understandability of the ASRS's obligation to collect an unfunded liability from an Employer, thereby reducing confusion and the regulatory burden on the public. Ultimately, this will allow the ASRS to fulfill its legal obligations to maintain the funded status of the ASRS more efficiently.

   b. The harm resulting from the conduct the rule is designed to change and the likelihood it will continue to occur if the rule is not changed:

      Currently, Employers are confused about how the ASRS may assess and collect an unfunded liability resulting from an Employer's implementation of a Termination Incentive Program. In particular Employers do not understand when and how the Employer may be required to remit payment of an unfunded liability. By

[1] If adequate data are not reasonably available, the agency shall explain the limitations of the data, the methods used in an attempt to obtain the data, and characterize the probable impacts in qualitative terms. (A.R.S. § 41-1055(C)).

promulgating these rules, Employers will have a better understanding of how and when they may owe an unfunded liability amount to the ASRS.

c. The estimated change in frequency of the targeted conduct expected from the rule change:

This rulemaking will clarify how the ASRS identifies an Employer's termination incentive program and may assess the Employer an unfunded liability for implementing such a program, thereby increasing the efficiency of the administration. Clarifying how the ASRS may charge and collect an unfunded liability amount will ensure that Employers are aware of how implementing certain programs may create an unfunded liability for the ASRS that the Employer must pay. As discussed above and below, these rules will increase the clarity and effectiveness of the ASRS's obligation to collect an unfunded liability from an Employer who implements a termination incentive program, which should result in reducing confusion, as well as any potential administrative delay.

2. A brief summary of the information included in the economic, small business, and consumer impact statement:

There is little to no economic, small business, or consumer impact, other than the minimal cost to the ASRS to prepare the rule package. The rules will have minimal economic impact, if any, because the rulemaking simply clarifies statutory requirements that already exist. There may be some economic impact to provide the documentation necessary for the ASRS to assess and collect an unfunded liability from an Employer. Clarifying what documentation must be submitted will increase understandability of how the ASRS determines and collects an unfunded liability, thereby reducing the regulatory burden imposed on the public. This clarification will ensure that ASRS Employers have notice about how the ASRS enforces A.R.S. § 38-749. Thus, the economic impact is minimized.

3. The person to contact to submit or request additional data on the information included in the economic, small business, and consumer impact statement:

Name: Jessica A.R. Thomas, Rules Writer
Address: Arizona State Retirement System
3300 N. Central Ave., Suite 1400
Phoenix, AZ 85012-0250
Telephone: (602) 240-2039
E-mail: JessicaT@azasrs.gov

4. Persons who will be directly affected by, bear the costs of, or directly benefit from the rulemaking:

   In general, all Employers of the ASRS will be directly affected by, bear the costs of, and directly benefit from this rulemaking. The ASRS incurred the cost of the rulemaking. The ASRS currently has a total membership of approximately 558,136 at approximately 707 Employers.

   Specifically, all Employers that implement a Termination Incentive Program that results in an unfunded liability for the ASRS will be directly affected by this rulemaking. These rules will clarify how the ASRS may assess an unfunded liability to an Employer that implements a Termination Incentive Program. Such clarification will benefit Employers by increasing the understandability of how the ASRS shall assess and collect an unfunded liability.

5. Cost-benefit analysis:

   a. Costs and benefits to state agencies directly affected by the rulemaking including the number of new full-time employees at the implementing agency required to implement and enforce the proposed rule:

      All ASRS Employers are directly affected by this rulemaking because it will clarify how the ASRS may assess a liability to an Employer based on the Employer's Termination Incentive Program. However, the ASRS has determined that no new full-time employees will be required to implement and enforce the rules.

   b. Costs and benefits to political subdivisions directly affected by the rulemaking:

      This rulemaking does not provide any benefits or impose any costs on political subdivisions.

   c. Costs and benefits to businesses directly affected by the rulemaking:

      No businesses are directly affected by the rulemaking.

6. Impact on private and public employment:

   The rulemaking will have no impact on private or public employment.

7. Impact on small businesses[2]:

   a. Identification of the small business subject to the rulemaking:
      No businesses, regardless of size, are subject to the rulemaking.

   b. Administrative and other costs required for compliance with the rulemaking:
      Not applicable.

   c. Description of methods that may be used to reduce the impact on small businesses:
      Not applicable.

8. Cost and benefit to private persons and consumers who are directly affected by the rulemaking:
   All ASRS Employers are directly affected by the rulemaking. The effect has been previously described above.

9. Probable effects on state revenues:
   There will be no effect on state revenues.

10. Less intrusive or less costly alternative methods considered:
    The ASRS believes this is the least costly and least intrusive method because it will clarify the Health Insurance Premium Benefit without imposing additional requirements on the public.

[2] Small business has the meaning specified in A.R.S. § 41-1001(20).

38-714. Powers and duties of ASRS and board

A. ASRS shall have the powers and privileges of a corporation, shall have an official seal and shall transact all business in the name "Arizona state retirement system", and in that name may sue and be sued.

B. The board is responsible for supervising the administration of this article by the director of ASRS.

C. The board is responsible for the performance of fiduciary duties and other responsibilities required to preserve and protect the retirement trust fund established by section 38-712.

D. The board shall not advocate for or against legislation providing for benefit modifications, except that the board shall provide technical and administrative information regarding the impact of benefit modification legislation.

E. The board may:

1. Determine the rights, benefits or obligations of any person under this article and afford any person dissatisfied with a determination a hearing on the determination. The board may delegate the duty and authority to act on the board's behalf to a committee of the board for the purposes of this paragraph and title 41, chapter 6, article 10 relating to any decision made under this paragraph by that committee of the board.

2. Determine the amount, manner and time of payment of any benefits under this article.

3. Recommend amendments to this article and articles 2.1 and 7 of this chapter that are required for efficient and effective administration.

4. Adopt, amend or repeal rules for the administration of the plan, this article and articles 2.1 and 7 of this chapter.

F. Beginning June 30, 2016, the board shall determine which of the generally accepted actuarial cost methods shall be used in the annual actuarial valuation of the plan.

G. The board and ASRS are not subject to title 41, chapter 6, except title 41, chapter 6, article 10, for actuarial assumptions and calculations, investment strategy and decisions and accounting methodology.

H. The board shall submit to the governor and legislature for each fiscal year no later than eight months after the close of the fiscal year a report of its operations and the operations of ASRS. The report shall follow generally accepted accounting principles and generally accepted financial reporting standards and shall include:

1. A report on an actuarial valuation of ASRS assets and liabilities.

2. Any other statistical and financial data that may be necessary for the proper understanding of the financial condition of ASRS and the results of board operations.

3. On request of the governor or the legislature, a list of investments owned. This list shall be provided in an electronic format.

4. An estimate of the aggregate fees paid for private equity investments, including management fees and performance fees.

I. The board shall:

1. Prepare and publish a synopsis of the annual report for the information of ASRS members.

2. Contract for a study of the mortality, disability, service and other experiences of the members and employers participating in ASRS. The study shall be conducted for fiscal year 1990-1991 and for at least every fifth fiscal year thereafter. A report of the study shall be completed within eight months after the close of the applicable fiscal year and shall be submitted to the governor and the legislature.

3. Conduct an annual actuarial valuation of ASRS assets and liabilities.

J. The auditor general may make an annual audit of ASRS and transmit the results to the governor and the legislature.

38-749. Employer termination incentive program; employer payment of actuarial cost; definition

A. If a termination incentive program that is offered by an employer results in an actuarial unfunded liability to ASRS, the employer shall pay to ASRS the amount of the unfunded liability. ASRS shall determine the amount of the unfunded liability in consultation with its actuary.

B. An employer shall notify ASRS if the employer plans to implement a termination incentive program that may affect ASRS funding.

C. If ASRS determines that an employer has implemented a termination incentive program that results in an actuarial unfunded liability to ASRS, ASRS shall assess the cost of the unfunded liability to that employer. If the employer does not remit full payment of all monies due within ninety days after being notified by ASRS of the amount due, the unpaid amount accrues interest until the amount is paid in full. The interest rate is the interest rate assumption that is approved by the board for actuarial equivalency for the period in question to the date payment is received.

D. For the purposes of this section, "termination incentive program":

1. Means a total increase in compensation of thirty per cent or more that is given to a member in any one or more years before termination that are used to calculate the member's average monthly compensation if that increase in compensation is used to calculate the member's retirement benefit and that increase in compensation is not attributed to a promotion.

2. Means anything of value, including any monies, credited service or points that the employer provides to or on behalf of a member that is conditioned on the member's termination except for payments to an employee for accrued vacation, sick leave or compensatory time unless the payment is enhanced beyond the employer's customary payment.

ARIZONA STATE RETIREMENT SYSTEM
Title 2, Chapter 8, Article 3, Long-Term Disability

New Article:	Article 3
New Section:	R2-8-301; R2-8-302; R2-3-303; R2-8-304; R2-8-305; R2-8-306

GOVERNOR'S REGULATORY REVIEW COUNCIL
M E M O R A N D U M

MEETING DATE: September 6, 2017 **AGENDA ITEM: D-6**

TO: Members of the Governor's Regulatory Review Council

FROM: Justin Larson, Legal Intern

DATE: August 23, 2017

SUBJECT: **ARIZONA STATE RETIREMENT SYSTEM (R-17-0703)**
Title 2, Chapter 8, Article 3, Long-Term Disability

New Article: Article 3

New Section: R2-8-301; R2-8-302; R2-3-303; R2-8-304; R2-8-305; R2-8-306

Purpose of the Agency and Summary of What the Rulemaking Does

The purpose of the Arizona State Retirement System (ASRS) is to provide an incentive in the recruitment and retention of high quality employees; contribute toward providing a total compensation package that is generally equivalent to comparable employment in other public and private organizations in Arizona; provide a retirement system that encourages employees to remain in service for periods of time that will provide public employers with the full benefit of the training and experience gained by the employees; provide an orderly method of promoting and maintaining a high level of service to the public; and provide a base retirement benefit that is less than one hundred per cent of a member's post-retirement income requirements. A.R.S. § 38-712.

This rulemaking by the ASRS seeks to clarify various aspects of the Long-Term Disability (LTD) program, including: definitions relating to the LTD program; the LTD benefit calculation and applicable reductions; the appeal of a Social Security disability income amount; and revising and refunding the estimated Social Security disability income amount. Additionally, the ASRS seeks to clarify how it will provide for LTD benefit adjustments in specific situations, such as when survivor benefits are involved.

Proposed Action

The ASRS seeks to create a new article (Article 3) including the following six rules:

Article 3	Long-Term Disability
R2-8-301	Definitions Defines relevant terms for this article.
R2-8-302	Application for Long-Term Disability Benefit Stipulates the application requirements for disabled members wishing to claim an LTD benefit.
R2-8-303	Long-Term Disability Calculation Stipulates how ASRS contracted LTD claims administrators must calculate an LTD benefit.
R2-8-304	Payment of Long-Term Disability Benefit Sets out a timeline within which an ASRS contracted LTD claims administrator (administrator) must begin providing an LTD benefit to eligible disabled members, and allows administrators to provide LTD benefits to qualifying third parties.
R2-8-305	Social Security Disability or LTD Appeal Requires members who claim an LTD benefit pursuant to R2-8-302(A) to submit a Social Security disability income application as prescribed by the administrator. This rule also provides for a mandatory appeal process for members whose applications for Social Security disability income has been denied or terminated, and requires such members to notify the ASRS of certain information after such an appeal. Lastly, this rule allows a member who disagrees with an administrator's LTD determination to submit an appeal.
R2-8-306	Approval of Social Security Disability Requires members who receive a Social Security disability income benefit to remit certain information to the ASRS and the administrator.

Exemption or Request and Approval for Exception from the Moratorium

The ASRS requested approval for exception from the moratorium on March 25, 2016, and the request was approved on April 6, 2016.

Substantive or Procedural Concerns

None.

1. **Are the rules legal, consistent with legislative intent, and within the agency's statutory authority?**

Yes. A.R.S. § 38-714(E)(4) authorizes the ASRS Board to "[a]dopt, amend or repeal rules for the administration of the plan, [article 2] and articles 2.1 and 7 of [chapter 5]." Further, A.R.S. §§ 38-797 et seq. guides the implementation of the Long-Term Disability Program by the ASRS.

2. **Are the rules written in a manner that is clear, concise, and understandable to the general public?**

Yes. The rules are clear, concise, and understandable.

3. **Does the agency adequately address the comments on the proposed rules and any supplemental proposals?**

Yes. The ASRS indicates that it received no written comments regarding the rulemaking, and that no one attended the oral proceeding on March 20, 2017.

4. **Are the final rules a substantial change, considered as a whole, from the proposed rules and any supplemental proposals?**

No. There were no changes between the proposed rulemaking and the final rules.

5. **Does the preamble disclose a reference to any study relevant to the rules that the agency reviewed and either did or did not rely on in the agency's evaluation of or justification for the rules?**

No. The ASRS indicates that it did not review a study for this rulemaking.

6. **Are the rules more stringent than corresponding federal law and, if so, is there statutory authority that allows the agency to exceed the requirements of federal law?**

No. There are no federal laws applicable to these rules.

7. **Do the rules require a permit or license and if so, does the agency use a general permit or is any exception applicable under A.R.S. § 41-1037?**

No. The rules do not require a permit.

8. Do the rules establish a new fee or contain a fee increase?

No. The rules do not establish a new fee or contain a fee increase.

Conclusion

As specified under A.R.S. § 41-1032(A), the rules will become effective 60 days after the Notice of Final Rulemaking is filed with the Secretary of State's Office. This analyst recommends approval of the rules.

GOVERNOR'S REGULATORY REVIEW COUNCIL
M E M O R A N D U M

MEETING DATE: September 6, 2017 **AGENDA ITEM: D-6**

TO: Members of the Governor's Regulatory Review Council

FROM: GRRC Economic Team

DATE : August 23, 2017

SUBJECT: **ARIZONA STATE RETIREMENT SYSTEM (R-17-0703)**
Title 2, Chapter 8, Article 3, Long-Term Disability

New Article: Article 3

New Section: R2-8-301; R2-8-302; R2-3-303; R2-8-304; R2-8-305; R2-8-306

The economic analysis team has reviewed the economic, small business, and consumer impact statement and makes the following comments. These comments are made to assist the Council in its review and may be used as the Council determines.

The Arizona State Retirement System (ASRS) is proposing to adopt six rules to clarify various aspects of the Long-Term Disability (LTD) program. These changes will add definitions relating to the LTD program; the LTD benefit calculation and applicable reductions; the appeal process of a Social Security disability application that has been denied or terminated; calculating and collecting the estimated Social Security disability income amount; and revising and refunding the estimated Social Security disability income amount.

The ASRS intends to clarify, in rule, how the ASRS will provide for LTD benefit adjustments in specific situations, such as when survivor benefits are involved. This rulemaking will clarify how the ASRS calculates LTD benefits and Social Security disability repayments to the ASRS. Additionally, it will explain how a member or survivor may request a revised Social Security disability amount in the event of a mistake. The new rules will ensure that members and their survivors are aware of how their benefits may be affected. As a result, members will better understand the rules addressing how the ASRS may reduce or retain their retirement or survivor benefit disbursements.

Each year, the ASRS provides approximately $60 million in LTD benefits to approximately 3,870 members each year. The average LTD benefit is approximately $1,325.00 per month.

1. **Costs and Benefits for:**

a. The implementing agency:

The ASRS incurred the cost of completing this rulemaking and will incur the minimal cost of implementing it.

b. Political subdivisions:

This rulemaking does not provide any benefits or impose any costs on political subdivisions.

c. Businesses:

No businesses are directly affected by the rulemaking.

d. Small businesses:

No businesses are directly affected by the rulemaking.

e. Consumers directly affected by the rulemaking:

The ASRS indicates that all ASRS retired members, beneficiaries, and employers will be directly affected by the rulemaking.

2. **Do the probable benefits outweigh the probable costs?**

Based on the information provided, the ASRS indicates that the benefit from the proposed amendments outweigh the costs. The proposed rules will have minimal economic impact because it merely clarifies the administration of the LTD program.

3. **Analysis of methods to reduce the small business impact:**

An analysis was not submitted because the ASRS estimated that there will be no economic impact to small businesses.

4. **The probable effect on state revenues:**

The proposed rulemaking will have no effect on state revenues.

5. **Analysis of any less intrusive or less costly alternative methods:**

The ASRS believes this is the least costly and least intrusive method because it will clarify the tax payment processes without imposing additional requirements on the public.

6. Whether an analysis was submitted to the agency regarding the rule's impact on the competitiveness of businesses in this state as compared to the competitiveness of businesses in other states:

No analysis was submitted that compares the rule's impact of the competitiveness of businesses in this state to the impact on businesses in other states.

7. A description of any data on which a rule is based with an explanation of how the data was obtained and why the data is acceptable data, and the methods used by the agency to evaluate the costs and benefits in the EIS.

The ASRS indicates that no outside data or studies were used in the development of the proposed rule amendment.

8. Conclusion:

The submitted economic, small business and consumer impact statement is generally accurate, and contains the information required for compliance with A.R.S. §§ 41-1035, 41-1052(D)(1-3), and 41-1055. This analyst recommends that the proposed rule amendments be approved.

ARIZONA STATE RETIREMENT SYSTEM

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WWW.AZASRS.GOV

Paul Matson
Director

April 5, 2017

RECEIVED
MAY 11 2017
GRRC

Ms. Nicole A. Ong, Chair
The Governor's Regulatory Review Council
100 North 15th Avenue, Ste. 402
Phoenix, AZ 85007

Re: A.A.C. Title 2. Administration
Chapter 8. State Retirement System Board

Dear Ms. Ong:

The attached final rule package is submitted for review and approval by the Council. The following information is provided for Council's use in reviewing the rule package:

1. Close of record date: The rulemaking record was closed on March 21, 2017 following a period for public comment and an oral proceeding.
2. Relation of the rulemaking to a five-year-review report: This rulemaking does not relate to a Five-year Review Report.
3. New fee or fee increase: This rulemaking does not establish a new fee or increase an existing fee.
4. Immediate effective date: An immediate effective date is not requested.
5. Certification regarding studies: I certify that the Board did not rely on any studies for this rulemaking.
6. Certification that the preparer of the EIS notified the JLBC of the number of new full-time employees necessary to implement and enforce the rule: I certify that the rules in this rulemaking will not require a state agency to employ a new full-time employee. No notification was provided to JLBC.

7. List of documents enclosed:
    a. Cover letter signed by the Board's Assistant Director;
    b. Notice of Final Rulemaking including the preamble, table of contents for the rulemaking, and rule text; and
    c. Economic, Small Business, and Consumer Impact Statement.

Sincerely,

Dave King
Assistant Director

NOTICE OF FINAL RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

PREAMBLE

1. Articles, Parts, and Sections Affected	**Rulemaking Action**
Article 3	New Article
R2-8-301	New Section
R2-8-302	New Section
R2-8-303	New Section
R2-8-304	New Section
R2-8-305	New Section
R2-8-306	New Section

2. Citations to the agency's statutory rulemaking authority to include both the authorizing statute (general) and the implementing statute (specific):

Authorizing statute: A.R.S. § 38-714(E)(4)

Implementing statutes: A.R.S. §§ 38-797 et seq.

3. The effective date for the rules:

As specified under A.R.S. § 41-1032(A), the rule will be effective 60 days after the rule package is filed with the Office of the Secretary of State.

a. If the agency selected a date earlier than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):

Not applicable.

b. If the agency selected a date later than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):

Not applicable.

4. Citations to all related notices published in the *Register* as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:

Notice of Rulemaking Docket Opening: 22 A.A.R. 823, April 15, 2016

Notice of Proposed Rulemaking: 23 A.A.R. 441, February 17, 2017

5. The agency's contact person who can answer questions about the rulemaking:

Name:	Jessica A.R. Thomas, Rules Writer
Address:	Arizona State Retirement System 3300 N. Central Ave., Ste. 1400 Phoenix, AZ 85012-0250
Telephone:	(602) 240-2039
E-Mail:	JessicaT@azasrs.gov

6. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:

The ASRS needs to adopt six rules to clarify various aspects of the Long-Term Disability (LTD) program, including the following:

- Definitions relating to the LTD program;
- The LTD benefit calculation and applicable reductions;
- The appeal of a Social Security disability application that has been denied or terminated;
- Calculating and collecting the estimated Social Security disability income amount; and
- Revising and refunding the estimated Social Security disability income amount

In addition to other processes, the ASRS needs to clarify in rule how the ASRS will provide for LTD benefit adjustments in specific situations, such as when survivor benefits are involved. This rulemaking will clarify how the ASRS calculates LTD benefits, including statutory reductions, and Social Security disability repayments to the ASRS. Also, it will explain how a member or survivor may request a revised Social Security disability amount if the member or survivor believes an error has occurred. These new rules will ensure that members and their survivors are aware of how their benefits may be affected, including how the ASRS may reduce or retain their retirement or survivor benefit disbursements based on the estimated Social Security disability income amount that the ASRS paid to the member as an LTD benefit; the rules will reflect that a member or survivor cannot avoid ASRS collection of the estimated Social Security disability income amount.

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

No study was reviewed.

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

Not applicable.

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

There is little to no economic, small business, or consumer impact, other than the minimal cost to the ASRS to prepare the rule package. The rules will have minimal economic impact, if any, because the rulemaking simply clarifies statutory requirements that already exist. There may be some economic impact to provide the documentation necessary for the ASRS contracted LTD claims administrator to determine a member's eligibility for LTD benefits. Clarifying what documentation must be submitted will increase understandability of the LTD program, thereby reducing the regulatory burden imposed on the public. This clarification will ensure that ASRS members have notice about how the ASRS LTD program is administered. Thus, the economic impact is minimized.

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

None

11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:

The ASRS received no written comments regarding the rulemaking. No one attended the oral proceeding on March 20, 2017.

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

None.

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

The rules do not require a permit.

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

There are no federal laws applicable to these rules.

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

No analysis was submitted.

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

No materials are incorporated by reference.

14. Whether the rule was previously made, amended, or repealed as an emergency rule. If so, cite the notice published in the *Register* as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:

Not applicable.

15. The full text of the rules follows:

TITLE 2. ADMINISTRATION

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

ARTICLE 3. LONG-TERM DISABILITY

Section

Article 3. Long-Term Disability

R2-8-301. Definitions

R2-8-302. Application for Long-Term Disability Benefit

R2-8-303. Long-Term Disability Calculation

R2-8-304. Payment of Long-Term Disability Benefit

R2-8-305. Social Security Disability Appeal

R2-8-306. Approval of Social Security Disability

ARTICLE 3. LONG-TERM DISABILITY

Article 3. Long-Term Disability

R2-8-301. Definitions

The following definitions apply to this Article unless otherwise specified:

1. "Estimated Social Security disability income amount" means the same as in R2-8-801(2).
2. "Legal proceeding" means an appeal of an appealable agency decision at the Office of Administrative Hearings pursuant to A.R.S. § 41-1092 et seq. or an appeal of a Social Security determination at the Social Security Administration, or any other review by a formal body, which determines the rights and responsibilities of the member or survivor.
3. "LTD" means the Long-Term Disability program described in A.R.S. § 38-797 et seq.
4. "LTD contribution" means the amount of funds the member remits to the ASRS from the member's compensation as payment for the LTD program.
5. "LTD benefit" means the amount of funds the member receives from the ASRS or the ASRS contracted LTD claims administrator, for the period of time a member has an eligible disability as described in A.R.S. § 38-797.07(A)(11).

R2-8-302. Application for LTD Benefit

A. In order to claim an LTD benefit, a disabled member shall submit to the disabled member's Employer all the completed forms prescribed by the ASRS contracted LTD claims administrator within 12 months of the date the disabled member became disabled.

C. Pursuant to A.R.S. § 38-797.07(D), in order to continue receiving an LTD benefit, a disabled member shall submit documentation regarding the disabled member's ongoing disability and occupation as required by the ASRS contracted LTD claims administrator to determine the disabled member's continuing eligibility for an LTD benefit.

R2-8-303. Long-Term Disability Calculation

A. The ASRS contracted LTD claims administrator shall calculate an LTD benefit for a member using the member's monthly compensation as described in A.R.S. § 38-797(11).

B. The ASRS shall reduce a member's LTD benefit in accordance with A.R.S. § 38-797.07(A).

R2-8-304. Payment of LTD Benefit

A. The ASRS contracted LTD claims administrator shall begin providing an LTD benefit to an eligible disabled member no sooner than six months after the date the disabled member became disabled.

B. The ASRS contracted LTD claims administrator may provide an eligible disabled member's LTD benefit to a third party pursuant to A.R.S. § 38-797.09.

R2-8-305. Social Security Disability or LTD Appeal

A. Upon request by the ASRS contracted LTD claims administrator, a member who claims an LTD benefit pursuant to R2-8-302(A) shall submit a Social Security disability income application as prescribed by the ASRS contracted LTD claims administrator.

B. In order to continue receiving an LTD benefit, a member whose application for Social Security disability income has been denied or terminated must appeal the most recent determination of denial or termination through a hearing before an administrative law judge pursuant to A.R.S. § 38-797.07(A)(10)(a) until the ASRS contracted LTD claims administrator or the Social Security Claims Administrator determines the member is not eligible for a Social Security benefit.

C. Within 10 days after a member receives notice of the status of the member's Social Security disability income application, the member shall notify:

1. The ASRS of the member's application status by submitting a copy of the notice identifying the status of the member's Social Security disability income application to the ASRS, if the member is not receiving an LTD benefit; or

2. The ASRS contracted LTD claims administrator of the member's application status by submitting a copy of the notice identifying the status of the member's Social Security disability income application to the ASRS contracted LTD claims administrator, if the member is not receiving an LTD benefit.

D. A member who disagrees with an LTD determination by the ASRS contracted LTD claims administrator may submit an appeal pursuant to 2 A.A.C. 8, Article 4.

R2-8-306. Approval of Social Security Disability

Upon receipt of a Social Security disability income benefit, a member shall immediately remit to:

1. The ASRS the amount of the Social Security disability income benefit necessary to offset the LTD benefit; or

2. The ASRS contracted LTD claims administrator the amount of the Social Security disability income benefit necessary to offset the LTD benefit.

ECONOMIC, SMALL BUSINESS, AND CONSUMER IMPACT STATEMENT[1]

TITLE 2. ADMINISTRATION

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

1. Identification of the rulemaking:

The ASRS needs to adopt six rules to clarify various aspects of the Long-Term Disability (LTD) program, including the following:

- Definitions relating to the LTD program;
- The LTD benefit calculation and applicable reductions;
- The appeal of a Social Security disability application that has been denied or terminated;
- Calculating and collecting the estimated Social Security disability income amount; and
- Revising and refunding the estimated Social Security disability income amount

In addition to other processes, the ASRS needs to clarify in rule how the ASRS will provide for LTD benefit adjustments in specific situations, such as when survivor benefits are involved. This rulemaking will clarify how the ASRS calculates LTD benefits, including statutory reductions, and Social Security disability repayments to the ASRS. Also, it will explain how a member or survivor may request a revised Social Security disability amount if the member or survivor believes an error has occurred. These new rules will ensure that members and their survivors are aware of how their benefits may be affected, including how the ASRS may reduce or retain their retirement or survivor benefit disbursements based on the estimated Social Security disability income amount that the ASRS paid to the member as an LTD benefit; the rules will reflect that a member or survivor cannot avoid ASRS collection of the estimated Social Security disability income amount.

[1] If adequate data are not reasonably available, the agency shall explain the limitations of the data, the methods used in an attempt to obtain the data, and characterize the probable impacts in qualitative terms. (A.R.S. § 41-1055(C)).

a. <u>The conduct and its frequency of occurrence that the rule is designed to change:</u>

Currently, the ASRS provides approximately $60 million in LTD benefits to approximately 3,870 members each year. The average LTD benefit is approximately $1,325.00 per month. However, members seem to misunderstand how the LTD program operates and the ASRS receives numerous inquiries regarding the LTD program such as:

- How to apply for LTD
- How LTD benefit amounts are calculated and paid
- Whether the member is required to apply for Social Security benefits
- How to appeal a denial of LTD benefit eligibility

The ASRS needs to promulgate rules that clarify how the LTD program is administered. Such clarification will increase the understandability of the LTD program, thereby reducing confusion and the regulatory burden on the public. Ultimately, this will allow the ASRS to administer the LTD more efficiently.

b. <u>The harm resulting from the conduct the rule is designed to change and the likelihood it will continue to occur if the rule is not changed:</u>

Members are confused about how the ASRS administers the LTD program. In particular, members seem to misunderstand how LTD benefit eligibility determinations are made. Over the past two years, the ASRS received approximately 14 appeals related to the LTD program. Most appeals relate to LTD benefit eligibility determinations, while other appeals relate to how the ASRS collects overpayments of LTD benefits. After the ASRS receives all necessary documentation, a typical LTD appeal requires approximately 15 days for the ASRS to review. However, depending on the complexity of the appeal, the ASRS may need up to two months to issue a decision on the appeal. By promulgating these rules, members will have a better understanding of how the ASRS administers the LTD program. Increasing understanding of how the ASRS administers the LTD program should reduce

appeals that arise out of members' misconceptions about how LTD benefit eligibility is determined.

c. The estimated change in frequency of the targeted conduct expected from the rule change:

This rulemaking will clarify how the ASRS administers the LTD program, thereby increasing understandability of the program and increasing the efficiency of the administration. Clarifying how members submit LTD information and how members receive LTD benefits will increase understanding of how LTD benefit eligibility is determined, thereby reducing appeals that arise out of misconceptions regarding LTD benefit eligibility. Such clarification will ensure that LTD benefit payments and appeals are processed more efficiently. As discussed above and below, these rules will increase the clarity and effectiveness of the LTD program, which should result in reducing confusion, as well as any potential administrative delay caused by a misunderstanding of the program and its requirements.

2. A brief summary of the information included in the economic, small business, and consumer impact statement:

There is little to no economic, small business, or consumer impact, other than the minimal cost to the ASRS to prepare the rule package. The rules will have minimal economic impact, if any, because the rulemaking simply clarifies statutory requirements that already exist. There may be some economic impact to provide the documentation necessary for the ASRS contracted LTD claims administrator to determine a member's eligibility for LTD benefits. Clarifying what documentation must be submitted will increase understandability of the LTD program, thereby reducing the regulatory burden imposed on the public. This clarification will ensure that ASRS members have notice about how the ASRS LTD program is administered. Thus, the economic impact is minimized.

3. The person to contact to submit or request additional data on the information included in the economic, small business, and consumer impact statement:

Name: Jessica A.R. Thomas, Rules Writer
Address: Arizona State Retirement System
3300 N. Central Ave., Suite 1400
Phoenix, AZ 85012-0250
Telephone: (602) 240-2039
E-mail: JessicaT@azasrs.gov

4. Persons who will be directly affected by, bear the costs of, or directly benefit from the rulemaking:

In general, all members, as well as their beneficiaries, and Employers of the ASRS will be directly affected by, bear the costs of, and directly benefit from this rulemaking. The ASRS incurred the cost of the rulemaking. The ASRS currently has a total membership of approximately 558,136.

Specifically, members who receive a LTD benefit will be directly affected by this rulemaking. These rules will clarify how the ASRS administers the LTD program. Such clarification will benefit members by increasing the understandability of the LTD program.

5. Cost-benefit analysis:

   a. Costs and benefits to state agencies directly affected by the rulemaking including the number of new full-time employees at the implementing agency required to implement and enforce the proposed rule:

   All ASRS members are directly affected by this rulemaking because it will clarify how the LTD program is administered. However, the ASRS has determined that no new full-time employees will be required to implement and enforce the rules.

   b. Costs and benefits to political subdivisions directly affected by the rulemaking:

This rulemaking does not provide any benefits or impose any costs on political subdivisions.

c. Costs and benefits to businesses directly affected by the rulemaking:
No businesses are directly affected by the rulemaking.

6. Impact on private and public employment:
The rulemaking will have no impact on private or public employment.

7. Impact on small businesses[2]:
   a. Identification of the small business subject to the rulemaking:
   No businesses, regardless of size, are subject to the rulemaking.

   b. Administrative and other costs required for compliance with the rulemaking:
   Not applicable.

   c. Description of methods that may be used to reduce the impact on small businesses:
   Not applicable.

8. Cost and benefit to private persons and consumers who are directly affected by the rulemaking:
All ASRS retired members, beneficiaries, and Employers are directly affected by the rulemaking. The effect has been previously described above.

9. Probable effects on state revenues:
There will be no effect on state revenues.

10. Less intrusive or less costly alternative methods considered:

[2] Small business has the meaning specified in A.R.S. § 41-1001(20).

The ASRS believes this is the least costly and least intrusive method because it will clarify the Health Insurance Premium Benefit without imposing additional requirements on the public.

38-714. Powers and duties of ASRS and board

A. ASRS shall have the powers and privileges of a corporation, shall have an official seal and shall transact all business in the name "Arizona state retirement system", and in that name may sue and be sued.

B. The board is responsible for supervising the administration of this article by the director of ASRS.

C. The board is responsible for the performance of fiduciary duties and other responsibilities required to preserve and protect the retirement trust fund established by section 38-712.

D. The board shall not advocate for or against legislation providing for benefit modifications, except that the board shall provide technical and administrative information regarding the impact of benefit modification legislation.

E. The board may:

1. Determine the rights, benefits or obligations of any person under this article and afford any person dissatisfied with a determination a hearing on the determination. The board may delegate the duty and authority to act on the board's behalf to a committee of the board for the purposes of this paragraph and title 41, chapter 6, article 10 relating to any decision made under this paragraph by that committee of the board.

2. Determine the amount, manner and time of payment of any benefits under this article.

3. Recommend amendments to this article and articles 2.1 and 7 of this chapter that are required for efficient and effective administration.

4. Adopt, amend or repeal rules for the administration of the plan, this article and articles 2.1 and 7 of this chapter.

F. Beginning June 30, 2016, the board shall determine which of the generally accepted actuarial cost methods shall be used in the annual actuarial valuation of the plan.

G. The board and ASRS are not subject to title 41, chapter 6, except title 41, chapter 6, article 10, for actuarial assumptions and calculations, investment strategy and decisions and accounting methodology.

H. The board shall submit to the governor and legislature for each fiscal year no later than eight months after the close of the fiscal year a report of its operations and the operations of ASRS. The report shall follow generally accepted accounting principles and generally accepted financial reporting standards and shall include:

1. A report on an actuarial valuation of ASRS assets and liabilities.

2. Any other statistical and financial data that may be necessary for the proper understanding of the financial condition of ASRS and the results of board operations.

3. On request of the governor or the legislature, a list of investments owned. This list shall be provided in an electronic format.

4. An estimate of the aggregate fees paid for private equity investments, including management fees and performance fees.

I. The board shall:

1. Prepare and publish a synopsis of the annual report for the information of ASRS members.

2. Contract for a study of the mortality, disability, service and other experiences of the members and employers participating in ASRS. The study shall be conducted for fiscal year 1990-1991 and for at least every fifth fiscal year thereafter. A report of the study shall be completed within eight months after the close of the applicable fiscal year and shall be submitted to the governor and the legislature.

3. Conduct an annual actuarial valuation of ASRS assets and liabilities.

J. The auditor general may make an annual audit of ASRS and transmit the results to the governor and the legislature.

38-797. Definitions

(L14, Ch. 44, sec. 5 & Ch. 69, sec. 1)

In this article, unless the context otherwise requires:

1. "ASRS" means the Arizona state retirement system established by article 2 of this chapter.

2. "Assets" means the accumulated resources of the LTD program.

3. "Board" means the ASRS board established pursuant to section 38-713.

4. "Compensation" has the same meaning prescribed in section 38-711.

5. "Depository" means a bank in which the monies of the LTD program are deposited and collateralized as provided by law.

6. "Employer" has the same meaning prescribed in section 38-711.

7. "Employer contributions" means all amounts paid into the LTD program by an employer.

8. "Fiscal year" has the same meaning prescribed in section 38-711.

9. "LTD program" means the long-term disability program established by this article.

10. "Member" has the same meaning prescribed in section 38-711.

11. "Monthly compensation" means the amount determined by taking the six pay periods immediately before the date of the member's disability in the fiscal year in which the member becomes disabled, disregarding the highest two and lowest two compensation amount pay periods and deriving the median of the two remaining pay periods. If the member was employed for fewer than six pay periods, monthly compensation is determined

by deriving the median of the number of pay periods the member worked in the fiscal year in which the member becomes disabled.

12. "Normal retirement date" has the same meaning prescribed in section 38-711.

13. "Political subdivision" has the same meaning prescribed in section 38-711.

14. "State" has the same meaning prescribed in section 38-711.

38-797.01. LTD program

A. A long-term disability program is established.

B. The program is known as the LTD program.

38-797.02. LTD trust fund

A. The LTD trust fund is established for the purpose of paying benefits under and costs of administering the LTD program.

B. The LTD trust fund consists of all monies paid into it in accordance with this article, whether in the form of cash, securities or other assets, and all monies received from any other source. The LTD trust fund is exempt from title 44, chapter 3. Abandoned monies shall be disposed of pursuant to section 38-722.

C. Custody, management and investment of the LTD trust fund are as prescribed by this article and article 2 of this chapter.

38-797.03. ASRS board; personnel; duties; hearing or review; executive session

A. The board shall administer the LTD program. ASRS officers, contractors and personnel shall perform the duties prescribed by this article.

B. The board may determine the rights, benefits or obligations of any person under this article and afford any person dissatisfied with a determination of their rights, benefits or obligations under this article with a hearing on the determination. Notwithstanding section 38-431.03, the board shall hold a hearing or review of an administrative law judge's written decision in an executive session if the aggrieved person makes such a request. If the board holds a hearing or review in executive session pursuant to this subsection, the board shall use the procedures for an executive session as provided in section 38-431.03. Minutes of and discussions held at an executive session are confidential except from the aggrieved person for the purposes of an appeal of the board's decision to the superior court on the matter that is determined by the board. The aggrieved person must request an executive session hearing at least forty-eight hours before the hearing.

C. The board may enter into a contract with an insurance company or another entity to administer all or part of the LTD program and to determine eligibility for benefits under the LTD program.

D. The board shall pay from the LTD trust fund the amounts necessary to pay benefits under and costs of administering the LTD program.

38-797.04. Eligibility

All members are subject to this article and shall participate in the LTD program.

38-797.05. Employer and member contributions

A. Beginning July 1, 2011, employers shall contribute the percentage of the compensation of all of the members under their employment so that the total employer contributions equals the amount that the board determines is necessary to pay one-half of all benefits under and costs of administering the LTD program.

B. Beginning July 1, 2011, a member shall contribute a percentage of the member's compensation equal to the employer contribution for the member required pursuant to subsection A of this section.

C. The employer shall pay the member contributions required of members on account of compensation earned. All employer and member contributions shall be paid to the board. The board shall allocate the contributions to the LTD trust fund and shall place the contributions in the LTD program's depository.

D. Each employer shall certify on each payroll the amount to be contributed to the LTD program and shall remit that amount to the board. The contributions are irrevocable.

E. Payments due pursuant to this article by employers become delinquent after the due date prescribed in the board's rules and thereafter shall be increased by interest from and after that date until payment is received by the board. The board shall charge interest on the delinquent payments at an annual rate equal to the interest rate assumption approved by the board for actuarial equivalency pursuant to article 2 of this chapter. Delinquent payments due under this subsection, together with interest charges as provided in this subsection, may be recovered by an action in a court of competent jurisdiction against an employer liable for payments or, at the request of the director, may be deducted from any monies, including excise revenue taxes, payable to the employer by any department or agency of this state.

F. If more than the correct amount of contributions required is paid by an employer, proper adjustment shall be made in connection with subsequent payments. The board shall return excess contributions to the employer if the employer requests return of the contributions within one year after the date of overpayment.

G. Member contributions are not refundable and are not included in the calculation of survivor benefits pursuant to section 38-762.

38-797.06. Contribution rate; annual report

A. The board shall select an actuary to determine required employer contributions on an annual basis. The actuary shall be a fellow of the society of actuaries.

B. Employer contributions shall be a percentage of compensation of all employees of the employers, as the ASRS actuary determines pursuant to this section. The actuary shall make this determination in an annual valuation performed as of June 30. The valuation as of June 30 of a calendar year shall determine the percentage to be applied to compensation for the fiscal year beginning July 1 of the following calendar year. The actuary shall determine the total employer contribution using an actuarial cost method consistent with generally accepted actuarial standards. The total employer contributions shall be equal to the employer normal cost plus the amount required to amortize the past service funding requirement over a period consistent with generally accepted actuarial standards.

C. All contributions made by the employer and allocated to the LTD trust fund established by section 38-797.02 are irrevocable and shall be used as benefits under this article or to pay expenses of the LTD program.

D. ASRS shall provide a preliminary report on or before November 30 of the valuation year and a final report on or before January 15 of the following year to the governor, the speaker of the house of representatives and the president of the senate on the contribution rate for the ensuing fiscal year.

38-797.07. LTD program benefits; limitations; definitions

A. The LTD program is subject to the following limitations:

1. Except as provided in paragraph 9 of this subsection, monthly LTD program benefits shall not exceed two-thirds of a member's monthly compensation, reduced by:

(a) For a member whose disability commences before July 1, 2008, sixty-four percent of social security disability benefits that the member and the member's dependents are eligible to receive.

(b) For a member whose disability commences on or after July 1, 2008, eighty-five percent of social security disability benefits that the member and the member's dependents are eligible to receive, but not including:

(i) The amount of attorney fees approved pursuant to social security administration rules and reasonable documented costs paid to an attorney to secure that disability benefit.

(ii) Any cost-of-living adjustments that are granted after the member commences benefits under this section.

(c) For a member whose disability commences before July 1, 2008, eighty-three percent of social security retirement benefits that the member is eligible to receive.

(d) For a member whose disability commences on or after July 1, 2008, eighty-five percent of social security retirement benefits that the member is eligible to receive, but not including any cost-of-living adjustments that are granted after the member commences benefits under this section.

(e) All of any workers' compensation benefits.

(f) All of any payments for a veteran's disability if both of the following apply:

(i) The veteran's disability payment is for the same condition or a condition related to the condition currently causing the member's disability.

(ii) The veteran's disability is due to, or a result of, service in the armed forces of the United States.

(g) All of any other benefits by reason of employment that are financed partly or wholly by an employer, including payments for sick leave. This subdivision does not include any retirement benefit that is received by the member pursuant to a state retirement system or plan other than ASRS.

(h) Fifty percent of any salary, wages, commissions or other employment related pay that the member receives or is entitled to receive from any gainful employment in which the member actually engages.

2. For a member whose disability commences on or after August 2, 2012, a member's monthly income from the monthly LTD program benefits and sources listed in paragraph 1 of this subsection shall not exceed one hundred percent of the member's monthly compensation at the time disability commences. ASRS shall offset

the member's monthly LTD program benefits by the amount necessary to reduce the member's total monthly income to meet the limit prescribed in this paragraph.

3. Monthly LTD program benefits are not payable until a member has had a disability for a period of six consecutive months.

4. Monthly LTD program benefits are not payable to a member who files an initial claim for disability more than twelve months after the date of the member's date of disability unless the member demonstrates to ASRS good cause for not filing the initial claim within twelve months after the date of disability.

5. Monthly LTD program benefits are not payable to a member who is receiving retirement benefits from ASRS.

6. Monthly LTD program benefits are not payable to a member whose disability is due to, or a result of, any of the following:

(a) An intentionally self-inflicted injury.

(b) War, whether declared or not.

(c) An injury incurred while engaged in a felonious criminal act or enterprise.

(d) For a member whose most recent membership in the LTD program commences before July 1, 2008, an injury or sickness for which the member received medical treatment within three months before the date of the member's coverage under the LTD program. This subdivision does not apply to a member who either:

(i) Has been an active member of an employer for twelve continuous months.

(ii) Is employed by an employer before July 1, 1988.

(e) For a member whose most recent membership in the LTD program commences on or after July 1, 2008, an injury or sickness for which the member received medical treatment within six months before the date of the member's coverage under the LTD program. This subdivision does not apply to a member who has been an active member of an employer for twelve continuous months.

7. Monthly LTD program benefits cease to be payable to a member at the earliest of the following:

(a) The date the member ceases to have a disability.

(b) The date the member:

(i) Ceases to be under the direct care of a doctor.

(ii) Refuses to undergo any medical examination or refuses to participate in any work rehabilitation program for which the member is reasonably qualified by education, training or experience and that is requested by the insurance company or claims administrator that is selected by the board to administer the LTD program.

(c) The date the member withdraws employee contributions with interest and ceases to be a member.

(d) The later of the following:

(i) The member's normal retirement date.

(ii) The month following sixty months of payments if disability occurs before sixty-five years of age.

(iii) The month following attainment of seventy years of age if disability occurs at sixty-five years of age or after but before sixty-nine years of age.

(iv) The month following twelve months of payments if disability occurs at or after sixty-nine years of age.

(e) If the member is convicted of a criminal offense and sentenced to more than six months in a jail, prison or other penal institution, the first day of the month following the first thirty continuous days of the member's confinement for the remainder of the confinement.

8. Monthly LTD program benefits are payable only for disabilities that commence on or after July 1, 1988.

9. The minimum benefit for a member who is entitled to receive monthly LTD program benefits is fifty dollars per month.

10. Members are eligible to receive the LTD program benefits and payments described in paragraph 1 of this subsection, and the reductions provided by paragraph 1 of this subsection apply even though the social security benefits are not actually paid as follows:

(a) For primary and dependent social security benefits, the members are eligible for the social security benefits until the social security benefits are actually awarded, or if the social security benefits are denied, until the member pursues the social security appeal process through a hearing before a social security administrative law judge or until the insurance company or claims administrator determines that the member is not eligible for social security benefits.

(b) For benefits and payments from any other source provided in paragraph 1 of this subsection, the members are eligible for the benefits if it is reasonable to believe that those benefits will be paid on proper completion of the claim or would have been paid except for the failure of the member to pursue the claim in time.

11. A member shall be considered to have a disability if based on objective medical evidence:

(a) During the first thirty months of a period of disability, the member is unable to perform all duties of the position held by the member when the member developed a disability.

(b) For a member who has received monthly LTD program benefits for twenty-four months within a five-year period, the member is unable to perform any work for compensation or gain for which the member is reasonably qualified by education, training or experience in an amount at least equal to the scheduled LTD program benefits prescribed in paragraph 1 of this subsection.

B. A member who is eligible pursuant to article 2 of this chapter and who receives monthly LTD program benefits is entitled to receive service credit pursuant to article 2 of this chapter from the time disability commences until LTD program benefits cease to be payable, except that for a member who receives monthly LTD program benefits on or after June 30, 1999 the number of years of service credited to the member's retirement account during the period the member receives LTD program benefit payments shall not cause the

member's total credited service for retirement benefits to exceed the greater of thirty years or the total years of service credited to the member's retirement account on the commencement of disability.

C. This section does not prohibit a member whose disability has been established to the satisfaction of the board from relying on treatment by prayer through spiritual means in accordance with the tenets and practice of a recognized church, religious denomination or Native American traditional medicine by a duly accredited practitioner of the church, denomination or Native American traditional medicine without suffering reduction or suspension of the member's monthly LTD program benefits.

D. ASRS may suspend or terminate benefits under this article if a member fails to provide information, data, paperwork or other materials that are requested by ASRS or the insurance company or claims administrator that is selected by the board to administer the LTD program. If the member provides the information requested, ASRS shall retroactively reinstate the benefits or claim for which the member qualifies under this article.

E. For the purposes of this section:

1. "Objective medical evidence" means evidence that established facts and conditions, as perceived without distortion by personal feelings, prejudices or interpretations, and includes x-rays, quantitative tests, laboratory findings, data, records, reports from the attending physician and reports from a consulting physician, as applicable.

2. "Received medical treatment" means that the member consulted with or received the advice of a licensed medical or dental practitioner, including advice given during a routine examination, and it includes situations in which the member received medical or dental care, treatment or services, including the taking of drugs, medication, insulin or similar substances.

3. "Social security" and "social security disability" includes the railroad retirement act of 1974 (P.L. 93-445; 88 Stat. 1305; 45 United States Code sections 231 through 231v).

38-797.08. Errors; benefit recomputation

If any change or error in the records results in any member receiving from the LTD program more or less than the member would have been entitled to receive if the records had been correct, the board shall correct the error and shall adjust the payments in a manner so that the equivalent of the benefit to which the member was correctly entitled is paid. The board shall correct any change or error and shall pay the appropriate monies to a member or shall recover monies from the member if the member is overpaid. The board shall recover monies by reducing any benefit that is otherwise payable by ASRS or the LTD program to an active, inactive, member with a disability or retired member, survivor, contingent annuitant, beneficiary or alternate payee.

38-797.09. Facility of payment

In the case of incapacity of a member receiving LTD program benefits, or in the case of any other emergency as determined by the board, the board may make LTD program benefit payments on behalf of the member to another person or persons the board determines to be lawfully entitled to receive payment. The payment is payment for the account of the member and all persons entitled to payment and, to the extent of the payment, is a full and complete discharge of all liability of the board or the LTD program, or both, under or in connection with the LTD program.

38-797.10. Assurances and liabilities

A. Nothing contained in this article shall be construed as:

1. A contract of employment between an employer and any employee.

2. A right of any member to continue in the employment of an employer.

3. A limitation of the rights of an employer to discharge any of its employees, with or without cause.

B. A member does not have any right to, or interest in, any LTD program assets on termination of the member's employment or otherwise, except as provided from time to time in the LTD program, and then only to the extent of the benefits payable to the member out of LTD program assets. All payments of benefits shall be made solely out of LTD program assets and neither the employers, the board nor any member of the board is liable for payment of benefits in any manner.

C. Benefits, employer and member contributions, earnings and all other credits payable under this article are not subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, charge, garnishment, execution or levy of any kind, either voluntary or involuntary, before actually being received by a person entitled to the benefit, earning or credit, and any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, charge, garnish, execute or levy or otherwise dispose of any benefit, earning or credit under this article is void. The LTD program is not in any manner liable for, or subject to, the debts, contracts, liabilities, engagements or torts of any person entitled to any benefit, earning or credit under this article.

D. Neither the employers, the board nor any member of the board guarantees the LTD trust fund established by section 38-797.02 in any manner against loss or depreciation, and they are not liable for any act or failure to act that is made in good faith pursuant to this article. The employers are not responsible for any act or failure to act of the board or any member of the board. Neither the board nor any member of the board is responsible for any act or failure to act of any employer.

E. This section does not exempt benefits of any kind from a writ of attachment, a writ of execution, a writ of garnishment and orders of assignment issued by a court of record as the result of a judgment for arrearages of child support or for child support debt.

38-797.11. Exemptions from execution, attachment and taxation; exception

A. The benefits, the employer and member contributions and the securities in the LTD trust fund established by section 38-797.02 are not subject to execution or attachment and are nonassignable except as specifically provided in this article or article 2 of this chapter. The employer and member contributions and the securities in the LTD trust fund established by section 38-797.02 are exempt from state, county and municipal income taxes. Benefits received by a member from the LTD program are subject to tax pursuant to title 43.

B. Interest, earnings and all other credits pertaining to benefits are not subject to execution or attachment and are nonassignable.

38-797.11. Exemptions from execution, attachment and taxation; exception

A. The benefits, the employer and member contributions and the securities in the LTD trust fund established by section 38-797.02 are not subject to execution or attachment and are nonassignable except as specifically provided in this article or article 2 of this chapter. The employer and member contributions and the securities in the LTD trust fund established by section 38-797.02 are exempt from state, county and municipal income taxes. Benefits received by a member from the LTD program are subject to tax pursuant to title 43.

B. Interest, earnings and all other credits pertaining to benefits are not subject to execution or attachment and are nonassignable.

38-797.12. Violation; classification

A person who knowingly makes any false statement or who falsifies or permits to be falsified any record of the LTD program with an intent to defraud the LTD program is guilty of a class 6 felony.

38-797.13. Reservation to legislature

The right to modify, amend or repeal this article, or any provisions of this article, is reserved to the legislature.

38-797.14. Liquidation of LTD program

If the legislature determines that the LTD program is no longer to be operated for the purposes set forth in this article, any monies remaining in the LTD trust after paying all liabilities of the trust or after making adequate provision for paying those liabilities revert to the general funds of the employers that were making contributions to the LTD program at the time the legislature terminates the LTD program. The reverted monies shall be prorated according to the gross amount of contributions made by the employers to the LTD program.

ARIZONA STATE RETIREMENT SYSTEM
Title 2, Chapter 8, Article 4, Practice and Procedure Before the Board

Amend: R2-8-401

GOVERNOR'S REGULATORY REVIEW COUNCIL
M E M O R A N D U M

MEETING DATE: September 6, 2017 **AGENDA ITEM: D-7**

TO: Members of the Governor's Regulatory Review Council

FROM: Shama Thathi, Staff Attorney

DATE: August 23, 2017

SUBJECT: **ARIZONA STATE RETIREMENT SYSTEM (R-17-0905)**
Title 2, Chapter 8, Article 4, Practice and Procedure Before the Board

Amend: R2-8-401

General Comments

Purpose of the Agency and Summary of What the Rulemaking Does

The Arizona State Retirement System (ASRS) provides for retirement planning and benefits for state employees and teachers. The ASRS is directed by the governor-appointed ASRS Board (Board). The Board consists of nine members and is responsible for supervising the administration of the ASRS, including the defined contribution plan, defined benefit plan, long-term disability income plan, and health benefit supplement plan.

This rulemaking seeks to amend one rule in A.A.C. Title 2, Chapter 8, Article 4, related to practice and procedures before the Board. R2-8-401 contains definitions that are applicable to Article 4.

Proposed Action

The ASRS proposes to amend R2-8-401 to reflect that for purposes of appeals, the "Board" may refer to the Committee designated by the Board to hear appeals. The proposed change will make the rule consistent with A.R.S. § 38-714(E)(1).

Exemption or Request and Approval for Exception from the Moratorium

The ASRS received an exception from the Governor's Office on April 12, 2017.

Substantive or Procedural Concerns

None.

1. **Are the rules legal, consistent with legislative intent, and within the agency's statutory authority?**

Yes. The ASRS cites to A.R.S. § 38-714(E)(4) as general authority, under which the Board may "[a]dopt, amend or repeal rules for the administration of the plan." As for specific authority, the ASRS cites to A.R.S. §§ 38-714(E)(1), which allows the Board to "delegate the duty and authority to act on the [B]oard's behalf to a committee of the [B]oard for the purposes of…[T]itle 41, [C]hapter 6, [A]rticle 10 relating to any decision made under this paragraph by that committee of the [B]oard."

2. **Are the rules written in a manner that is clear, concise, and understandable to the general public?**

Yes. The rule is clear, concise, and understandable.

3. **Does the agency adequately address the comments on the proposed rules and any supplemental proposals?**

Yes. The ASRS indicates that it received no written comments on the rulemaking and no one attended the oral proceeding on June 6, 2017.

4. **Are the final rules a substantial change, considered as a whole, from the proposed rules and any supplemental proposals?**

No. No changes were made between the proposed rulemaking and the final rulemaking.

5. **Does the preamble disclose a reference to any study relevant to the rules that the agency reviewed and either did or did not rely on in the agency's evaluation of or justification for the rules?**

No. The ASRS indicates that it did not review or rely upon any study for the rulemaking.

6. **Are the rules more stringent than corresponding federal law and, if so, is there statutory authority that allows the agency to exceed the requirements of federal law?**

No. The ASRS indicates that there are no corresponding federal laws specifically applicable to this rulemaking.

7. **Do the rules require a permit or license and if so, does the agency use a general permit or is any exception applicable under A.R.S. § 41-1037?**

No. The rule does not require a permit or license.

8. **Do the rules establish a new fee or contain a fee increase?**

No. The rule does not establish a new fee or contain a fee increase.

Conclusion

The ASRS requests the usual 60-day delayed effective date for the rule. This analyst recommends approval of the rule.

GOVERNOR'S REGULATORY REVIEW COUNCIL
M E M O R A N D U M

MEETING DATE: September 6, 2017 **AGENDA ITEM: D-7**

TO: Members of the Governor's Regulatory Review Council

FROM: GRRC Economic Team

DATE : August 23, 2017

SUBJECT: **ARIZONA STATE RETIREMENT SYSTEM (R-17-0905)**
Title 2, Chapter 8, Article 4, Practice and Procedure Before the Board

Amend: R2-8-401

The economic analysis team has reviewed the economic, small business, and consumer impact statement and makes the following comments. These comments are made to assist the Council in its review and may be used as the Council determines.

The ASRS is proposing to amend R2-8-401 to clarify the appeals process. Currently, it is unclear that, in absence of an appeals committee designated by the full Board to hear an appeal, the full Board may still hear and act on an appeal. By clarifying the definition of "Board" for purposes of processing appeals, the rulemaking will ensure appellants understand how the ASRS may handle an appeal. This rulemaking will ensure the Board, or a committee designated by the Board, has the authority to hear and act on appeals consistent with A.R.S. § 38-714(E)(1).

1. **Costs and Benefits for:**

a. The implementing agency:

The ASRS incurred the cost of completing this rulemaking and will incur the minimal cost of implementing it.

b. Political subdivisions:

This rulemaking does not provide any benefits or impose any costs on political subdivisions.

c. Businesses:

No businesses are directly affected by the rulemaking.

d. Small businesses:

No businesses are directly affected by the rulemaking.

e. Consumers directly affected by the rulemaking:

The ASRS indicates that all ASRS members, beneficiaries, and employers will be directly affected by the rulemaking.

2. Do the probable benefits outweigh the probable costs?

Based on the information provided, the ASRS indicates that the benefit from the proposed amendments outweigh the costs. The proposed rule will have minimal economic impact because it merely clarifies how the appeals process is administered.

3. Analysis of methods to reduce the small business impact:

An analysis was not submitted because the ASRS estimated that there will be no economic impact to small businesses.

4. The probable effect on state revenues:

The proposed rulemaking will have no effect on state revenues.

5. Analysis of any less intrusive or less costly alternative methods:

The ASRS believes this is the least costly and least intrusive method because it will clarify the appeals process without imposing additional requirements on the public.

6. Whether an analysis was submitted to the agency regarding the rule's impact on the competitiveness of businesses in this state as compared to the competitiveness of businesses in other states:

No analysis was submitted that compares the rule’s impact of the competitiveness of businesses in this state to the impact on businesses in other states.

7. A description of any data on which a rule is based with an explanation of how the data was obtained and why the data is acceptable data, and the methods used by the agency to evaluate the costs and benefits in the EIS.

The ASRS indicates that no outside data or studies were used in the development of the proposed rule amendment.

8. Conclusion:

The submitted economic, small business and consumer impact statement is generally accurate, and contains the information required for compliance with A.R.S. §§ 41-1035, 41-1052(D)(1-3), and 41-1055. This analyst recommends that the proposed rule amendment be approved.

ARIZONA STATE RETIREMENT SYSTEM

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Paul Matson
Director

August 17, 2017

Ms. Nicole A. Ong, Chair
The Governor's Regulatory Review Council
100 North 15th Avenue, Ste. 402
Phoenix, AZ 85007

Re: A.A.C. Title 2. Administration
Chapter 8. State Retirement System Board

Dear Ms. Ong:

The attached final rule package is submitted for review and approval by the Council. The following information is provided for Council's use in reviewing the rule package:

1. Close of record date: The rulemaking record was closed on June 9, 2017 following a period for public comment and an oral proceeding.

2. Relation of the rulemaking to a five-year-review report: This rulemaking does not relate to a Five-year Review Report.

3. New fee or fee increase: This rulemaking does not establish a new fee or increase an existing fee.

4. Immediate effective date: An immediate effective date is not requested.

5. Certification regarding studies: I certify that the Board did not rely on any studies for this rulemaking.

6. Certification that the preparer of the EIS notified the JLBC of the number of new full-time employees necessary to implement and enforce the rule: I certify that the rules in this rulemaking will not require a state agency to employ a new full-time employee. No notification was provided to JLBC.

7. List of documents enclosed:
    a. Cover letter signed by the Board's Assistant Director;
    b. Notice of Final Rulemaking including the preamble, table of contents for the rulemaking, and rule text; and
    c. Economic, Small Business, and Consumer Impact Statement.

Sincerely,

Dave King
Assistant Director

NOTICE OF FINAL RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

PREAMBLE

1. Articles, Parts, and Sections Affected **Rulemaking Action**

R2-8-401 Amend

2. Citations to the agency's statutory rulemaking authority to include both the authorizing statute (general) and the implementing statute (specific):

Authorizing statute: A.R.S. § 38-714(E)(4)

Implementing statutes: A.R.S. §§ 38-714(E)(1) and 41-1092 et seq.

3. The effective date for the rules:

As specified under A.R.S. § 41-1032(A), the rule will be effective 60 days after the rule package is filed with the Office of the Secretary of State.

a. If the agency selected a date earlier than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):

Not applicable.

b. If the agency selected a date later than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):

Not applicable.

4. Citations to all related notices published in the *Register* as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:

Notice of Docket Opening: 23 A.A.R. 1045, May 5, 2017
Notice of Proposed Rulemaking: 23 A.A.R. 1006, May 5, 2017

5. The agency's contact person who can answer questions about the rulemaking:

Name: Jessica A.R. Thomas, Rules Writer
Address: Arizona State Retirement System
3300 N. Central Ave., Ste. 1400
Phoenix, AZ 85012-0250
Telephone: (602) 240-2039
E-Mail: JessicaT@azasrs.gov

6. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:

R2-8-401 contains definitions that are applicable to this Article. R2-8-401 needs to be amended to reflect that for purposes of appeals, the "Board" may refer to the Committee designated by the Board to hear appeals. This amendment will make the rule more consistent with A.R.S. § 38-714(E)(1).

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

No study was reviewed.

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

Not applicable.

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

The ASRS promulgates rules that allow the agency to provide for the proper administration of the state retirement trust fund. ASRS rules affect ASRS members and ASRS employers regarding how they contribute to, and receive benefits from, the ASRS. The ASRS effectively administrates how public-sector employers and employees participate in the ASRS. As such, the ASRS does not issue permits or licenses, or charge fees, and its rules have little to no economic impact on private-sector businesses, with the exception of some employer partner charter schools, which have voluntarily contracted to join the ASRS. Thus, there is little to no economic, small business, or consumer impact, other than the minimal cost to the ASRS to prepare the rule package. The rule will have minimal economic impact, if any, because it merely clarifies the appeals process. Clarifying the appeals process will increase understandability of how a person may submit an appeal and will ensure members of the public understand how an appeal will be handled with the ASRS, which will increase the effectiveness and efficiency of the appeals process, thus, reducing the regulatory burden and the economic impact.

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

None

11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:

The ASRS received no written comments regarding the rulemaking. No one attended the oral proceeding on June 6, 2017.

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

None.

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

The rules do not require a permit.

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

There are no federal laws applicable to these rules.

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

No analysis was submitted.

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

No materials are incorporated by reference.

14. Whether the rule was previously made, amended, or repealed as an emergency rule. If so, cite the notice published in the *Register* as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:

Not applicable.

15. The full text of the rules follows:

TITLE 2. ADMINISTRATION

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

ARTICLE 4. PRACTICE AND PROCEDURE BEFORE THE BOARD

Section

R2-8-401. Definitions

ARTICLE 4. PRACTICE AND PROCEDURE BEFORE THE BOARD

R2-8-401. Definitions

The following definitions apply to this Article, unless otherwise specified:

1. "Appealable agency action" has the same meaning as in A.R.S. § 41-1092.
2. "Board" means, if established, a Committee designated by the Board to take action on appeals as described in A.R.S. § 38-714(E)(1) or, if a Committee is not established, the same as in A.R.S. § 38-711(6).
3. "Final administrative action" has the same meaning as in A.R.S. § 41-1092 and is rendered by the Board.

ECONOMIC, SMALL BUSINESS, AND CONSUMER IMPACT STATEMENT[1]

TITLE 2. ADMINISTRATION

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

1. Identification of the rulemaking:

   R2-8-401 contains definitions that are applicable to this Article. R2-8-401 needs to be amended to reflect that for purposes of appeals, "Board" may refer to a Committee designated by the Board to hear appeals. The amended rule will better reflect the ASRS appeals process and will make the appeal rules more consistent, clear, and understandable; this rulemaking will ensure members have notice about how the ASRS may process appeals.

   a. The conduct and its frequency of occurrence that the rule is designed to change:

      In each fiscal year, the ASRS receives approximately 10 appeals related to the Long-Term Disability Program and approximately 300 appeals total. The appeals rules in Article 4 need to be amended to clarify that in the absence of a Committee designated by the Board to hear appeals, the full Board may still hear appeals. With the changes completed in this rulemaking, the appeals rules will be clearer and more effective. Ultimately, this will reduce any administrative delay in processing appeals.

   b. The harm resulting from the conduct the rule is designed to change and the likelihood it will continue to occur if the rule is not changed:

      Currently, it is unclear that, in absence of an appeals committee designated by the full Board to hear an appeal, the full Board may still hear and act on an appeal. Clarifying the definition of "Board" for purposes of processing appeals will ensure appellants understand how the ASRS may handle an appeal. This rulemaking will ensure the Board, or a Committee designated by the Board, has the authority to hear and act on appeals consistent with A.R.S. § 38-714(E)(1).

   c. The estimated change in frequency of the targeted conduct expected from the rule change:

[1] If adequate data are not reasonably available, the agency shall explain the limitations of the data, the methods used in an attempt to obtain the data, and characterize the probable impacts in qualitative terms. (A.R.S. § 41-1055(C)).

This rulemaking will clarify how the ASRS processes appeals requests, thereby increasing understandability of the appeals process and increasing the efficiency of the appeals process. Clarifying how the ASRS may hear appeals will ensure that appeals are processed more efficiently by the proper authority. As discussed above and below, this rulemaking will increase the clarity and effectiveness of the appeals rules, which should result in reducing confusion, as well as any potential delay caused by the confusion.

2. A brief summary of the information included in the economic, small business, and consumer impact statement:

The ASRS promulgates rules that allow the agency to provide for the proper administration of the state retirement trust fund. ASRS rules affect ASRS members and ASRS employers regarding how they contribute to, and receive benefits from, the ASRS. The ASRS effectively administrates how public-sector employers and employees participate in the ASRS. As such, the ASRS does not issue permits or licenses, or charge fees, and its rules have little to no economic impact on private-sector businesses, with the exception of some employer partner charter schools, which have voluntarily contracted to join the ASRS. Thus, there is little to no economic, small business, or consumer impact, other than the minimal cost to the ASRS to prepare the rule package. The rule will have minimal economic impact, if any, because it merely clarifies the appeals process. Clarifying the appeals process will increase understandability of how a person may submit an appeal and will ensure members of the public understand how an appeal will be handled with the ASRS, which will increase the effectiveness and efficiency of the appeals process, thus, reducing the regulatory burden and the economic impact.

3. The person to contact to submit or request additional data on the information included in the economic, small business, and consumer impact statement:

Name:	Jessica A.R. Thomas, Rules Writer
Address:	Arizona State Retirement System 3300 N. Central Ave., Suite 1400 Phoenix, AZ 85012-0250
Telephone:	(602) 240-2039
E-mail:	JessicaT@azasrs.gov

4. Persons who will be directly affected by, bear the costs of, or directly benefit from the rulemaking:

   In general, all members, as well as their beneficiaries, and Employers of the ASRS will be directly affected by, bear the costs of, and directly benefit from this rulemaking. The ASRS incurred the cost of the rulemaking. The ASRS currently has a total membership of approximately 558,136.

   Specifically, members, beneficiaries, and Employers who wish to appeal an agency determination will be affected and benefited by this rulemaking. This rule will clarify how the appeals process is administered. Such clarification will benefit members, beneficiaries, and Employers by increasing the readability of the appeals rules.

5. Cost-benefit analysis:

   a. Costs and benefits to state agencies directly affected by the rulemaking including the number of new full-time employees at the implementing agency required to implement and enforce the proposed rule:

      All ASRS members, beneficiaries, and Employers are directly affected by this rulemaking because it will clarify how the appeals process is administered. However, the ASRS has determined that no new full-time employees will be required to implement and enforce the rules.

   b. Costs and benefits to political subdivisions directly affected by the rulemaking:

      This rulemaking does not provide any benefits or impose any costs on political subdivisions.

   c. Costs and benefits to businesses directly affected by the rulemaking:

      No businesses are directly affected by the rulemaking.

6. Impact on private and public employment:

   The rulemaking will have no impact on private or public employment.

7. Impact on small businesses[2]:

   a. Identification of the small business subject to the rulemaking:

[2] Small business has the meaning specified in A.R.S. § 41-1001(20).

No businesses, regardless of size, are subject to the rulemaking.

b. Administrative and other costs required for compliance with the rulemaking:
Not applicable.

c. Description of methods that may be used to reduce the impact on small businesses:
Not applicable.

8. Cost and benefit to private persons and consumers who are directly affected by the rulemaking:
All ASRS members, beneficiaries, and Employers are directly affected by the rulemaking. The effect has been previously described above.

9. Probable effects on state revenues:
There will be no effect on state revenues.

10. Less intrusive or less costly alternative methods considered:
The ASRS believes this is the least costly and least intrusive method because it will clarify the appeals process without imposing any additional requirements on the public.

Historical Note
Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit M, Table 3. Repealed

Historical Note
Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit M, Table 4. Repealed

Historical Note
Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit M, Table 5. Repealed

Historical Note
Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit M, Table 6. Repealed

Historical Note
Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

ARTICLE 2. EXPIRED

R2-8-201. Expired

Historical Note
New Section made by final rulemaking at 10 A.A.R. 1962, effective May 4, 2004 (Supp. 04-2). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 34, effective May 31, 2015 (Supp. 16-4).

R2-8-202. Expired

Historical Note
New Section made by final rulemaking at 10 A.A.R. 1962, effective May 4, 2004 (Supp. 04-2). Amended by emergency rulemaking at 10 A.A.R. 4259, effective September 30, 2004 (Supp. 04-3). Amended by final rulemaking at 10 A.A.R. 4346, effective October 5, 2004 (Supp. 04-3). Section amended and Table 1 repealed by final rulemaking at 13 A.A.R. 4581, effective February 2, 2008 (Supp. 07-4). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

R2-8-203. Expired

Historical Note
New Section made by final rulemaking at 10 A.A.R. 1962, effective May 4, 2004 (Supp. 04-2). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

R2-8-204. Expired

Historical Note
New Section made by final rulemaking at 10 A.A.R. 1962, effective May 4, 2004 (Supp. 04-2). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

R2-8-205. Expired

Historical Note
New Section made by final rulemaking at 10 A.A.R. 1962, effective May 4, 2004 (Supp. 04-2). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

R2-8-206. Expired

Historical Note
New Section made by final rulemaking at 10 A.A.R. 1962, effective May 4, 2004 (Supp. 04-2). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

R2-8-207. Expired

Historical Note
New Section made by final rulemaking at 10 A.A.R. 1962, effective May 4, 2004 (Supp. 04-2). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 34, effective May 31, 2015 (Supp. 16-4).

ARTICLE 3. RESERVED

ARTICLE 4. PRACTICE AND PROCEDURE BEFORE THE BOARD

R2-8-401. Definitions
The following definitions apply to this Article, unless otherwise specified:

1. "Appealable agency action" means the same as in A.R.S. § 41-1092(3).
2. "Board" means a Committee designated by the Board to take action on appeals as described in A.R.S. § 38-714(E)(1).

3. "Final administrative action" means the same as in A.R.S. § 41-1092 and is rendered by the Board.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 444, effective January 4, 2005 (Supp. 05-1). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4). Amended by final rulemaking at 23 A.A.R. 487, effective April 8, 2017 (Supp. 17-1).

R2-8-402. General Procedures

In computing any time period, parties shall exclude the day from which the designated time period begins to run. Parties shall include the last day of the period unless it falls on a Saturday, Sunday, or legal holiday. When the time period is 10 days or less, parties shall exclude Saturdays, Sundays, and legal holidays.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 444, effective January 4, 2005 (Supp. 05-1).

R2-8-403. Letters of Appeal; Request for a Hearing of an Appealable Agency Action

A. After receipt of an agency decision, a person who is not satisfied with the agency decision, may submit a letter of appeal:
1. To the ASRS's vendor for long-term disability benefits, if the appeal relates to a long-term disability decision; or
2. To the ASRS Member Services Division Assistant Director, or such director's designee, if the appeal relates to an agency decision other than a long-term disability decision.

B. Upon receipt of a letter of appeal, the long-term disability vendor, or the Member Services Division Assistant Director, or such director's designee, shall send a response letter to the person requesting the appeal notifying the person of:
1. The decision the agency is making in response to the letter of appeal; and
2. The person's right to appeal the agency response by submitting a letter of appeal to the ASRS Director or such director's designee.

C. A person who is not satisfied with the agency response pursuant to subsection (B) may submit a letter of appeal to the ASRS Director or such director's designee within 60 days of the date on the agency response letter.

D. Within 30 days of the date the ASRS receives a letter of appeal pursuant to subsection (C), the ASRS director or such director's designee shall send a response letter by certified mail to the person requesting the appeal that includes:
1. The agency action the ASRS is taking in response to the letter of appeal; and
2. Notice of Appealable Agency Action, as required pursuant to A.R.S. § 41-1092.03 informing the person requesting the appeal, that the person has a right to appeal the agency action by submitting a Request for Hearing pursuant to subsections (E) and (F).

E. For an appealable agency action, a person who is not satisfied with an agency action pursuant to subsection (D) may file a Request for a Hearing, in writing, with the ASRS. The date the Request is filed is established by the ASRS date stamp on the face of the first page of the Request. The Request shall include the following:
1. The name and mailing address of the member, employer, or other person filing the Request;
2. The name and mailing address of the attorney for the person filing the Request, if applicable;
3. A concise statement of the reasons for the appeal.

F. The person requesting a hearing shall file the Request for a Hearing with the ASRS within 30 days after receiving a response letter including a Notice of an Appealable Agency Action, pursuant to subsection (E).

G. Upon receipt of the Request for a Hearing, the ASRS shall notify the Office of Administrative Hearings as required in A.R.S. § 41-1092.03(B).

H. Pursuant to subsection (B):
1. The long-term disability vendor shall send a response letter to the person requesting the appeal within 120 days of the date the long-term disability vendor receives the letter of appeal; and
2. The Member Services Division Assistant Director, or such director's designee, shall send a response letter to the person requesting the appeal within 30 days of the date the ASRS receives the letter of appeal.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 444, effective January 4, 2005 (Supp. 05-1). Amended by final rulemaking at 23 A.A.R. 487, effective April 8, 2017 (Supp. 17-1).

R2-8-404. Board Decisions on Hearings before the Office of Administrative Hearings

A recommended decision from the Office of Administrative Hearings that is sent to ASRS at least 30 days before the Board's next regular monthly meeting, shall be reviewed by the Board at that monthly meeting. At the monthly meeting, the Board shall render a decision to accept, reject, or modify the findings of fact, conclusions of law and recommendations in whole or in part. If the Board modifies or rejects a recommended decision, the Board shall state the reasons for the modification or rejection. The Board shall deliver the Board's final decision to the Office of Administrative Hearings within five days after the monthly meeting at which the Board made the final decision.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 444, effective January 4, 2005 (Supp. 05-1).

R2-8-405. Motion for Rehearing Before the Board; Motion for Review of a Final Decision

A. Except as provided in subsection (H), within 30 days after service of the final administrative decision, any aggrieved party in an appealable agency action may file with the Board a Motion for Rehearing Before the Board, in writing, specifying the particular grounds for rehearing before the Board.

B. Except as provided in subsection (H), within 30 days after service of the final administrative decision, any aggrieved party of an appealable agency action may file with the Board a Motion for Review of a Final Decision, in writing, specifying the particular grounds for reviewing the Board's final administrative decision.

C. A party may amend a Motion for Rehearing Before the Board or a Motion for Review of a Final Decision at any time before the Board rules on the motion. A party may file a response within 15 days after the motion or the amended motion is filed. The Board may require the filing of written briefs upon the issues raised in the motion or the amended motion, and may provide for oral argument.

D. The Board may grant a Motion for Rehearing Before the Board or a Motion for Review of a Final Decision for any of the following causes that materially affects the moving party's rights:
1. Irregularity in the administrative proceedings of the agency or the hearing officer, or any order or abuse of discretion that deprives the moving party of a fair hearing;

38-714. Powers and duties of ASRS and board

A. ASRS shall have the powers and privileges of a corporation, shall have an official seal and shall transact all business in the name "Arizona state retirement system", and in that name may sue and be sued.

B. The board is responsible for supervising the administration of this article by the director of ASRS.

C. The board is responsible for the performance of fiduciary duties and other responsibilities required to preserve and protect the retirement trust fund established by section 38-712.

D. The board shall not advocate for or against legislation providing for benefit modifications, except that the board shall provide technical and administrative information regarding the impact of benefit modification legislation.

E. The board may:

1. Determine the rights, benefits or obligations of any person under this article and afford any person dissatisfied with a determination a hearing on the determination. The board may delegate the duty and authority to act on the board's behalf to a committee of the board for the purposes of this paragraph and title 41, chapter 6, article 10 relating to any decision made under this paragraph by that committee of the board.

2. Determine the amount, manner and time of payment of any benefits under this article.

3. Recommend amendments to this article and articles 2.1 and 7 of this chapter that are required for efficient and effective administration.

4. Adopt, amend or repeal rules for the administration of the plan, this article and articles 2.1 and 7 of this chapter.

F. Beginning June 30, 2016, the board shall determine which of the generally accepted actuarial cost methods shall be used in the annual actuarial valuation of the plan.

G. The board and ASRS are not subject to title 41, chapter 6, except title 41, chapter 6, article 10, for actuarial assumptions and calculations, investment strategy and decisions and accounting methodology.

H. The board shall submit to the governor and legislature for each fiscal year no later than eight months after the close of the fiscal year a report of its operations and the operations of ASRS. The report shall follow generally accepted accounting principles and generally accepted financial reporting standards and shall include:

1. A report on an actuarial valuation of ASRS assets and liabilities.

2. Any other statistical and financial data that may be necessary for the proper understanding of the financial condition of ASRS and the results of board operations.

3. On request of the governor or the legislature, a list of investments owned. This list shall be provided in an electronic format.

4. An estimate of the aggregate fees paid for private equity investments, including management fees and performance fees.

I. The board shall:

1. Prepare and publish a synopsis of the annual report for the information of ASRS members.

2. Contract for a study of the mortality, disability, service and other experiences of the members and employers participating in ASRS. The study shall be conducted for fiscal year 1990-1991 and for at least every fifth fiscal year thereafter. A report of the study shall be completed within eight months after the close of the applicable fiscal year and shall be submitted to the governor and the legislature.

3. Conduct an annual actuarial valuation of ASRS assets and liabilities.

J. The auditor general may make an annual audit of ASRS and transmit the results to the governor and the legislature.

41-1092. Definitions

In this article, unless the context otherwise requires:

1. "Administrative law judge" means an individual or an agency head, board or commission that sits as an administrative law judge, that conducts administrative hearings in a contested case or an appealable agency action and that makes decisions regarding the contested case or appealable agency action.

2. "Administrative law judge decision" means the findings of fact, conclusions of law and recommendations or decisions issued by an administrative law judge.

3. "Appealable agency action" means an action that determines the legal rights, duties or privileges of a party and that is not a contested case. Appealable agency actions do not include interim orders by self-supporting regulatory boards, rules, orders, standards or statements of policy of general application issued by an administrative agency to implement, interpret or make specific the legislation enforced or administered by it or clarifications of interpretation, nor does it mean or include rules concerning the internal management of the agency that do not affect private rights or interests. For the purposes of this paragraph, administrative hearing does not include a public hearing held for the purpose of receiving public comment on a proposed agency action.

4. "Director" means the director of the office of administrative hearings.

5. "Final administrative decision" means a decision by an agency that is subject to judicial review pursuant to title 12, chapter 7, article 6.

6. "Office" means the office of administrative hearings.

7. "Self-supporting regulatory board" means any one of the following:

(a) The Arizona state board of accountancy.

(b) The state board of appraisal.

(c) The board of barbers.

(d) The board of behavioral health examiners.

(e) The Arizona state boxing and mixed martial arts commission.

(f) The state board of chiropractic examiners.

(g) The board of cosmetology.

(h) The state board of dental examiners.

(i) The state board of funeral directors and embalmers.

(j) The Arizona game and fish commission.

(k) The board of homeopathic and integrated medicine examiners.

(l) The Arizona medical board.

(m) The naturopathic physicians medical board.

(n) The state board of nursing.

(o) The board of examiners of nursing care institution administrators and adult care home managers.

(p) The board of occupational therapy examiners.

(q) The state board of dispensing opticians.

(r) The state board of optometry.

(s) The Arizona board of osteopathic examiners in medicine and surgery.

(t) The Arizona peace officer standards and training board.

(u) The Arizona state board of pharmacy.

(v) The board of physical therapy.

(w) The state board of podiatry examiners.

(x) The state board for private postsecondary education.

(y) The state board of psychologist examiners.

(z) The board of respiratory care examiners.

(aa) The state board of technical registration.

(bb) The Arizona state veterinary medical examining board.

(cc) The acupuncture board of examiners.

(dd) The Arizona regulatory board of physician assistants.

(ee) The board of athletic training.

(ff) The board of massage therapy.

41-1092.01. Office of administrative hearings; director; powers and duties; fund

A. An office of administrative hearings is established.

B. The governor shall appoint the director pursuant to section 38-211. At a minimum, the director shall have the experience necessary for appointment as an administrative law judge. The director also shall possess supervisory, management and administrative skills, as well as knowledge and experience relating to administrative law.

C. The director shall:

1. Serve as the chief administrative law judge of the office.

2. Make and execute the contracts and other instruments that are necessary to perform the director's duties.

3. Subject to chapter 4, article 4 of this title, hire employees, including full-time administrative law judges, and contract for special services, including temporary administrative law judges, that are necessary to carry out this article. An administrative law judge employed or contracted by the office shall have graduated from an accredited college of law or shall have at least two years of administrative or managerial experience in the subject matter or agency section the administrative law judge is assigned to in the office.

4. Make rules that are necessary to carry out this article, including rules governing ex parte communications in contested cases.

5. Submit a report to the governor, speaker of the house of representatives and president of the senate by November 1 of each year describing the activities and accomplishments of the office. The director's annual report shall include a summary of the extent and effect of agencies' utilization of administrative law judges, court reporters and other personnel in proceedings under this article and recommendations for changes or improvements in the administrative procedure act or any agency's practice or policy with respect to the administrative procedure act.

6. Secure, compile and maintain all decisions, opinions or reports of administrative law judges issued pursuant to this article and the reference materials and supporting information that may be appropriate.

7. Develop, implement and maintain a program for the continuing training and education of administrative law judges and agencies in regard to their responsibilities under this article. The program shall require that an administrative law judge receive training in the technical and subject matter areas of the sections to which the administrative law judge is assigned.

8. Develop, implement and maintain a program of evaluation to aid the director in the evaluation of administrative law judges appointed pursuant to this article that includes comments received from the public.

9. Annually report the following to the governor, the president of the senate and the speaker of the house of representatives by December 1 for the prior fiscal year:

(a) The number of administrative law judge decisions rejected or modified by agency heads.

(b) By category, the number and disposition of motions filed pursuant to section 41-1092.07, subsection A to disqualify office administrative law judges for bias, prejudice, personal interest or lack of expertise.

(c) By agency, the number and type of violations of section 41-1009.

10. Schedule hearings pursuant to section 41-1092.05 upon the request of an agency or the filing of a notice of appeal pursuant to section 41-1092.03.

D. The director shall not require legal representation to appear before an administrative law judge.

E. Except as provided in subsection F of this section, all state agencies supported by state general fund sources, unless exempted by this article, and the registrar of contractors shall use the services and personnel of the office to conduct administrative hearings. All other agencies shall contract for services and personnel of the office to conduct administrative hearings.

F. An agency head, board or commission that directly conducts an administrative hearing as an administrative law judge is not required to use the services and personnel of the office for that hearing.

G. Each state agency, and each political subdivision contracting for office services pursuant to subsection I of this section, shall make its facilities available, as necessary, for use by the office in conducting proceedings pursuant to this article.

H. The office shall employ full-time administrative law judges to conduct hearings required by this article or other laws as follows:

1. The director shall assign administrative law judges from the office to an agency, on either a temporary or a permanent basis, at supervisory or other levels, to preside over contested cases and appealable agency actions in accordance with the special expertise of the administrative law judge in the subject matter of the agency.

2. The director shall establish the subject matter and agency sections within the office that are necessary to carry out this article. Each subject matter and agency section shall provide training in the technical and subject matter areas of the section as prescribed in subsection C, paragraph 7 of this section.

I. If the office cannot furnish an office administrative law judge promptly in response to an agency request, the director may contract with qualified individuals to serve as temporary administrative law judges. These temporary administrative law judges are not employees of this state.

J. The office may provide administrative law judges on a contract basis to any governmental entity to conduct any hearing not covered by this article. The director may enter into contracts with political subdivisions of this state, and these political subdivisions may contract with the director for the purpose of providing administrative law judges and reporters for administrative proceedings or informal dispute resolution. The contract may define the scope of the administrative law judge's duties. Those duties may include the preparation of findings, conclusions, decisions or recommended decisions or a recommendation for action by the political subdivision. For these services, the director shall request payment for services directly from the political subdivision for which the services are performed, and the director may accept payment on either an advance or reimbursable basis.

K. The office shall apply monies received pursuant to subsections E and J of this section to offset its actual costs for providing personnel and services.

41-1092.02. Appealable agency actions; application of procedural rules; exemption from article

A. This article applies to all contested cases as defined in section 41-1001 and all appealable agency actions, except contested cases with or appealable agency actions of:

1. The state department of corrections.

2. The board of executive clemency.

3. The industrial commission of Arizona.

4. The Arizona corporation commission.

5. The Arizona board of regents and institutions under its jurisdiction.

6. The state personnel board.

7. The department of juvenile corrections.

8. The department of transportation, except as provided in title 28, chapter 30, article 2.

9. The department of economic security except as provided in section 46-458.

10. The department of revenue regarding:

(a) Income tax or withholding tax.

(b) Any tax issue related to information associated with the reporting of income tax or withholding tax unless the taxpayer requests in writing that this article apply and waives confidentiality under title 42, chapter 2, article 1.

11. The board of tax appeals.

12. The state board of equalization.

13. The state board of education, but only in connection with contested cases and appealable agency actions related to applications for issuance or renewal of a certificate and discipline of certificate holders pursuant to sections 15-203, 15-534, 15-534.01, 15-535, 15-545 and 15-550.

14. The board of fingerprinting.

15. The department of child safety except as provided in sections 8-506.01 and 8-811.

B. Unless waived by all parties, an administrative law judge shall conduct all hearings under this article, and the procedural rules set forth in this article and rules made by the director apply.

C. Except as provided in subsection A of this section:

1. A contested case heard by the office of administrative hearings regarding taxes administered under title 42 shall be subject to section 42-1251.

2. A final decision of the office of administrative hearings regarding taxes administered under title 42 may be appealed by either party to the director of the department of revenue, or a taxpayer may file and appeal directly to the board of tax appeals pursuant to section 42-1253.

D. Except as provided in subsections A, B, E, F and G of this section and notwithstanding any other administrative proceeding or judicial review process established in statute or administrative rule, this article applies to all appealable agency actions and to all contested cases.

E. Except for a contested case or an appealable agency action regarding unclaimed property, sections 41-1092.03, 41-1092.08 and 41-1092.09 do not apply to the department of revenue.

F. The board of appeals established by section 37-213 is exempt from:

1. The time frames for hearings and decisions provided in section 41-1092.05, subsection A, section 41-1092.08 and section 41-1092.09.

2. The requirement in section 41-1092.06, subsection A to hold an informal settlement conference at the appellant's request if the sole subject of an appeal pursuant to section 37-215 is the estimate of value reported in an appraisal of lands or improvements.

G. Auction protest procedures pursuant to title 37, chapter 2, article 4.1 are exempt from this article.

41-1092.03. Notice of appealable agency action or contested case; hearing; informal settlement conference; applicability

A. Except as provided in subsection D of this section, an agency shall serve notice of an appealable agency action or contested case pursuant to section 41-1092.04. The notice shall:

1. Identify the statute or rule that is alleged to have been violated or on which the action is based.

2. Identify with reasonable particularity the nature of any alleged violation, including, if applicable, the conduct or activity constituting the violation.

3. Include a description of the party's right to request a hearing on the appealable agency action or contested case.

4. Include a description of the party's right to request an informal settlement conference pursuant to section 41-1092.06.

B. A party may obtain a hearing on an appealable agency action or contested case by filing a notice of appeal or request for a hearing with the agency within thirty days after receiving the notice prescribed in subsection A of this section. The notice of appeal or request for a hearing may be filed by a party whose legal rights, duties or privileges were determined by the appealable agency action or contested case. A notice of appeal or request for a hearing also may be filed by a party who will be adversely affected by the appealable agency action or contested case and who exercised any right provided by law to comment on the action being appealed or contested, provided that the grounds for the notice of appeal or request for a hearing are limited to issues raised in that party's comments. The notice of appeal or request for a hearing shall identify the party, the party's address, the agency and the action being appealed or contested and shall contain a concise statement of the reasons for the appeal or request for a hearing. The agency shall notify the office of the appeal or request for a hearing and the office shall schedule an appeal or contested case hearing pursuant to section 41-1092.05, except as provided in section 41-1092.01, subsection F.

C. If good cause is shown an agency head may accept an appeal or request for a hearing that is not filed in a timely manner.

D. This section does not apply to a contested case if the agency:

1. Initiates the contested case hearing pursuant to law other than this chapter and not in response to a request by another party.

2. Is not required by law, other than this chapter, to provide an opportunity for an administrative hearing before taking action that determines the legal rights, duties or privileges of an applicant for a license.

41-1092.04. Service of documents

Unless otherwise provided in this article, every notice or decision under this article shall be served by personal delivery or certified mail, return receipt requested, or by any other method reasonably calculated to effect actual notice on the agency and every other party to the action to the party's last address of record with the agency. Each party shall inform the agency and the office of any change of address within five days of the change.

41-1092.05. Scheduling of hearings; prehearing conferences

A. Except as provided in subsections B and C, hearings for:

1. Appealable agency actions shall be held within sixty days after the notice of appeal is filed.

2. Contested cases shall be held within sixty days after the agency's request for a hearing.

B. Hearings for appealable agency actions of or contested cases with self-supporting regulatory boards that meet quarterly or less frequently shall be held at the next meeting of the board after the board receives the written decision of an administrative law judge or the issuance of the notice of hearing, except that:

1. If the decision of the administrative law judge is received or the notice of hearing is issued within thirty days before the board meets, the hearing shall be held at the following meeting of the board.

2. If good cause is shown, the hearing may be held at a later meeting of the board.

C. The date scheduled for the hearing may be advanced or delayed on the agreement of the parties or on a showing of good cause.

D. The agency shall prepare and serve a notice of hearing on all parties to the appeal or contested case at least thirty days before the hearing. The notice shall include:

1. A statement of the time, place and nature of the hearing.

2. A statement of the legal authority and jurisdiction under which the hearing is to be held.

3. A reference to the particular sections of the statutes and rules involved.

4. A short and plain statement of the matters asserted. If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. After the initial notice and on application, a more definite and detailed statement shall be furnished.

E. Notwithstanding subsection D, a hearing shall be expedited as provided by law or upon a showing of extraordinary circumstances or the possibility of irreparable harm if the parties to the appeal or contested case have actual notice of the hearing date. Any party to the appeal or contested case may file a motion with the director asserting the party's right to an expedited hearing. The right to an expedited hearing shall be listed on any abatement order. The Arizona health care cost containment system administration may file a motion with every member grievance and eligibility appeal that cites federal law and that requests that a hearing be set within thirty days after the motion is filed.

F. Prehearing conferences may be held to:

1. Clarify or limit procedural, legal or factual issues.

2. Consider amendments to any pleadings.

3. Identify and exchange lists of witnesses and exhibits intended to be introduced at the hearing.

4. Obtain stipulations or rulings regarding testimony, exhibits, facts or law.

5. Schedule deadlines, hearing dates and locations if not previously set.

6. Allow the parties opportunity to discuss settlement.

41-1092.06. Appeals of agency actions and contested cases; informal settlement conferences; applicability

A. If requested by the appellant of an appealable agency action or the respondent in a contested case, the agency shall hold an informal settlement conference within fifteen days after receiving the request. A request for an informal settlement conference shall be in writing and shall be filed with the agency no later than twenty days before the hearing. If an informal settlement conference is requested, the agency shall notify the office of

the request and the outcome of the conference, except as provided in section 41-1092.01, subsection F. The request for an informal settlement conference does not toll the sixty day period in which the administrative hearing is to be held pursuant to section 41-1092.05.

B. If an informal settlement conference is held, a person with the authority to act on behalf of the agency must represent the agency at the conference. The agency representative shall notify the appellant in writing that statements, either written or oral, made by the appellant at the conference, including a written document, created or expressed solely for the purpose of settlement negotiations are inadmissible in any subsequent administrative hearing. The parties participating in the settlement conference shall waive their right to object to the participation of the agency representative in the final administrative decision.

41-1092.07. Hearings

A. A party to a contested case or appealable agency action may file a nonperemptory motion with the director to disqualify an office administrative law judge from conducting a hearing for bias, prejudice, personal interest or lack of technical expertise necessary for a hearing.

B. The parties to a contested case or appealable agency action have the right to be represented by counsel or to proceed without counsel, to submit evidence and to cross-examine witnesses.

C. The administrative law judge may issue subpoenas to compel the attendance of witnesses and the production of documents. The subpoenas shall be served and, on application to the superior court, enforced in the manner provided by law for the service and enforcement of subpoenas in civil matters. The administrative law judge may administer oaths and affirmations to witnesses.

D. All parties shall have the opportunity to respond and present evidence and argument on all relevant issues. All relevant evidence is admissible, but the administrative law judge may exclude evidence if its probative value is outweighed by the danger of unfair prejudice, by confusion of the issues or by considerations of undue delay, waste of time or needless presentation of cumulative evidence. The administrative law judge shall exercise reasonable control over the manner and order of cross-examining witnesses and presenting evidence to make the cross-examination and presentation effective for ascertaining the truth, avoiding needless consumption of time and protecting witnesses from harassment or undue embarrassment.

E. All hearings shall be recorded. The administrative law judge shall secure either a court reporter or an electronic means of producing a clear and accurate record of the proceeding at the agency's expense. Any party that requests a transcript of the proceeding shall pay the costs of the transcript to the court reporter or other transcriber.

F. Unless otherwise provided by law, the following apply:

1. A hearing may be conducted in an informal manner and without adherence to the rules of evidence required in judicial proceedings. Neither the manner of conducting the hearing nor the failure to adhere to the rules of evidence required in judicial proceedings is grounds for reversing any administrative decision or order if the evidence supporting the decision or order is substantial, reliable and probative.

2. Copies of documentary evidence may be received in the discretion of the administrative law judge. On request, parties shall be given an opportunity to compare the copy with the original.

3. Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the agency's specialized knowledge. Parties shall be notified either before or during the hearing or by reference in preliminary reports or otherwise of the material noticed including any

staff memoranda or data and they shall be afforded an opportunity to contest the material so noticed. The agency's experience, technical competence and specialized knowledge may be used in the evaluation of the evidence.

4. On application of a party or the agency and for use as evidence, the administrative law judge may permit a deposition to be taken, in the manner and on the terms designated by the administrative law judge, of a witness who cannot be subpoenaed or who is unable to attend the hearing. Subpoenas for the production of documents may be ordered by the administrative law judge if the party seeking the discovery demonstrates that the party has reasonable need of the materials being sought. All provisions of law compelling a person under subpoena to testify are applicable. Fees for attendance as a witness shall be the same as for a witness in court, unless otherwise provided by law or agency rule. Notwithstanding section 12-2212, subpoenas, depositions or other discovery shall not be permitted except as provided by this paragraph or subsection C of this section.

5. Informal disposition may be made by stipulation, agreed settlement, consent order or default.

6. Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

7. A final administrative decision shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings.

G. Except as otherwise provided by law:

1. At a hearing on an agency's denial of a license or permit or a denial of an application or request for modification of a license or permit, the applicant has the burden of persuasion.

2. At a hearing on an agency action to suspend, revoke, terminate or modify on its own initiative material conditions of a license or permit, the agency has the burden of persuasion.

3. At a hearing on an agency's imposition of fees or penalties or any agency compliance order, the agency has the burden of persuasion.

4. At a hearing held pursuant to title 41, chapter 23 or 24, the appellant or claimant has the burden of persuasion.

H. Subsection G of this section does not affect the law governing burden of persuasion in an agency denial of, or refusal to issue, a license renewal.

41-1092.08. Final administrative decisions; review

A. The administrative law judge of the office shall issue a written decision within twenty days after the hearing is concluded. The written decision shall contain a concise explanation of the reasons supporting the decision. The administrative law judge shall serve a copy of the decision on the agency. Upon request of the agency, the office shall also transmit to the agency the record of the hearing as described in section 12-904, except as provided in section 41-1092.01, subsection F.

B. Within thirty days after the date the office sends a copy of the administrative law judge's decision to the head of the agency, executive director, board or commission, the head of the agency, executive director, board or commission may review the decision and accept, reject or modify it. If the head of the agency, executive director, board or commission declines to review the administrative law judge's decision, the agency shall

serve a copy of the decision on all parties. If the head of the agency, executive director, board or commission rejects or modifies the decision the agency head, executive director, board or commission must file with the office, except as provided in section 41-1092.01, subsection F, and serve on all parties a copy of the administrative law judge's decision with the rejection or modification and a written justification setting forth the reasons for the rejection or modification.

C. A board or commission whose members are appointed by the governor may review the decision of the agency head, as provided by law, and make the final administrative decision.

D. Except as otherwise provided in this subsection, if the head of the agency or a board or commission does not accept, reject or modify the administrative law judge's decision within thirty days after the date the office sends a copy of the administrative law judge's decision to the head of the agency, executive director, board or commission, as evidenced by receipt of such action by the office by the thirtieth day the office shall certify the administrative law judge's decision as the final administrative decision. If the board or commission meets monthly or less frequently, if the office sends the administrative law judge's decision at least thirty days before the next meeting of the board or commission and if the board or commission does not accept, reject or modify the administrative law judge's decision at the next meeting of the board or commission, as evidenced by receipt of such action by the office within five days after the meeting the office shall certify the administrative law judge's decision as the final administrative decision.

E. For the purposes of subsections B and D of this section, a copy of the administrative law judge's decision is sent on personal delivery of the decision or five days after the decision is mailed to the head of the agency, executive director, board or commission.

F. The decision of the agency head is the final administrative decision unless either:

1. The agency head, executive director, board or commission does not review the administrative law judge's decision pursuant to subsection B of this section or does not reject or modify the administrative law judge's decision as provided in subsection D of this section, in which case the administrative law judge's decision is the final administrative decision.

2. The decision of the agency head is subject to review pursuant to subsection C of this section.

G. If a board or commission whose members are appointed by the governor makes the final administrative decision as an administrative law judge or upon review of the decision of the agency head, the decision is not subject to review by the head of the agency.

H. A party may appeal a final administrative decision pursuant to title 12, chapter 7, article 6, except as provided in section 41-1092.09, subsection B and except that if a party has not requested a hearing upon receipt of a notice of appealable agency action pursuant to section 41-1092.03, the appealable agency action is not subject to judicial review.

I. This section does not apply to the Arizona peace officer standards and training board established by section 41-1821.

41-1092.09. Rehearing or review

A. Except as provided in subsection B of this section:

1. A party may file a motion for rehearing or review within thirty days after service of the final administrative decision.

2. The opposing party may file a response to the motion for rehearing within fifteen days after the date the motion for rehearing is filed.

3. After a hearing has been held and a final administrative decision has been entered pursuant to section 41-1092.08, a party is not required to file a motion for rehearing or review of the decision in order to exhaust the party's administrative remedies.

B. A party to an appealable agency action of or contested case with a self-supporting regulatory board shall exhaust the party's administrative remedies by filing a motion for rehearing or review within thirty days after the service of the administrative decision that is subject to rehearing or review in order to be eligible for judicial review pursuant to title 12, chapter 7, article 6. The board shall notify the parties in the administrative decision that is subject to rehearing or review that a failure to file a motion for rehearing or review within thirty days after service of the decision has the effect of prohibiting the parties from seeking judicial review of the board's decision.

C. Service is complete on personal service or five days after the date that the final administrative decision is mailed to the party's last known address.

D. Except as provided in this subsection, the agency head, executive director, board or commission shall rule on the motion within fifteen days after the response to the motion is filed or, if a response is not filed, within five days of the expiration of the response period. A self-supporting regulatory board shall rule on the motion within fifteen days after the response to the motion is filed or at the board's next meeting after the motion is received, whichever is later.

41-1092.10. Compulsory testimony; privilege against self-incrimination

A. A person may not refuse to attend and testify or produce evidence sought by an agency in an action, proceeding or investigation instituted by or before the agency on the ground that the testimony or evidence, documentary or otherwise, required of the person may tend to incriminate the person or subject the person to a penalty or forfeiture unless it constitutes the compelled testimony or the private papers of the person that would be privileged evidence either pursuant to the fifth amendment of the Constitution of the United States or article II, section 10, Constitution of Arizona, and the person claims the privilege before the production of the testimony or papers.

B. If a person asserts the privilege against self-incrimination and the agency seeks to compel production of the testimony or documents sought, the office or agency as provided in section 41-1092.01, subsection F may issue, with the prior written approval of the attorney general, a written order compelling the testimony or production of documents in proceedings and investigations before the office or agency as provided in section 41-1092.01, subsection F or apply to the appropriate court for such an order in other actions or proceedings.

C. Evidence produced pursuant to subsection B of this section is not admissible in evidence or usable in any manner in a criminal prosecution, except for perjury, false swearing, tampering with physical evidence or any other offense committed in connection with the appearance made pursuant to this section against the person testifying or the person producing the person's private papers.

41-1092.11. Licenses; renewal; revocation; suspension; annulment; withdrawal

A. If a licensee makes timely and sufficient application for the renewal of a license or a new license with reference to any activity of a continuing nature, the existing license does not expire until the application has been finally determined by the agency, and, in case the application is denied or the terms of the new license limited, until the last day for seeking review of the agency order or a later date fixed by order of the reviewing court.

B. Revocation, suspension, annulment or withdrawal of any license is not lawful unless, before the action, the agency provides the licensee with notice and an opportunity for a hearing in accordance with this article. If the agency finds that the public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, the agency may order summary suspension of a license pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

41-1092.12. Private right of action; recovery of costs and fees; definitions

A. If an agency takes an action against a party that is arbitrary, capricious or not in accordance with law, the action is an appealable agency action if all of the following apply:

1. Within ten days after the action that is arbitrary, capricious or not in accordance with law, the party notifies the director of the agency in writing of the party's intent to file a claim pursuant to this section. This notice shall include a description of the action the party claims to be arbitrary, capricious or not in accordance with law and reasons why the action is arbitrary, capricious or not in accordance with law.

2. The agency continues the action that is arbitrary, capricious or not in accordance with law more than ten days after the agency receives the notice.

3. The action is not excluded from the definition of appealable agency action as defined in section 41-1092.

B. This section only applies if an administrative remedy or an administrative or a judicial appeal of final agency action is not otherwise provided by law.

C. If the party prevails, the agency shall pay reasonable costs and fees to the party from any monies appropriated to the agency and available for that purpose or from other operating monies of the agency. If the agency fails or refuses to pay the award within fifteen days after the demand, and if no further review or appeal of the award is pending, the prevailing party may file a claim with the department of administration. The department of administration shall pay the claim within thirty days in the same manner as an uninsured property loss under title 41, chapter 3.1, article 1, except that the agency is responsible for the total amount awarded and shall pay it from its operating monies. If the agency had appropriated monies available for paying the award at the time it failed or refused to pay, the legislature shall reduce the agency's operating appropriation for the following fiscal year by the amount of the award and shall appropriate that amount to the department of administration as reimbursement for the loss.

D. If the administrative law judge determines that the appealable agency action is frivolous, the administrative law judge may require the party to pay reasonable costs and fees to the agency in responding to the appeal filed before the office of administrative hearings.

E. For the purposes of this section:

1. "Action against the party" means any of the following that results in the expenditure of costs and fees:

(a) A decision.

(b) An inspection.

(c) An investigation.

(d) The entry of private property.

2. "Agency" means the department of environmental quality established pursuant to title 49, chapter 1, article 1.

3. "Costs and fees" means reasonable attorney and professional fees.

4. "Party" means an individual, partnership, corporation, association and public or private organization at whom the action was directed and who has expended costs and fees as a result of the action against the party.

ARIZONA STATE RETIREMENT SYSTEM
Title 2, Chapter 8, Article 8, Recovery of Overpayments

New Article:	Article 8
New Section:	R2-8-801; R2-8-802; R2-3-803; R2-8-804; R2-8-805; R2-8-806; R2-8-807; R2-8-808; R2-8-809; R2-8-810

GOVERNOR'S REGULATORY REVIEW COUNCIL
M E M O R A N D U M

MEETING DATE: September 6, 2017 **AGENDA ITEM: D-8**

TO: Members of the Governor's Regulatory Review Council

FROM: Justin Larson, Legal Intern

DATE: August 23, 2017

SUBJECT: **ARIZONA STATE RETIREMENT SYSTEM (R-17-0704)**
Title 2, Chapter 8, Article 8, Recovery of Overpayments

New Article: Article 8

New Section: R2-8-801; R2-8-802; R2-3-803; R2-8-804; R2-8-805; R2-8-806; R2-8-807; R2-8-808; R2-8-809; R2-8-810

General Comments

Purpose of the Agency and Summary of What the Rulemaking Does

The purpose of the Arizona State Retirement System (ASRS) is to provide an incentive in the recruitment and retention of high quality employees; contribute toward providing a total compensation package that is generally equivalent to comparable employment in other public and private organizations in Arizona; provide a retirement system that encourages employees to remain in service for periods of time that will provide public employers with the full benefit of the training and experience gained by the employees; provide an orderly method of promoting and maintaining a high level of service to the public; and provide a base retirement benefit that is less than one hundred per cent of a member's post-retirement income requirements. A.R.S. § 38-712.

This rulemaking by the ASRS seeks to clarify various aspects of how the ASRS recovers overpayments made to or on behalf of members and employers, including: definitions relating to how the ASRS recovers overpayments; forms relating to the collection of overpayments; various collection methods for any overpayments by the ASRS; collection of any overpayments by the Attorney General; and collection of any overpayments by the Department of Revenue.

Proposed Action

The ASRS seeks to create a new article (Article 8) including the following ten rules:

Article 8	Recovery of Overpayments
R2-8-801	Definitions
	Defines relevant terms for this article.
R2-8-802	Estimated Social Security Disability Income Amount and Revised Social Security Disability Income Amount
	Stipulates how administrators must determine a member's estimated Social Security disability income amount. This rule also allows a member or survivor who disputes the estimated Social Security disability income amount based on the conclusions of a legal proceeding to request a revised Social Security disability income amount, and stipulates how the ASRS or administrator must determine how the amount must be revised. Lastly, this rule allows a dissatisfied member or survivor to appeal.
R2-8-803	Reimbursement of Overpayments
	Lays out the process by which members who receive overpayments from the ASRS must reimburse the ASRS for the overpaid amount.
R2-8-804	Collection of Overpayments from Forfeiture
	Stipulates how the ASRS must reduce a member's refund amount in order to offset the member's overpayment amount.
R2-8-805	Collection of Overpayments from Retirement Benefit
	Upon retirement, thie rule stipulates how the ASRS must reduce the amount of a member's retirement benefit by the amount of any overpayments that have been reimbursed to the ASRS. This rule also lays out how the ASRS must reduce a member's or alternate payee's monthly annuity in order to offset any overpayments which have not been reimbursed or collected. Lastly, this rule prohibits the ASRS from reducing a member's or alternative payee's monthly annuity by an estimated Social Security disability income amount while the member is pursuing a Social Security disability income determination pursuant to R2-8-305, if the member submits certain documentation to the ASRS.
R2-8-806	Collection of Overpayments from Survivor Benefit
	If a member, survivor, or alternate payee does not repay the amount of an overpayment pursuant to this article, this rule stipulates how the ASRS must reduce the necessary person's

amount of benefits. This rule also prohibits the ASRS from reducing a survivor's monthly annuity by an estimated Social Security disability income amount while the survivor is pursuing a Social Security disability income determination on behalf of a member pursuant to R2-8-305, if the survivor submits certain documentation to the ASRS.

R2-8-807	Collection of Overpayments from LTD Benefit
	Upon disability of a member, this rule requires ASRS to reduce the amount of the disabled member's LTD benefit by the amount of any overpayment the member received from the ASRS and has not been reimbursed.
R2-8-808	Collection of Overpayments by Arizona Attorney General
	If a member does not reimburse the ASRS for an overpayment pursuant to R2-8-802, this rule allows the ASRS to submit the overpayment amount for collection by the Arizona Attorney General's Office.
R2-8-809	Collection of Overpayments by Arizona Department of Revenue
	If a member does not reimburse the ASRS for an overpayment pursuant to R2-8-802, this rule allows the ASRS to submit the overpayment amount for collection by the Arizona Department of Revenue.
R2-8-810	Collection of Overpayments by Garnishment or Levy
	Pursuant to A.R.S. § 38-723, this rule allows the ASRS to collect the amount of any overpayment that has not been reimbursed or collected pursuant to this article by garnishing wages and/or placing a levy on the appropriate person's bank account.

Exemption or Request and Approval for Exception from the Moratorium

The ASRS requested approval for exception from the moratorium on July 14, 2016, and the request was approved on July 15, 2016.

Substantive or Procedural Concerns

None.

1. **Are the rules legal, consistent with legislative intent, and within the agency's statutory authority?**

Yes. A.R.S. § 38-714(E)(4) authorizes the ASRS Board to "[a]dopt, amend or repeal rules for the administration of the plan, [article 2] and articles 2.1 and 7 of [chapter 5]." Further, the ASRS cites A.R.S. §§ 38-723, 38-724, 38-765, and 38-769 as specific implementing authority.

2. **Are the rules written in a manner that is clear, concise, and understandable to the general public?**

Yes. The rules are clear, concise, and understandable.

3. **Does the agency adequately address the comments on the proposed rules and any supplemental proposals?**

Yes. The ASRS indicates that it received no written comments regarding the rulemaking, and that no one attended the oral proceeding on March 20, 2017.

4. **Are the final rules a substantial change, considered as a whole, from the proposed rules and any supplemental proposals?**

No. In order to be clear and consistent, the ASRS added references to A.R.S. § 38-768 in R2-8-805 and R2-8-806; the ASRS also removed "actuarially" from R2-8-806(C).

5. **Does the preamble disclose a reference to any study relevant to the rules that the agency reviewed and either did or did not rely on in the agency's evaluation of or justification for the rules?**

No. The ASRS indicates that it did not rely on a study.

6. **Are the rules more stringent than corresponding federal law and, if so, is there statutory authority that allows the agency to exceed the requirements of federal law?**

No. There are no federal laws applicable to these rules.

7. **Do the rules require a permit or license and if so, does the agency use a general permit or is any exception applicable under A.R.S. § 41-1037?**

No. The rules do not require a permit.

8. **Do the rules establish a new fee or contain a fee increase?**

No. The rules do not establish a new fee or contain a fee increase.

Conclusion

As specified under A.R.S. § 41-1032(A), the rules will become effective 60 days after the Notice of Final Rulemaking is filed with the Secretary of State's Office. This analyst recommends approval of the rules.

GOVERNOR'S REGULATORY REVIEW COUNCIL
M E M O R A N D U M

MEETING DATE: September 6, 2017 **AGENDA ITEM: D-8**

TO: Members of the Governor's Regulatory Review Council

FROM: GRRC Economic Team

DATE : August 23, 2017

SUBJECT: **ARIZONA STATE RETIREMENT SYSTEM (R-17-0704)**
Title 2, Chapter 8, Article 8, Recovery of Overpayments

New Article: Article 8

New Section: R2-8-801; R2-8-802; R2-3-803; R2-8-804; R2-8-805; R2-8-806; R2-8-807; R2-8-808; R2-8-809; R2-8-810

The economic analysis team has reviewed the economic, small business, and consumer impact statement (EIS) and makes the following comments. These comments are made to assist the Council in its review and may be used as the Council determines. In this rulemaking, the Arizona State Retirement System Board (ASRS) is proposing to add an article to Chapter 8. The rules in the proposed Article 8 establish methods, procedures, forms, and definitions for how the ASRS recovers overpayment on behalf of members and employers.

In 2016, the ASRS collected approximately $2.5 million owed to the agency because of the agency providing an overpayment to an individual in previous years. However, in 2016, the ASRS also provided approximately $2.1 million in overpayments that will need to be collected pursuant to statute. The ASRS EIS suggests that overpayments may be in part due to members misunderstanding rules for collecting payments or ASRS having missing or inaccurate information on deceased members.

The ASRS has received many inquiries regarding the collection of overpayments. The ASRS, therefore, believes there is a need to promulgate rules clarifying how overpayments are collected. Key stakeholders include the ASRS, retired members, beneficiaries, and alternate payees. The ASRS does not anticipate the need to hire full-time employees because of this rulemaking.

1. <u>Costs and Benefits for:</u>

a. The implementing agency:

The ASRS states that these rules will not directly affect the ASRS.

b. Political subdivisions:

This rulemaking does not provide any benefits or impose any costs on political subdivisions.

c. Businesses:

No businesses are affected by this rulemaking.

d. Small businesses:

No businesses are directly affected by this rulemaking.

e. Consumers directly affected by the rulemaking:

All ASRS retired members, beneficiaries, and employers are directly affected by the rulemaking. Increased clarity will allow key stakeholders to understand the ASRS's methods for collecting overpayments.

2. Do the probable benefits outweigh the probable costs?

The ASRS does not identify any significant costs to implementing these rules to clarify overpayment collection processes. The benefit of increased clarify will improve understanding and ease of collecting overpayments. Therefore, the benefits appear to outweigh the costs.

3. Analysis of methods to reduce the small business impact:

The ASRS states that these changes do not impact businesses, therefore, analysis on reducing potential impact is not mentioned.

4. The probable effect on state revenues:

The ASRS states these changes will have no effect on revenue.

5. Analysis of any less intrusive or less costly alternative methods:

The ASRS believes this is the least costly method of providing this benefit.

6. Whether an analysis was submitted to the agency regarding the rule's impact on the competitiveness of businesses in this state as compared to the competitiveness of businesses in other states:

No analysis was submitted that compares the rule's impact of the competitiveness of businesses in this state to the impact on businesses in other states.

7. <u>A description of any data on which a rule is based with an explanation of how the data was obtained and why the data is acceptable data, and the methods used by the agency to evaluate the costs and benefits in the EIS.</u>

No empirical or quantitative data were submitted for use in the EIS.

8. <u>Conclusion:</u>

The submitted economic, small business, and consumer impact statement is generally accurate, and contains the information required for compliance with ARS §§ 41-1035, 41-1052(D)(1-3), and 41-1055. This analyst recommends that the proposed rule amendments be approved.

ARIZONA STATE RETIREMENT SYSTEM

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Paul Matson
Director

May 10, 2017

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MAY 11 2017
GRRC

Ms. Nicole O. Colyer, Chair
The Governor's Regulatory Review Council
100 North 15th Avenue, Ste. 402
Phoenix, AZ 85007

Re: A.A.C. Title 2. Administration
Chapter 8. State Retirement System Board

Dear Ms. Ong:

The attached final rule package is submitted for review and approval by the Council. The following information is provided for Council's use in reviewing the rule package:

1. Close of record date: The rulemaking record was closed on May 2, 2017 following a period for public comment and an oral proceeding.

2. Relation of the rulemaking to a five-year-review report: This rulemaking does not relate to a Five-year Review Report.

3. New fee or fee increase: This rulemaking does not establish a new fee or increase an existing fee.

4. Immediate effective date: An immediate effective date is not requested.

5. Certification regarding studies: I certify that the Board did not rely on any studies for this rulemaking.

6. Certification that the preparer of the EIS notified the JLBC of the number of new full-time employees necessary to implement and enforce the rule: I certify that the rules in this rulemaking will not require a state agency to employ a new full-time employee. No notification was provided to JLBC.

7. List of documents enclosed:
    a. Cover letter signed by the Board's Assistant Director;
    b. Notice of Final Rulemaking including the preamble, table of contents for the rulemaking, and rule text; and
    c. Economic, Small Business, and Consumer Impact Statement.

Sincerely,

Dave King
Assistant Director

NOTICE OF FINAL RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

PREAMBLE

1. Articles, Parts, and Sections Affected	**Rulemaking Action**
Article 8	New Article
R2-8-801	New Section
R2-8-802	New Section
R2-8-803	New Section
R2-8-804	New Section
R2-8-805	New Section
R2-8-806	New Section
R2-8-807	New Section
R2-8-808	New Section
R2-8-809	New Section
R2-8-810	New Section

2. Citations to the agency's statutory rulemaking authority to include both the authorizing statute (general) and the implementing statute (specific):

Authorizing statute: A.R.S. § 38-714(E)(4)

Implementing statutes: A.R.S. §§ 38-723, 38-724, 38-765, 38-768

3. The effective date for the rules:

As specified under A.R.S. § 41-1032(A), the rule will be effective 60 days after the rule package is filed with the Office of the Secretary of State.

a. If the agency selected a date earlier than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):

Not applicable.

b. If the agency selected a date later than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):
Not applicable.

4. Citations to all related notices published in the *Register* as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:

Notice of Rulemaking Docket Opening: 22 A.A.R. 2082, August 12, 2016

Notice of Proposed Rulemaking: 23 A.A.R. 444, February 17, 2017

5. The agency's contact person who can answer questions about the rulemaking:

Name:	Jessica A.R. Thomas, Rules Writer
Address:	Arizona State Retirement System 3300 N. Central Ave., Ste. 1400 Phoenix, AZ 85012-0250
Telephone:	(602) 240-2039
E-Mail:	JessicaT@azasrs.gov

6. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:

The ASRS needs to adopt approximately ten rules to clarify various aspects of how the ASRS recovers overpayments made to or on behalf of members and employers, including the following:

- Definitions relating to how the ASRS recovers overpayments;
- Forms relating to the collection of overpayments;
- Various collection methods for any overpayments by the ASRS;
- Collection of any overpayments by the Attorney General; and
- Collection of any overpayments by the Department of Revenue

Specifically, the ASRS needs to clarify the various methods it may use to collect an outstanding overpayment amount.

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

No study was reviewed.

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

Not applicable.

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

There is little to no economic, small business, or consumer impact, other than the minimal cost to the ASRS to prepare the rule package. The rules will have minimal economic impact, if any, because the rulemaking simply clarifies statutory requirements that already exist. Clarifying how the ASRS may collect an outstanding overpayment amount is various situations, will increase understandability of the statutory requirements in A.R.S. § 38-765, thereby reducing the regulatory burden imposed on the public. This clarification will ensure that ASRS members have notice about how their benefits may be affected by an outstanding overpayment and how the ASRS will collect an overpayment amount. Thus, the economic impact is minimized.

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

In order to be clear and consistent, the ASRS added references to A.R.S. § 38-768 in R2-8-805 and R2-8-806; the ASRS also removed ”actuarially” from R2-8-806(C).

11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:

The ASRS received no written comments regarding the rulemaking. No one attended the oral proceeding on March 20, 2017.

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

None.

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

The rules do not require a permit.

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

There are no federal laws applicable to these rules.

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

No analysis was submitted.

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

No materials are incorporated by reference.

14. Whether the rule was previously made, amended, or repealed as an emergency rule. If so, cite the notice published in the *Register* as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:

Not applicable.

15. The full text of the rules follows:

TITLE 2. ADMINISTRATION

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

ARTICLE 8. RECOVERY OF OVERPAYMENTS

Section

Article 8. Recovery of Overpayments

R2-8-801. Definitions

R2-8-802. Estimated Social Security Disability Income Amount and Revised Social Security Disability Income Amount

R2-8-803. Reimbursement of Overpayments

R2-8-804. Collection of Overpayments from Forfeiture

R2-8-805. Collection of Overpayments from Retirement Benefit

R2-8-806. Collection of Overpayments from Survivor Benefit

R2-8-807. Collection of Overpayments from LTD Benefit

R2-8-808. Collection of Overpayments by Arizona Attorney General

R2-8-809. Collection of Overpayments by Arizona Department of Revenue

R2-8-810. Collection of Overpayments by Garnishment or Levy

ARTICLE 8. RECOVERY OF OVERPAYMENTS

Article 8. Recovery of Overpayments

R2-8-801. Definitions

For purposes of this article, the following definitions apply, unless specified otherwise:

1. "DRO" means the same as in R2-8-120.
2. "Estimated Social Security disability income amount" and "Revised Social Security disability income amount" mean the amount of funds the ASRS is entitled to collect pursuant to R2-8-802.
3. "LTD" means long-term disability program as described in A.R.S. § 38-797 et seq.
4. "LTD benefit" means the same as in R2-8-301
5. "Overpayment" means:
   a. Any funds the ASRS distributes in excess of the amount to which the recipient is legally entitled; and
   b. Any estimated social security disability income amount or revised social security disability income amount the ASRS is entitled to collect pursuant to A.R.S. § 38-765.

R2-8-802. Estimated Social Security Disability Income Amount and Revised Social Security Disability Income Amount

A. The ASRS contracted LTD claims administrator shall determine a member's estimated Social Security disability income amount as follows:
   1. Prior to the death, retirement, or forfeiture of a member, the estimated Social Security disability income amount shall be equal to the member's full monthly LTD benefit reduced by $50 per month pursuant to A.R.S. § 38-797.07(A)(9); and

2. Upon the member's death, retirement, or forfeiture, the estimated Social Security disability income amount shall be equal to the total amount of the member's LTD benefit, reduced by $50 per month pursuant to A.R.S. § 38-797.07(A)(9).

B. A member or survivor who disputes the estimated Social Security disability income amount based on the conclusions of a legal proceeding may request a revised Social Security disability income amount by submitting supporting documentation from the legal proceeding to the ASRS contracted LTD claims administrator within 30 days of the date of conclusion of the legal proceeding.

C. Pursuant to subsection (B), the ASRS or the ASRS contracted LTD claims administrator shall determine whether the estimated Social Security disability income amount needs to be revised based on the conclusions of the legal proceeding.

D. If the ASRS or the ASRS contracted LTD claims administrator determines the estimated Social Security disability income amount was inaccurate, the ASRS or the ASRS contracted LTD claims administrator shall calculate a revised Social Security disability income amount based on the supporting documentation provided by the member or survivor pursuant to subsection (B).

E. Pursuant to subsection (B), if the revised Social Security disability amount is less than the amount of the estimated Social Security disability benefit, the ASRS or the ASRS contracted LTD claims administrator shall:

1. Refund a portion of the amount of the estimated Social Security disability benefit that the ASRS retained upon forfeiture of the member in order to offset the difference between the estimated Social Security disability income amount and the revised Social Security disability income amount, or

2. Adjust the member's retirement benefits or the survivor's benefits to offset the difference between the estimated Social Security disability income amount and the revised Social Security disability income amount.

F. If a member or survivor is not satisfied with the determination on the request for a revised Social Security disability income amount, the member or survivor may appeal the determination pursuant to 2 A.A.C. 8, Article 4.

R2-8-803. Reimbursement of Overpayments

A. Upon the ASRS discovering that it has made an overpayment to a member, survivor, or alternate payee, the ASRS shall send a letter to notify the necessary person that an overpayment was provided and the person shall reimburse the ASRS in the amount of the overpayment.

B. A person who reimburses the ASRS for an overpayment shall do so by remitting a check, made payable to the ASRS, by the due date specified in the letter providing notice of the overpayment.

C. If the ASRS is unable to collect the amount of an overpayment by reducing future payments to members, survivors, or alternate payees as provided in this Article, the ASRS shall allow the appropriate person to reimburse the ASRS for the amount of the overpayment by making payments over the course of as many months as the number of months in which an overpayment was made by the ASRS, not to exceed 36 months.

D. A person may request to reimburse the amount of the overpayment to the ASRS sooner than provided in this Article.

R2-8-804. Collection of Overpayments from Forfeiture

A. Unless a member cancels a forfeiture request by submitting written notice to the ASRS within 30 days of the request to forfeit, the ASRS shall reduce a member's refund amount in order to offset the member's overpayment amount pursuant to subsection (B).

B. The ASRS shall reduce the member's refund amount by the amount of any overpayment and the ASRS shall:

1. Pursue collection of any remaining overpayment amount pursuant to this Article; and

2. Distribute the remaining refund amount to the member pursuant to R2-8-115.

R2-8-805. Collection of Overpayments from Retirement Benefit

A. Notwithstanding A.R.S. § 38-768, the ASRS may reduce a person's benefit pursuant to this section.

B. Upon retirement, the ASRS shall reduce the amount of a member's retirement benefit by the amount of any overpayments that have not been reimbursed to the ASRS, pursuant to R2-8-803 as follows:

1. If the member elects to receive a lump sum or partial lump sum benefit, the amount of the lump sum or partial lump sum shall be reduced by the amount of the overpayment to no less than $5.00 and the ASRS shall pursue overpayment collections for any remaining overpayment amount pursuant to this Article;

2. If the member elects to receive retirement benefits as a monthly annuity and the amount of the overpayment is equal to or less than the amount of the member's first annuity disbursement minus $5.00, the ASRS shall reduce the amount of the

first annuity disbursement by the amount of any overpayment to no less than $5.00;

3. If the member elects to receive retirement benefits as a monthly annuity and the amount of the overpayment exceeds the amount of the member's first annuity disbursement plus $5.00, the ASRS shall reduce the amount of the first annuity disbursement by the amount of the overpayment to no less than $5.00 and pursue collection pursuant to subsection (B).

C. The ASRS shall reduce a member's or alternate payee's monthly annuity as follows in order to offset any overpayments which have not been reimbursed or collected pursuant to this Article:

1. The ASRS shall reduce the member's monthly annuity by up to 10% for 36 months, if the amount of the overpayment can be collected by the ASRS within that time.

2. If the amount of the overpayment cannot be collected pursuant to subsection (B)(1), the ASRS will notify the member that the member must make payment arrangements within 60 days of the date on the notice. If the member does not make payment arrangements within 60 days of the date on the notice, the ASRS shall actuarially reduce the amount of the member's monthly annuity.

D. Notwithstanding subsection (B), the ASRS shall not reduce a member's or alternate payee's monthly annuity by an estimated Social Security disability income amount while the member is pursuing a Social Security disability income determination pursuant to R2-8-305, if the member submits documentation to the ASRS every six months informing

the ASRS of the status of the member's Social Security disability income request until a determination is made regarding the amount of Social Security disability income.

R2-8-806. Collection of Overpayments from Survivor Benefit

A. Notwithstanding A.R.S. § 38-768, the ASRS may reduce a person's benefit pursuant to this section.

B. If a member, survivor, or alternate payee does not repay the amount of an overpayment pursuant to this Article, the ASRS shall reduce the necessary person's amount of benefits pursuant to subsection (C).

C. The ASRS shall collect the amount of any remaining overpayment by reducing the necessary person's monthly annuity over the same number of months in which the overpayment was made, up to 3 months for each month an overpayment was made by the ASRS.

D. If the ASRS is unable to collect the amount of any overpayment pursuant to subsection (C), the ASRS shall pursue collection of any remaining overpayment amount pursuant to this Article.

E. Notwithstanding subsection (C), the ASRS shall not reduce a survivor's monthly annuity by an estimated Social Security disability income amount while the survivor is pursuing a Social Security disability income determination on behalf of the member pursuant to R2-8-305, if the survivor submits documentation to the ASRS every six months informing the ASRS of the status of the member's Social Security disability income request until a determination is made regarding the amount of Social Security disability income to which the member was entitled.

R2-8-807. Collection of Overpayments from LTD Benefit

Upon disability of the member, the ASRS shall reduce the amount of the disabled member's LTD benefit by the amount of any overpayment the member received from the ASRS and has not reimbursed pursuant to this section to not less than $50.00.

R2-8-808. Collection of Overpayments by the Attorney General

If a member does not reimburse the ASRS for an overpayment pursuant to R2-8-802, the ASRS may submit the overpayment amount for collection by the Arizona Attorney General's Office.

R2-8-809. Collection of Overpayments by the Arizona Department of Revenue

If a member does not reimburse the ASRS for an overpayment pursuant to R2-8-802, the ASRS may submit the overpayment amount for collection by the Arizona Department of Revenue.

R2-8-810. Collection of Overpayments by Garnishment or Levy

Pursuant to A.R.S. § 38-723, the ASRS may collect the amount of any overpayment that has not been reimbursed or collected pursuant to this article by garnishing wages and/or placing a levy on the appropriate person's bank account.

ECONOMIC, SMALL BUSINESS, AND CONSUMER IMPACT STATEMENT[1]

TITLE 2. ADMINISTRATION

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

1. Identification of the rulemaking:

The ASRS needs to adopt approximately ten rules to clarify various aspects of how the ASRS recovers overpayments made to or on behalf of members and employers, including the following:

- Definitions relating to how the ASRS recovers overpayments;
- Forms relating to the collection of overpayments;
- Various collection methods for any overpayments by the ASRS;
- The delegation to the Attorney General for the collection of any overpayments; and
- The delegation to the Department of Revenue for the collection of any overpayments

Specifically, the ASRS needs to clarify the various methods it may use to collect an outstanding overpayment amount.

a. The conduct and its frequency of occurrence that the rule is designed to change:

Within the past fiscal year, approximately 624 members received an overpayment from the ASRS. In 2016, the ASRS collected approximately $2.5 million owed to the agency as a result of the agency providing an overpayment to an individual in previous years. However, in 2016, the ASRS also provided approximately $2.1 million in overpayments that will need to be collected pursuant to statute. Overpayments may occur as the result of LTD claims for which the member must reimburse the ASRS if the member receives Social Security Disability benefits. Overpayments may also occur if

[1] If adequate data are not reasonably available, the agency shall explain the limitations of the data, the methods used in an attempt to obtain the data, and characterize the probable impacts in qualitative terms. (A.R.S. § 41-1055(C)).

there is missing or inaccurate information on file when a member retires. Finally, an overpayment may occur if the ASRS pays retirement benefits to a member who has deceased. Members seem to misunderstand how the ASRS collects overpayment amounts from various benefits payments. The ASRS receives numerous inquiries regarding the collection of overpayments such as how the member's benefits will be affected and how members may repay overpayment amounts. The ASRS needs to promulgate rules that clarify how the ASRS collects overpayment amounts.

b. <u>The harm resulting from the conduct the rule is designed to change and the likelihood it will continue to occur if the rule is not changed:</u>
Members are confused about how the ASRS collects overpayment amounts. In particular, members seem to misunderstand how their benefits may be affected if they receive an overpayment that must then be collected on a later date. Since fiscal year 2015, the ASRS has received approximately 65 appeals related to the collection of overpayments. After the ASRS receives all necessary documentation, a typical overpayment appeal requires approximately 10 days for the ASRS to review. By promulgating these rules, members will have a better understanding of the various methods the ASRS may use to collect an overpayment amount. Increasing understanding of how the ASRS collects overpayments from various benefits and/or property should reduce appeals that arise out of members' misconceptions.

c. <u>The estimated change in frequency of the targeted conduct expected from the rule change:</u>
This rulemaking will clarify how the ASRS may collect an overpayment amount, thereby increasing understandability of how members' benefits may be affected and increasing the efficiency of the administration. Clarifying how the ASRS collects overpayment amounts will ensure that collection efforts are processed more efficiently. As discussed above and below, these rules will increase the clarity and effectiveness of collecting overpayments,

which should result in reducing confusion, as well as any potential administrative delay caused by a misunderstanding that the member must repay an overpayment amount.

2. A brief summary of the information included in the economic, small business, and consumer impact statement:

   There is little to no economic, small business, or consumer impact, other than the minimal cost to the ASRS to prepare the rule package. The rules will have minimal economic impact, if any, because the rulemaking simply clarifies statutory requirements that already exist. Clarifying how the ASRS may collect an outstanding overpayment amount is various situations, will increase understandability of the statutory requirements in A.R.S. § 38-765, thereby reducing the regulatory burden imposed on the public. This clarification will ensure that ASRS members have notice about how their benefits may be affected by an outstanding overpayment and how the ASRS will collect an overpayment amount. Thus, the economic impact is minimized.

3. The person to contact to submit or request additional data on the information included in the economic, small business, and consumer impact statement:

   Name: Jessica A.R. Thomas, Rules Writer
   Address: Arizona State Retirement System
   3300 N. Central Ave., Suite 1400
   Phoenix, AZ 85012-0250
   Telephone: (602) 240-2039
   E-mail: JessicaT@azasrs.gov

4. Persons who will be directly affected by, bear the costs of, or directly benefit from the rulemaking:

   In general, all members of the ASRS, as well as their beneficiaries, will be directly affected by, bear the costs of, and directly benefit from this rulemaking. The ASRS incurred the cost of the rulemaking. The ASRS currently has a total membership of approximately 558,136.

Specifically, retired members, beneficiaries, and alternate payees who received an overpayment from the ASRS will be affected by this rulemaking. These rules will clarify how the ASRS may collect an overpayment from various benefits and other methods of collection. Such clarification will benefit retired members, beneficiaries, and alternate payees by increasing public understanding of how the ASRS will collect overpayment amounts and how an individual's benefits may be affected by such collection.

5. Cost-benefit analysis:
    a. Costs and benefits to state agencies directly affected by the rulemaking including the number of new full-time employees at the implementing agency required to implement and enforce the proposed rule:
    This rulemaking does not directly affect state agencies and the ASRS has determined that no new full-time employees will be required to implement and enforce the rules.

    b. Costs and benefits to political subdivisions directly affected by the rulemaking:
    This rulemaking does not provide any benefits or impose any costs on political subdivisions.

    c. Costs and benefits to businesses directly affected by the rulemaking:
    No businesses are directly affected by the rulemaking.

6. Impact on private and public employment:
    The rulemaking will have no impact on private or public employment.

7. Impact on small businesses[2]:
    a. Identification of the small business subject to the rulemaking:
    No businesses, regardless of size, are subject to the rulemaking.

[2] Small business has the meaning specified in A.R.S. § 41-1001(20).

b. Administrative and other costs required for compliance with the rulemaking:
Not applicable.

c. Description of methods that may be used to reduce the impact on small businesses:
Not applicable.

8. Cost and benefit to private persons and consumers who are directly affected by the rulemaking:
All ASRS retired members, beneficiaries, and Employers are directly affected by the rulemaking. The effect has been previously described above.

9. Probable effects on state revenues:
There will be no effect on state revenues.

10. Less intrusive or less costly alternative methods considered:
The ASRS believes this is the least costly and least intrusive method because it will clarify how the ASRS collects overpayment amounts without imposing additional requirements on the public.

38-714. Powers and duties of ASRS and board

A. ASRS shall have the powers and privileges of a corporation, shall have an official seal and shall transact all business in the name "Arizona state retirement system", and in that name may sue and be sued.

B. The board is responsible for supervising the administration of this article by the director of ASRS.

C. The board is responsible for the performance of fiduciary duties and other responsibilities required to preserve and protect the retirement trust fund established by section 38-712.

D. The board shall not advocate for or against legislation providing for benefit modifications, except that the board shall provide technical and administrative information regarding the impact of benefit modification legislation.

E. The board may:

1. Determine the rights, benefits or obligations of any person under this article and afford any person dissatisfied with a determination a hearing on the determination. The board may delegate the duty and authority to act on the board's behalf to a committee of the board for the purposes of this paragraph and title 41, chapter 6, article 10 relating to any decision made under this paragraph by that committee of the board.

2. Determine the amount, manner and time of payment of any benefits under this article.

3. Recommend amendments to this article and articles 2.1 and 7 of this chapter that are required for efficient and effective administration.

4. Adopt, amend or repeal rules for the administration of the plan, this article and articles 2.1 and 7 of this chapter.

F. Beginning June 30, 2016, the board shall determine which of the generally accepted actuarial cost methods shall be used in the annual actuarial valuation of the plan.

G. The board and ASRS are not subject to title 41, chapter 6, except title 41, chapter 6, article 10, for actuarial assumptions and calculations, investment strategy and decisions and accounting methodology.

H. The board shall submit to the governor and legislature for each fiscal year no later than eight months after the close of the fiscal year a report of its operations and the operations of ASRS. The report shall follow generally accepted accounting principles and generally accepted financial reporting standards and shall include:

1. A report on an actuarial valuation of ASRS assets and liabilities.

2. Any other statistical and financial data that may be necessary for the proper understanding of the financial condition of ASRS and the results of board operations.

3. On request of the governor or the legislature, a list of investments owned. This list shall be provided in an electronic format.

4. An estimate of the aggregate fees paid for private equity investments, including management fees and performance fees.

I. The board shall:

1. Prepare and publish a synopsis of the annual report for the information of ASRS members.

2. Contract for a study of the mortality, disability, service and other experiences of the members and employers participating in ASRS. The study shall be conducted for fiscal year 1990-1991 and for at least every fifth fiscal year thereafter. A report of the study shall be completed within eight months after the close of the applicable fiscal year and shall be submitted to the governor and the legislature.

3. Conduct an annual actuarial valuation of ASRS assets and liabilities.

J. The auditor general may make an annual audit of ASRS and transmit the results to the governor and the legislature.

38-723. Recovery of collection costs; levy and distraint; definitions

A. A debtor who fails to pay any monies owed to ASRS is liable for all costs and expenses incurred by ASRS to collect the monies owed. ASRS may collect these expenses and costs at the time of collecting the monies owed to ASRS.

B. If a debtor neglects or refuses to pay a debt owed to ASRS after ASRS has made at least two separate attempts to collect the debt and not fewer than thirty days after ASRS determines a debt is owed, ASRS may collect the debt and such other sums as are sufficient to cover the expenses of the levy, by levy on:

1. Cash and cash equivalent property at financial institutions.

2. The accrued salary or wages of the debtor, by serving notice of levy on the chief disbursing officer of the debtor's employer.

C. The financial institution or the chief disbursing officer of the debtor's employer shall notify the debtor of the levy within five business days of the levy. The debtor may appeal the levy to ASRS.

D. The effect of a levy on salary or wages payable to or received by a debtor is continuous from the date the levy is first made until the liability out of which the levy arose is satisfied or becomes unenforceable. ASRS shall promptly release the levy when the liability out of which the levy arose is satisfied or becomes unenforceable and shall promptly notify the debtor on whom the levy was made that the levy has been released.

E. If a levy has been made or is about to be made, any person having custody or control of any books or records containing evidence or statements relating to the property subject to levy, on request from ASRS, shall exhibit the books or records to ASRS.

F. Except as otherwise provided in subsection D of this section, a levy extends only to property possessed and obligations existing at the time of the levy or within thirty days after the date of the levy. In any case in which ASRS may levy on property, ASRS may seize the cash property and may seize and convert cash equivalent property to cash.

G. For the purposes of this section:

1. "Financial institutions" means state and federally chartered banks, trust companies, federal and state savings and loan associations, federal and state credit unions, consumer lenders, international banking facilities and financial institution holding companies, insurance companies, benefit associations, safe deposit companies, money market mutual funds and similar institutions authorized to do business in this state and any party affiliated with these financial institutions.

2. "Levy" includes the power of distraint and seizure by any means.

38-724. Surrender of property subject to levy; authority to release levy and return property; definitions

A. Any person in possession of, or obligated with respect to, property subject to levy on which a levy has been made, on request of ASRS, shall surrender the property or discharge the obligation to ASRS, except the part of the property that is, at the time of the request, subject to an attachment or execution under any judicial process.

B. A person who fails or refuses to surrender any property subject to levy, on request by ASRS, is liable in person and estate to this state in a sum equal to the value of the property not so surrendered, but not exceeding the amount of debt for the collection of which the levy has been made, with costs and interest on the sum at the interest rate determined by the board from the date of the levy or, in the case of a levy described in section 38-723, subsection E, from the date the person would otherwise have been obligated to pay the amounts to the debtor. Any amount, other than costs, recovered under this subsection shall be credited against the debt for the collection of which the levy was made.

C. A person in possession of or obligated with respect to property subject to levy on which a levy has been made who, on request by ASRS, surrenders the property or discharges the obligation to ASRS is discharged from any obligation or liability to the debtor with respect to the property arising from the surrender or payment.

D. ASRS may release a levy on all or part of property levied on. The release shall not operate to prevent any subsequent levy.

E. If ASRS determines that property has been wrongfully levied on, ASRS shall return the specific property levied on or an amount of money equal to the value of the property levied on.

F. For the purposes of this section:

1. "Levy" includes the power of distraint and seizure by any means.

2. "Person" includes an officer or employee of a corporation, an officer, employee or elected official of this state or its political subdivisions, or any agency or instrumentality of this state or its political subdivisions, or a member or employee of a partnership, who as such officer, employee, elected official or member is under a duty to surrender the property or rights to property or to discharge the obligation.

38-765. Errors; benefit recomputation

If any change or error in the records results in any member or beneficiary receiving from ASRS more or less than the member or beneficiary would have been entitled to receive if the records had been correct, ASRS shall correct the error and as far as practicable shall adjust the payments in a manner so that the actuarial equivalent of the benefit to which the member or beneficiary was correctly entitled is paid. ASRS shall correct any change

or error and shall pay the appropriate monies to a member or beneficiary or shall recover monies from the member or beneficiary if the member or beneficiary is overpaid. ASRS shall recover monies by reducing any benefit otherwise payable by ASRS or the LTD program established by article 2.1 of this chapter to an active, inactive, person with a disability or retired member, survivor, contingent annuitant, beneficiary or alternate payee.

38-768. Minimum retirement benefit

A. Notwithstanding any other provision of this article, a retired member or beneficiary who is entitled to a benefit under this article shall receive at least a minimum monthly benefit that is computed pursuant to subsection B of this section if the retired member or beneficiary is at least seventy-five years of age and if the retired member or beneficiary is any of the following:

1. Retired from ASRS with at least twenty years of credited service.

2. A beneficiary of ASRS who is receiving benefits derived from a retired member who had at least twenty years of credited service.

3. A member with at least twenty years of service who irrevocably revokes the receipt of benefits determined on the basis of membership in the defined contribution program administered by ASRS and who elects to receive benefits under this article.

4. A beneficiary who is receiving benefits derived from a retired member who had at least twenty years of service, who irrevocably revoked the receipt of benefits determined on the basis of membership in the defined contribution program administered by ASRS and who elected to receive benefits under this article.

B. The minimum monthly benefit provided by subsection A of this section:

1. For retired members is six hundred dollars.

2. For beneficiaries is the amount determined by paragraph 1 of this subsection and reduced in accordance with the option chosen by multiplying the amount determined by paragraph 1 of this subsection by the actuarial figure for the option chosen and by the percentage of the option chosen.

C. If the minimum monthly benefit pursuant to subsections A and B of this section is more than the retired member's or beneficiary's current monthly benefit, the retired member or beneficiary is eligible to receive a monthly benefit equal to the minimum benefit. If the retired member's or beneficiary's current monthly benefit is more than the minimum benefit, the retired member's or beneficiary's benefit remains the same.

D. A member who receives a lump sum payment pursuant to section 38-764, subsection D is not eligible for a minimum benefit as provided by this section.

ARIZONA STATE RETIREMENT SYSTEM
Title 2, Chapter 8, Article 9, Compensation

New Article:	Article 9
New Section:	R2-8-901; R2-8-902; R2-8-903; R2-8-904; R2-8-905

GOVERNOR'S REGULATORY REVIEW COUNCIL
M E M O R A N D U M

MEETING DATE: September 6, 2017 **AGENDA ITEM: D-9**

TO: Members of the Governor's Regulatory Review Council ("Council")

FROM: Shama Thathi, Staff Attorney

DATE: August 23, 2017

SUBJECT: **ARIZONA STATE RETIREMENT SYSTEM (R-17-0906)**
Title 2, Chapter 8, Article 9, Compensation

New Article: Article 9

New Section: R2-8-901; R2-8-902; R2-8-903; R2-8-904; R2-8-905

General Comments

Purpose of the Agency and Summary of What the Rulemaking Does

The Arizona State Retirement System (ASRS) provides for retirement planning and benefits for state employees and teachers. The ASRS is directed by the governor-appointed ASRS Board (Board). The Board consists of nine members and is responsible for supervising the administration of the ASRS, including the defined contribution plan, defined benefit plan, long-term disability income plan, and health benefit supplement plan.

This rulemaking seeks to create one new article and five new rules in A.A.C. Title 2, Chapter 8, related to compensation. The new rules clarify how the ASRS defines "compensation" for various members. Overall, the rules will help members understand how different types of compensation are used for certain calculations, while not imposing any additional requirements or burdens on the members.

Proposed Action

The following is a non-exhaustive list of the actions proposed by the ASRS:

- Article 9: The new article relates to compensation structures for members.
- R2-8-901: The new section defines terms that are applicable to Article 9.

- R2-8-902: The new section outlines the different payments that should be included as compensation for members who joined prior to January 1, 1984 and for members who joined after January 1, 1984.
- R2-8-903: The new section establishes the compensation used for different pension calculations.
- R2-8-904: The new section provides clarification as to how a member shall or shall not accrue service credits based on the length of member's service years.
- R2-8-905: The new section outlines the circumstances in which compensation includes pay the member receives from any additional employers.

Exemption or Request and Approval for Exception from the Moratorium

The ASRS received an exception from the Governor's Office on July 11, 2016.

Substantive or Procedural Concerns

None.

1. **Are the rules legal, consistent with legislative intent, and within the agency's statutory authority?**

Yes. The ASRS cites to A.R.S. § 38-714(E)(4) as general authority, under which the Board may "[a]dopt, amend or repeal rules for the administration of the plan." As for specific authority, the ASRS cites to A.R.S. §§ 38-613, 38-711, 38-736, 38-737, 38-739, 38-746, 38-769, 38-797.05, and 41-192.

2. **Are the rules written in a manner that is clear, concise, and understandable to the general public?**

Yes. The rules are clear, concise, and understandable.

3. **Does the agency adequately address the comments on the proposed rules and any supplemental proposals?**

Yes. The ASRS indicates that it received no written comments on the rulemaking and no one attended the oral proceeding on July 18, 2017.

4. **Are the final rules a substantial change, considered as a whole, from the proposed rules and any supplemental proposals?**

No. No substantive changes were made between the proposed rulemaking and the final rulemaking. In addition to minor technical changes made at the request of Council staff, the ASRS made the following non-substantive changes for clarity and conciseness:

- Changed references from R2-8-906 to R2-8-905;

- Amended “employee” to “member” in R2-8-901(2);
- Removed the term “service year” from R2-8-901, as it is defined in R2-8-104; and
- Removed references to statutory subsections in R2-8-902(B)(1), R2-8-905(A)(1), and R2-8-905(C).

5. **Does the preamble disclose a reference to any study relevant to the rules that the agency reviewed and either did or did not rely on in the agency’s evaluation of or justification for the rules?**

   No. The ASRS indicates that it did not review or rely upon any study for the rulemaking.

6. **Are the rules more stringent than corresponding federal law and, if so, is there statutory authority that allows the agency to exceed the requirements of federal law?**

   No. The ASRS indicates that there are no corresponding federal laws.

7. **Do the rules require a permit or license and if so, does the agency use a general permit or is any exception applicable under A.R.S. § 41-1037?**

   No. The rules do not require a permit or license.

8. **Do the rules establish a new fee or contain a fee increase?**

   No. The rules do not establish a new fee or contain a fee increase.

Conclusion

The ASRS requests an effective date of July 1, 2018 for the rules to allow the agency to provide adequate notice to members and employers about which types of compensations are eligible for ASRS purposes. This analyst recommends approval of the rules.

GOVERNOR'S REGULATORY REVIEW COUNCIL
M E M O R A N D U M

MEETING DATE: September 6, 2017 **AGENDA ITEM: D-9**

TO: Members of the Governor's Regulatory Review Council

FROM: GRRC Economic Team

DATE : August 23, 2017

SUBJECT: **ARIZONA STATE RETIREMENT SYSTEM (R-17-0906)**
Title 2, Chapter 8, Article 9, Compensation

New Article: Article 9

New Section: R2-8-901; R2-8-902; R2-8-903; R2-8-904; R2-8-905

The economic analysis team has reviewed the economic, small business, and consumer impact statement (EIS) and makes the following comments. These comments are made to assist the Council in its review and may be used as the Council determines.

In this rulemaking, the Arizona State Retirement System Board (ASRS) is proposing to add an article to Chapter 8. The rules in the proposed Article 9 establish the definitions and calculations for how the ASRS determines pension compensation.

Every year, the ASRS pays approximately $2.8 billion in pension benefits to 131,536 members. Members and employers seem to misunderstand what types of compensation are eligible for ASRS pension purposes. The ASRS receives numerous inquiries regarding which compensation an employer should withhold and remit contribution amounts.

The ASRS believes that clarifying "which types of compensation an employer should be withholding and remitting contribution amounts will ensure that the correct amount of compensation is reported and the correct amount of pension is paid to a member based on the member's compensation that is eligible for ASRS purposes." In turn, this will improve the accuracy of contributions that are remitted.

Key stakeholders include the ASRS, state employers, retired members, beneficiaries, and alternate payees. The ASRS does not anticipate the need to hire full-time employees because of this rulemaking.

1. **Costs and Benefits for:**

a. The implementing agency:

The ASRS states that these rules will impact state agencies in that they are ASRS employers. These employers will need to adjust contributions they remit to ASRS based on how the rules identify compensation for the ASRS.

b. Political subdivisions:

This rulemaking does not provide any benefits or impose any costs on political subdivisions.

c. Businesses:

No businesses are affected by this rulemaking.

d. Small businesses:

No businesses are directly affected by this rulemaking.

e. Consumers directly affected by the rulemaking:

All ASRS retired members, beneficiaries, and employers are affected by the rulemaking. Increased clarity will allow key stakeholders to understand the ASRS's methods for compensation.

2. **Do the probable benefits outweigh the probable costs?**

The ASRS does not mention any significant costs to implementing these rules to clarify compensation definitions and calculations. The ASRS does state that the benefit of increased clarity in its rules will allow stakeholders to ensure accurate compensation. Therefore, the benefits outweigh the costs.

3. **Analysis of methods to reduce the small business impact:**

The ASRS indicates that these changes do not impact businesses, therefore, analysis on reducing potential impact is not mentioned.

4. **The probable effect on state revenues:**

The ASRS states these changes will have no effect on revenue.

5. Analysis of any less intrusive or less costly alternative methods:

The ASRS believes this is the least costly method of providing this benefit.

6. Whether an analysis was submitted to the agency regarding the rule's impact on the competitiveness of businesses in this state as compared to the competitiveness of businesses in other states:

No analysis was submitted that compares the rule's impact of the competitiveness of businesses in this state to the impact on businesses in other states.

7. A description of any data on which a rule is based with an explanation of how the data was obtained and why the data is acceptable data, and the methods used by the agency to evaluate the costs and benefits in the EIS.

No empirical or quantitative data were submitted for use in the EIS.

8. Conclusion:

The submitted economic, small business, and consumer impact statement is generally accurate, and contains the information required for compliance with ARS §§ 41-1035, 41-1052(D)(1-3), and 41-1055. This analyst recommends that the proposed rule amendments be approved.

ARIZONA STATE RETIREMENT SYSTEM

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WWW.AZASRS.GOV

Paul Matson
Director

July 20, 2017

RECEIVED
JUL 25 2017
GRRC

Ms. Nicole A. Ong, Chair
The Governor's Regulatory Review Council
100 North 15th Avenue, Ste. 402
Phoenix, AZ 85007

Re: A.A.C. Title 2. Administration
Chapter 8. State Retirement System Board

Dear Ms. Ong:

The attached final rule package is submitted for review and approval by the Council. The following information is provided for Council's use in reviewing the rule package:

1. Close of record date: The rulemaking record was closed on July 18, 2017 following a period for public comment and an oral proceeding.
2. Relation of the rulemaking to a five-year-review report: This rulemaking does not relate to a Five-year Review Report.
3. New fee or fee increase: This rulemaking does not establish a new fee or increase an existing fee.
4. Immediate effective date: An immediate effective date is not requested.
5. Certification regarding studies: I certify that the Board did not rely on any studies for this rulemaking.
6. Certification that the preparer of the EIS notified the JLBC of the number of new full-time employees necessary to implement and enforce the rule: I certify that the rules in this rulemaking will not require a state agency to employ a new full-time employee. No notification was provided to JLBC.

7. List of documents enclosed:
    a. Cover letter signed by the Board's Assistant Director;
    b. Notice of Final Rulemaking including the preamble, table of contents for the rulemaking, and rule text; and
    c. Economic, Small Business, and Consumer Impact Statement.

Sincerely,

Dave King
Assistant Director

NOTICE OF FINAL RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

PREAMBLE

1. Articles, Parts, and Sections Affected	**Rulemaking Action**
Article 9.	New Article
R2-8-901.	New Section
R2-8-902.	New Section
R2-8-903.	New Section
R2-8-904.	New Section
R2-8-905.	New Section

2. Citations to the agency's statutory rulemaking authority to include both the authorizing statute (general) and the implementing statute (specific):

Authorizing statute: A.R.S. § 38-714(E)(4)

Implementing statutes: A.R.S. §§ 38-613, 38-711, 38-736, 38-737, 38-739, 38-746, 38-769, 38-797.05, 41-192

3. The effective date for the rules:

a. If the agency selected a date earlier than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):

Not applicable.

b. If the agency selected a date later than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):

The agency has chosen to delay the effective date for these rules to January 1, 2018. This will allow the agency to provide adequate notice to member and employers about which types of compensation are eligible for ASRS purposes.

4. Citations to all related notices published in the *Register* as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:

Notice of Rulemaking Docket Opening: 22 A.A.R. 2055, August 5, 2016

Notice of Proposed Rulemaking: 23, A.A.R. 1469, June 2, 2017

5. The agency's contact person who can answer questions about the rulemaking:

Name:	Jessica A.R. Thomas, Rules Writer
Address:	Arizona State Retirement System 3300 N. Central Ave., Ste. 1400 Phoenix, AZ 85012-0250
Telephone:	(602) 240-2039
E-Mail:	JessicaT@azasrs.gov

6. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:

The ASRS needs to adopt approximately five rules to clarify how it defines "compensation" for various members and uses different types of compensation for certain calculations. The rules also need to clarify how the ASRS may use compensation from a separate Employer for certain calculations depending on the date of membership. These rules will clarify which compensation the ASRS will use for contribution accounting and pension calculations. Many members and Employers are confused about what is "compensation" for ASRS purposes. These rules will increase understandability of how the ASRS uses compensation in its calculations, but the rules do not impose any additional requirements or burdens on members.

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

No study was reviewed.

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

Not applicable.

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

There is little to no economic, small business, or consumer impact, other than the minimal cost to the ASRS to prepare the rule package. The rules will have minimal economic impact, if any, because the rulemaking simply clarifies statutory requirements that already exist.

There may be some economic impact to members and Employers with regard to the contributions they are required to submit for eligible compensation. Clarifying which compensation is eligible for ASRS purposes will increase understandability of how contributions must be remitted to the ASRS and how the ASRS shall calculate a pension, thereby reducing the regulatory burden imposed on the public. This clarification will ensure that ASRS members and Employers have notice about how the ASRS administers its retirement program. Thus, the economic impact is minimized.

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

In order to be clear and consistent, the ASRS changed reference from R2-8-906 to R2-8-905. The ASRS also changed "employee" to "member" in R2-8-901(2) in order to be consistent and removed the definition of "service year" as it is referenced by R2-8-104 which applies to all ASRS rules unless otherwise specified. The ASRS also removed references to statutory subsections in R2-8-902(B)(1), R2-8-905(A)(1), and R2-8-905(C). Lastly, the ASRS made minor grammatical and formatting changes.

11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:

The ASRS received no written comments regarding the rulemaking. No one attended the oral proceeding on July 18, 2017.

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

None.

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

The rules do not require a permit.

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

There are no federal laws applicable to these rules.

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

No analysis was submitted.

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

No materials are incorporated by reference.

14. Whether the rule was previously made, amended, or repealed as an emergency rule. If so, cite the notice published in the *Register* as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:

Not applicable.

15. The full text of the rules follows:

TITLE 2. ADMINISTRATION

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

ARTICLE 9. COMPENSATION

Section

Article 9. Compensation

R2-8-901. Definitions

R2-8-902. Compensation for Remitting Contributions

R2-8-903. Compensation for Pension Calculations

R2-8-904. Accrual of Credited Service

R2-8-905. Compensation from an Additional Employer

ARTICLE 9. COMPENSATION

Article 9. Compensation

R2-8-901. Definitions

The following definitions apply to this Article unless otherwise specified:

1. "Base pay" or "regular pay" means the amount of pay at a salary or hourly rate which the Employer agrees to provide to the member in exchange for rendering services to the Employer, including pay the member receives, or was entitled to receive, from the Employer while on a paid leave status.

2. "Services rendered" means the duties which a member performs for an Employer as required by the member's employment with the Employer.

3. "Terminating employment" means to end the employment relationship between a member and an Employer.

R2-8-902. Compensation for Remitting Contributions

A. Pursuant to A.R.S. §§ 38-736, 38-737, and 38-797.05, an Employer shall remit contributions to the ASRS through the Employer's secure ASRS account for any payment the Employer provides to the member that is eligible to be included as compensation under this section.

B. For a member whose membership began prior to January, 1, 1984, compensation includes:

   1. Base pay or regular pay the member receives from one or more Employers regardless of when the member receives the pay, if the member meets the requirements of membership pursuant to A.R.S. § 38-711 and R2-8-905;

   2. Pay the member receives from an Employer as a result of the member terminating employment with that Employer;

   3. Pay the member was entitled to receive based on services rendered, but which is deferred into another retirement or investment account, or which is withheld from the member's pay pursuant to other legal requirements;

   4. Pay the member receives from an Employer at the completion of an employment contract by which the contract amount is paid in full for services rendered;

   5. Unless otherwise indicated by law, pay the member receives from an Employer in excess of the member's base pay and which is intended to

reward the member for the member's performance of services rendered, regardless of when the member receives the pay;

6. Pay the member receives from an Employer in excess of the member's base pay as a result of hours during which the member did not work, but was required to be available to provide services to the Employer if necessary;

7. Pay the member receives from an Employer in excess of the member's base pay as a result of working hours:

   a. During a specific time period;

   b. To perform duties involving physical hardship;

   c. To complete a specific assignment; or

   d. In excess of 40 hours per week.

8. Pay the member receives from an additional Employer pursuant to R2-8-905.

C. Notwithstanding subsection (B), pay the member receives from an Employer in excess of the limitations contained in A.R.S. § 38-746 is not included as compensation.

D. For a member whose membership began on or after January 1, 1984, compensation includes the pay identified in subsection (B) except for pay identified in subsection (B)(2).

R2-8-903. Compensation for Pension Calculations

A. A 60 month pension calculation pursuant to A.R.S. § 38-711(5)(a)(ii), shall be based on the compensation identified in R2-8-902(B).

B. A 36 month pension calculation pursuant to A.R.S. § 38-711(5)(a)(i) or A.R.S. § 38-711(5)(b), shall be based on the compensation identified in R2-8-902(B), except for pay identified in R2-8-902(B)(2).

C. A 60 month pension calculation pursuant to A.R.S. § 38-711(5)(c), shall be based on the compensation identified in R2-8-902(B), except for pay identified in R2-8-902(B)(2).

R2-8-904. Accrual of Credited Service

A. Pursuant to A.R.S. § 38-739(B), a member shall receive a proportionate amount of credited service based on the length of the member's service year.

B. A member shall accrue service credits pursuant to subsection (A) for each month in which the Employer's pay period ends and for which contributions have been remitted to the ASRS, except for pay the member receives from the Employer for services rendered in a prior pay period for which contributions were remitted pursuant to R2-8-902(A).

C. Notwithstanding subsection (B), a member shall not accrue additional service credit for contributions remitted on compensation identified in R2-8-902(B)(7), if the member has previously accrued service credit for the pay period to which the compensation identified in R2-8-902(B)(7) is attributable.

D. Regardless of whether the member meets membership requirements with more than one Employer, a member may not earn more than one month of service credit in a calendar month and not more than one year of service credit during a fiscal year.

R2-8-905. Compensation from An Additional Employer

A. For purposes of remitting contributions pursuant to R2-8-902, compensation includes pay the member receives from an additional Employer if:

1. The member meets membership pursuant to A.R.S. § 38-711 with at least one Employer;

2. The member was employed with the additional Employer and did not meet membership with the additional Employer pursuant to A.R.S. § 38-711 between January 1, 2005 through December 31, 2009;

3. The member resumed or continued employment with the additional Employer and did not meet membership with the additional Employer prior to January 1, 2012; and

4. The member does not leave employment with an Employer or the additional Employer in an unpaid status for more than 30 consecutive days during the member's service year.

B. For purposes of pension calculations pursuant to R2-8-903, compensation includes the pay identified in subsection (A).

C. Notwithstanding any other subsection, for a member whose membership began after December 31, 2009, compensation includes pay the member receives from an additional Employer if the member meets membership pursuant to A.R.S. § 38-711 with the additional Employer.

ECONOMIC, SMALL BUSINESS, AND CONSUMER IMPACT STATEMENT[1]

TITLE 2. ADMINISTRATION

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

1. Identification of the rulemaking:

The ASRS needs to adopt approximately five rules to clarify how it defines "compensation" for various members and uses different types of compensation for certain calculations. The rules also need to clarify how the ASRS may use compensation from a separate Employer for certain calculations depending on the date of membership. These rules will clarify which compensation the ASRS will use for contribution accounting and pension calculations. These rules will increase understandability of how the ASRS uses compensation in its calculations, but the rules do not impose any additional requirements or burdens on members.

a. The conduct and its frequency of occurrence that the rule is designed to change:

Every year, the ASRS pays approximately $2.8 billion in pension benefits to approximately 131,536 members. Pension benefits are calculated using the member's average monthly salary which is determined based on the compensation for which the member's Employer has remitted contributions. However, pensions must be adjusted if an error occurred in the amount of contributions or the amount of compensation that was remitted and/or reported to the ASRS. Members and Employers seem to misunderstand what types of compensation is eligible for ASRS purposes. The ASRS receives numerous inquiries regarding for which compensation an Employer should withhold and remit contribution amounts. Clarifying for which types of compensation an Employer should be withholding and remitting contribution amounts will ensure that the correct amount of compensation is reported and the correct amount of pension is paid to a member based on the member's compensation that is eligible for ASRS purposes. Ultimately, this will increase the accuracy

[1] If adequate data are not reasonably available, the agency shall explain the limitations of the data, the methods used in an attempt to obtain the data, and characterize the probable impacts in qualitative terms. (A.R.S. § 41-1055(C)).

of contributions that are remitted, thereby reducing the need for pension adjustments.

b. The harm resulting from the conduct the rule is designed to change and the likelihood it will continue to occur if the rule is not changed:
As discussed above, members and Employers are confused about which types of compensation are eligible for ASRS purposes. Such confusion leads to the incorrect amount of contributions or pension being calculated, which requires an adjustment upon discovery. Since fiscal year 2015, the ASRS has received approximately 26 appeals relating to eligible compensation disputes and has adjusted approximately 724 pensions. By promulgating these rules, members and Employers will have a better understanding of the various types of compensation that are eligible for ASRS purposes. Increasing understanding of such eligible compensation should reduce the need for adjustments as well as the number of appeals that arise out of members' misconceptions.

c. The estimated change in frequency of the targeted conduct expected from the rule change:
This rulemaking will clarify what types of compensation should be reported to the ASRS, thereby increasing understandability of how members' benefits may be affected and increasing the efficiency of the administration. Clarifying how the ASRS identifies compensation will ensure that the proper amount of contributions are remitted to the ASRS and the ASRS pays the correct amount of pension based on the contributions it has received for a member. As discussed above and below, these rules will increase the clarity and effectiveness of how contributions are remitted, which should result in reducing confusion, as well as any potential administrative delay caused by a misunderstanding of what compensation is eligible for ASRS purposes.

2. A brief summary of the information included in the economic, small business, and consumer impact statement:

There is little to no economic, small business, or consumer impact, other than the minimal cost to the ASRS to prepare the rule package. The rules will have minimal economic impact, if any, because the rulemaking simply clarifies statutory requirements that already exist. There may be some economic impact to members and Employers with regard to the contributions they are required to submit for eligible compensation. Clarifying which compensation is eligible for ASRS purposes will increase understandability of how contributions must be remitted to the ASRS and how the ASRS shall calculate a pension, thereby reducing the regulatory burden imposed on the public. This clarification will ensure that ASRS members and Employers have notice about how the ASRS administers its retirement program. Thus, the economic impact is minimized.

3. The person to contact to submit or request additional data on the information included in the economic, small business, and consumer impact statement:

Name:	Jessica A.R. Thomas, Rules Writer
Address:	Arizona State Retirement System 3300 N. Central Ave., Suite 1400 Phoenix, AZ 85012-0250
Telephone:	(602) 240-2039
E-mail:	JessicaT@azasrs.gov

4. Persons who will be directly affected by, bear the costs of, or directly benefit from the rulemaking:

In general, all members and Employers of the ASRS will be directly affected by, bear the costs of, and directly benefit from this rulemaking. The ASRS incurred the cost of the rulemaking. The ASRS currently has a total membership of approximately 558,136.

Specifically, Employers will be required to remit contributions on a behalf of a member based on the compensation a member receives as identified by these rules. This rulemaking may affect the actual amount that is withheld from an employee's paycheck. These rules will clarify how the ASRS identifies specific types of compensation for which contributions must be remitted. Such clarification will benefit Employers, members, beneficiaries, and alternate payees by increasing public

understanding of what kind of compensation should be used for remitting contributions to the ASRS.

5. Cost-benefit analysis:
    a. Costs and benefits to state agencies directly affected by the rulemaking including the number of new full-time employees at the implementing agency required to implement and enforce the proposed rule:
    This rulemaking will affect state agencies to the extent that they are an ASRS Employer and must adjust the contributions they remit to the ASRS based on how these rules identify compensation for ASRS purposes. However, the ASRS has determined that no new full-time employees will be required to implement and enforce the rules.

    b. Costs and benefits to political subdivisions directly affected by the rulemaking:
    This rulemaking does not provide any benefits or impose any costs on political subdivisions.

    c. Costs and benefits to businesses directly affected by the rulemaking:
    No businesses are directly affected by the rulemaking.

6. Impact on private and public employment:
    The rulemaking will have no impact on private or public employment.

7. Impact on small businesses[2]:
    a. Identification of the small business subject to the rulemaking:
    No businesses, regardless of size, are subject to the rulemaking.

    b. Administrative and other costs required for compliance with the rulemaking:
    Not applicable.

[2] Small business has the meaning specified in A.R.S. § 41-1001(20).

c. Description of methods that may be used to reduce the impact on small businesses:

Not applicable.

8. Cost and benefit to private persons and consumers who are directly affected by the rulemaking:

All ASRS members and Employers are directly affected by the rulemaking. The effect has been previously described above.

9. Probable effects on state revenues:

There will be no effect on state revenues.

10. Less intrusive or less costly alternative methods considered:

The ASRS believes this is the least costly and least intrusive method because it will clarify how the ASRS collects overpayment amounts without imposing additional requirements on the public.

38-613. State employee suggestion program awards; fund

A. The director of the department of administration may adopt rules to provide an award to any state employee for any of the following:

1. An adopted procedure or idea that resulted in eliminating or reducing state expenditures or improving operations in the public interest.

2. The performance of a special act or service in the public interest.

B. The governor shall appoint a five member board that serves at the governor's pleasure for four year staggered terms to establish policy for the operation of the state employee suggestion program, review all suggestions and approve all awards with the concurrence of the head of the agency in which the cost saving is realized. The board shall elect a chairman each year.

C. The award may equal no more than ten per cent of the amount saved as a result of the suggestion.

D. A state employee suggestion program award fund is established consisting of identified measurable dollar savings transferred from appropriated and nonappropriated monies in the budget unit where the cost saving is realized, except that monies may not be transferred from the state general fund. The board shall initiate fund transfers with the concurrence of the director of the department of administration. Except as provided in subsection G of this section, the director of the department of administration shall use monies in the state employee suggestion program award fund for the following purposes only:

1. To make awards pursuant to this section.

2. To purchase recognition materials with a cost of not to exceed fifty dollars for each award.

E. The board shall certify to the director of the department of administration the names of persons granted awards and the amounts of the awards. On certification of the names and the amounts of the awards the director of the department of administration shall draw a warrant on the state treasurer. The state treasurer shall pay the warrant from the state employee suggestion program award fund.

F. An award to a state employee shall not be considered as extra compensation.

G. The director of the department of administration may use up to six per cent of any monies transferred to the state employee suggestion program award fund for the purposes of administering, advertising and promoting the state employee suggestion program.

H. Elected officials, directors, deputy directors, managers and supervisors are not eligible for awards pursuant to this section.

38-711. Definitions

In this article, unless the context otherwise requires:

1. "Active member" means a member as defined in paragraph 23, subdivision (b) of this section who satisfies the eligibility criteria prescribed in section 38-727 and who is currently making member contributions as prescribed in section 38-736.

2. "Actuarial equivalent" means equality in value of the aggregate amounts expected to be received under two different forms of payment, based on mortality and interest rate assumptions approved from time to time by the board.

3. "ASRS" means the Arizona state retirement system established by this article.

4. "Assets" means the resources of ASRS including all cash, investments or securities.

5. "Average monthly compensation" means:

(a) For a member whose membership in ASRS commenced before January 1, 1984 and who left the member's contributions on deposit or reinstated forfeited credited service pursuant to section 38-742 for a period of employment that commenced before January 1, 1984, the higher of either:

(i) The monthly average of compensation that is calculated pursuant to subdivision (b) of this paragraph.

(ii) The monthly average of compensation on which contributions were remitted during a period of sixty consecutive months during which the member receives the highest compensation within the last one hundred twenty months of credited service. Any month for which no contributions are reported to ASRS or that falls within a period of nonpaid or partially paid leave of absence or sabbatical leave shall be excluded from the computation. The sixty consecutive months may entirely precede, may be both before and after or may be completely after any excluded months. If the member was employed for less than sixty consecutive months, the average monthly compensation is based on the total consecutive months worked. Payments for accumulated vacation or annual leave, sick leave, compensatory time or other forms of termination pay that, before August 12, 2005, constitute compensation for members whose membership in ASRS commenced before January 1, 1984, do not cease to be included as compensation if paid in the form of nonelective employer contributions under a 26 United States Code section 403(b) plan if all payments of employer and employee contributions are made at the time of termination. Contributions shall be made to ASRS on these amounts pursuant to sections 38-735, 38-736 and 38-737.

(b) For a member whose membership in ASRS commenced on or after January 1, 1984 but before July 1, 2011, the monthly average of compensation on which contributions were remitted during a period of thirty-six consecutive months during which a member receives the highest compensation within the last one hundred twenty months of credited service. Any month for which no contributions are reported to ASRS or that falls within a period of nonpaid or partially paid leave of absence or sabbatical leave shall be excluded from the computation. The thirty-six consecutive months may entirely precede, may be both before and after or may be completely after any excluded months. If the member was employed for less than thirty-six consecutive months, the average monthly compensation shall be based on the total consecutive months worked.

(c) For a member whose membership in ASRS commenced on or after July 1, 2011, the monthly average of compensation on which contributions were remitted during a period of sixty consecutive months during which a member receives the highest compensation within the last one hundred twenty months of credited service. Any month for which no contributions are reported to ASRS or that falls within a period of nonpaid or partially paid leave of absence or sabbatical leave shall be excluded from the computation. The sixty consecutive months may entirely precede, may be both before and after or may be completely after any excluded months. If the member was employed for less than sixty consecutive months, the average monthly compensation shall be based on the total consecutive months worked.

6. "Board" means the ASRS board established in section 38-713.

7. "Compensation" means the gross amount paid to a member by an employer as salary or wages, including amounts that are subject to deferred compensation or tax shelter agreements, for services rendered to or for an employer, or that would have been paid to the member except for the member's election or a legal requirement that all or part of the gross amount be used for other purposes, but does not include amounts paid in excess of compensation limits established in section 38-746. Compensation includes amounts paid as salary or wages to a member by a second employer if the member meets the requirements prescribed in paragraph 23, subdivision (b) of this section with that second employer. Compensation, as provided in paragraph 5, subdivision (b) or (c) of this section, does not include:

(a) Lump sum payments, on termination of employment, for accumulated vacation or annual leave, sick leave, compensatory time or any other form of termination pay whether the payments are made in one payment or by installments over a period of time.

(b) Damages, costs, attorney fees, interest or other penalties paid pursuant to a court order or a compromise settlement or agreement to satisfy a grievance or claim even though the amount of the payment is based in whole or in part on previous salary or wage levels, except that, if the court order or compromise settlement or agreement directs salary or wages to be paid for a specific period of time, the payment is compensation for that specific period of time. If the amount directed to be paid is less than the actual salary or wages that would have been paid for the period if service had been performed, the contributions for the period shall be based on the amount of compensation that would have been paid if the service had been performed.

(c) Payment, at the member's option, in lieu of fringe benefits that are normally paid for or provided by the employer.

(d) Merit awards pursuant to section 38-613 and performance bonuses paid to assistant attorneys general pursuant to section 41-192.

(e) Amounts that are paid as salary or wages to a member for which employer contributions have not been paid.

8. "Contingent annuitant" means the person named by a member to receive retirement income payable following a member's death after retirement as provided in section 38-760.

9. "Credited service" means, subject to section 38-739, the number of years standing to the member's credit on the books of ASRS during which the member made the required contributions.

10. "Current annual compensation" means the greater of:

(a) Annualized compensation of the typical pay period amount immediately before the date of a request to ASRS to purchase credited service pursuant to section 38-743, 38-744 or 38-745. The typical pay period amount shall be determined by taking the five pay periods immediately before the date of a request, disregarding the highest and lowest compensation amount pay periods and averaging the three remaining pay periods.

(b) Annualized compensation of the partial year, disregarding the first compensation amount pay period, if the member has less than twelve months total compensation on the date of a request to purchase credited service pursuant to section 38-743, 38-744 or 38-745.

(c) The sum of the twelve months of compensation immediately before the date of a request to ASRS to purchase credited service pursuant to section 38-743, 38-744 or 38-745.

(d) The sum of the thirty-six months of compensation immediately before the date of a request to ASRS to purchase credited service pursuant to section 38-743, 38-744 or 38-745 divided by three.

(e) If the member has retired one or more times from ASRS, the average monthly compensation that was used for calculating the member's last pension benefit times twelve.

11. "Early retirement" means retirement before a member's normal retirement date after five years of total credited service and attainment of age fifty.

12. "Effective date" means July 1, 1970, except with respect to employers and members whose contributions to ASRS commence thereafter, the effective date of their membership in ASRS is as specified in the applicable joinder agreement.

13. "Employer" means:

(a) This state.

(b) Participating political subdivisions.

(c) Participating political subdivision entities.

14. "Employer contributions" means all amounts paid into ASRS by an employer on behalf of a member.

15. "Fiscal year" means the period from July 1 of any year to June 30 of the following year.

16. "Inactive member" means a member who previously made contributions to ASRS and who satisfies each of the following:

(a) Has not retired.

(b) Is not eligible for active membership in ASRS.

(c) Is not currently making contributions to ASRS.

(d) Has not withdrawn contributions from ASRS.

17. "Interest" means the assumed actuarial investment earnings rate approved by the board.

18. "Internal revenue code" means the United States internal revenue code of 1986, as amended.

19. "Investment manager" means the persons, companies, banks, insurance company investment funds, mutual fund companies, management or any combinations of those entities that are appointed by ASRS and that have responsibility and authority for investment of the monies of ASRS.

20. "Late retirement" means retirement after normal retirement.

21. "Leave of absence" means any unpaid leave authorized by the employer, including leaves authorized for sickness or disability or to pursue education or training.

22. "Life annuity" means equal monthly installments payable during the member's lifetime after retirement.

23. "Member":

(a) Means any employee of an employer on the effective date.

(b) Means all employees of an employer who are eligible for membership pursuant to section 38-727 and who are engaged to work at least twenty weeks in each fiscal year and at least twenty hours each week.

(c) Means any person receiving a benefit under ASRS.

(d) Means any person who is a former active member of ASRS and who has not withdrawn contributions from ASRS pursuant to section 38-740.

(e) Does not include any employee of an employer who is otherwise eligible pursuant to this article and who begins service in a limited appointment for not more than eighteen months on or after July 1, 1979. If the employment exceeds eighteen months, the employee shall be covered by ASRS as of the beginning of the nineteenth month of employment. In order to be excluded under this subdivision, classifications of employees designated by employers as limited appointments must be approved by the director.

(f) Does not include any leased employee. For the purposes of section 414(n) of the internal revenue code, "leased employee" means an individual who:

(i) Is not otherwise an employee of an employer.

(ii) Pursuant to a leasing agreement between the employer and another person, performs services for the employer on a substantially full-time basis for at least one year.

(iii) Performs services under the primary direction or control of the employer.

24. "Member contributions" means all amounts paid to ASRS by a member.

25. "Normal costs" means the sum of the individual normal costs for all active members for each fiscal year. The normal cost for an individual active member is the cost that is assigned to the fiscal year, through June 29, 2016, using the projected unit credit method and, beginning June 30, 2016, using the actuarial cost method determined by the board pursuant to section 38-714.

26. "Normal retirement age" means the age at which a member reaches the member's normal retirement date.

27. "Normal retirement date" means the earliest of the following:

(a) For a member whose membership commenced before July 1, 2011:

(i) A member's sixty-fifth birthday.

(ii) A member's sixty-second birthday and completion of at least ten years of credited service.

(iii) The first day that the sum of a member's age and years of total credited service equals eighty.

(b) For a member whose membership commenced on or after July 1, 2011:

(i) A member's sixty-fifth birthday.

(ii) A member's sixty-second birthday and completion of at least ten years of credited service.

(iii) A member's sixtieth birthday and completion of at least twenty-five years of credited service.

(iv) A member's fifty-fifth birthday and completion of at least thirty years of credited service.

28. "Political subdivision" means any political subdivision of this state and includes a political subdivision entity.

29. "Political subdivision entity" means an entity:

(a) That is located in this state.

(b) That is created in whole or in part by political subdivisions, including instrumentalities of political subdivisions.

(c) Where a majority of the membership of the entity is composed of political subdivisions.

(d) Whose primary purpose is the performance of a government related service.

30. "Retired member" means a member who is receiving retirement benefits pursuant to this article.

31. "Service year" means fiscal year, except that:

(a) If the normal work year required of a member is less than the full fiscal year but is for a period of at least nine months, the service year is the normal work year.

(b) For a salaried member employed on a contract basis under one contract, or two or more consecutive contracts, for a total period of at least nine months, the service year is the total period of the contract or consecutive contracts.

(c) In determining average monthly compensation pursuant to paragraph 5 of this section, the service year is considered to be twelve months of compensation.

32. "State" means this state, including any department, office, board, commission, agency, institution or other instrumentality of this state.

33. "Vested" means that a member is eligible to receive a future retirement benefit.

38-736. Member contributions

A. Member contributions are required as a condition of employment and shall be made by payroll deductions. Member contributions shall begin simultaneously with membership in ASRS. Beginning July 1, 2011, member contributions are a percentage of a member's compensation equal to the employer contribution required pursuant to section 38-737. Amounts so deducted by employers shall be deposited in the ASRS depository.

B. The employer shall pay the member contributions required of members on account of compensation earned. The paid contributions shall be treated as employer contributions for the purpose of determining tax treatment under the internal revenue code. The effective date of the employer payment shall not be before the date ASRS has received notification from the United States internal revenue service that pursuant to section 414(h) of the internal revenue code the member contributions paid will not be included in gross income for income tax purposes until the paid contributions are distributed by refund or retirement benefit payments. The employer shall pay the member contributions from monies that are established and available in the retirement deduction account and that would otherwise have been designated as member contributions and paid to ASRS. Member contributions paid pursuant to this subsection shall be treated for all other purposes, in the same manner and to the same extent, as member contributions made before the approval of the United States internal revenue service pursuant to this section.

38-737. Employer contributions

A. Employer contributions shall be a percentage of compensation of all employees of the employers, excluding the compensation of those employees who are members of the defined contribution program administered by ASRS, as determined by the ASRS actuary pursuant to this section for June 30 of the fiscal year immediately preceding the preceding fiscal year, except that beginning with fiscal year 2001-2002 the contribution rate shall not be less than two percent of compensation of all employees of the employers. Beginning July 1, 2011 through June 29, 2016, the total employer contribution shall be determined on the projected unit credit method. Beginning June 30, 2016, the board shall determine the actuarial cost method pursuant to section 38-714. The total employer contributions shall be equal to the employer normal cost plus the amount required to amortize the past service funding requirement over a period that is determined by the board and consistent with generally accepted actuarial standards. In determining the past service funding period, the board shall seek to improve the funded status whenever the ASRS trust fund is less than one hundred percent funded.

B. All contributions made by the employer and allocated to the fund established by section 38-712 are irrevocable and shall be used as benefits under this article or to pay expenses of ASRS.

C. The required employer contributions shall be determined on an annual basis by an actuary who is selected by the board and who is a fellow of the society of actuaries. ASRS shall provide by December 15 of each fiscal year to the governor, the speaker of the house of representatives and the president of the senate the contribution rate for the ensuing fiscal year and the unfunded actuarial accrued liability, the funded status based on the actuarial value of assets and market value of assets and the annualized rate of return and the ten-year rate of return as of June 30 of the prior fiscal year.

38-739. Credited service

A. A member shall not earn more than one year of credited service in any fiscal year.

B. A member shall earn proportionate credited service for each month for which the member performs service and is compensated equal to the ratio that the month bears to the number of months in the member's service year.

C. If a member is compensated for less than a full service year, the member shall earn credited service equal to the ratio that the number of months actually compensated bears to the number of months in the full service year.

D. If a member holds two or more concurrent contracts in any fiscal year, credited service shall be determined on the basis of the terms of the contract with the longest term.

E. Members on sabbatical leave for which they are paid on a full or partial basis shall make appropriate contributions while on sabbatical leave and are considered to be employed full time.

F. The following years of service are excluded from credited service under this article:

1. Years of prior service. For the purposes of this paragraph, "prior service" has the same meaning prescribed in section 38-772.

2. Years in which the member made contributions to the defined contribution program administered by ASRS or the Arizona teachers' retirement system before membership in the defined contribution program administered by ASRS and for which those contributions were subsequently withdrawn and paid to the member.

38-746. Compensation limitation; adjustments

A. Except as provided in subsection E, beginning on July 1, 2002, the annual compensation of each employee taken into account under ASRS for any fiscal year or for any other specified twelve consecutive month period shall not exceed two hundred thousand dollars. In determining benefit accruals under ASRS for fiscal years beginning after December 31, 2001 and except as provided for in subsection E, the annual compensation limit under this subsection for fiscal years beginning before January 1, 2002 is two hundred thousand dollars.

B. If compensation under ASRS is determined on a period of time that contains fewer than twelve calendar months, the compensation limit for that period of time is equal to the dollar limit for the calendar year during which the period of time begins, multiplied by the fraction in which the numerator is the number of full months in that period of time and the denominator is twelve.

C. For fiscal years beginning before July 1, 1997, the annual compensation limit prescribed in this section also applies to the combined compensation of a member who is a member of the group of ten highly compensated employees, as defined in section 414(q) of the internal revenue code, and who is paid the highest compensation during the fiscal year and any family member of the member who is either the member's spouse or the member's lineal descendant and who has not attained the age of nineteen before the close of the fiscal year. If the maximum compensation is adjusted pursuant to subsection D, the adjusted limitation shall be prorated among the affected members' compensation determined pursuant to this section before application of the adjusted limitation to the other provisions of this article.

D. The board shall adjust the maximum compensation under subsection A at the same time and in the same manner as adjusted by the United States secretary of the treasury under section 401(a)(17)(B) of the internal revenue code. The adjustment under this subsection for a calendar year applies to annual compensation for the fiscal year of ASRS that begins with or within the calendar year.

E. The dollar limitation prescribed in subsection A does not apply to an eligible member to the extent that the annual compensation of an eligible member taken into account by ASRS for any fiscal year or for any other specified twelve consecutive month period would be reduced below two hundred thirty-five thousand eight hundred forty dollars. This was the amount of compensation taken into account by ASRS as of July 1, 1993.

The board shall adjust this amount as of the effective date of the increase prescribed by the United States secretary of the treasury. For the purposes of this subsection, "eligible member" means a person who first became a member of ASRS before July 1, 1996.

38-769. Maximum retirement benefits; termination; definitions

A. Notwithstanding any other provision of this article, except as provided in subsection C of this section, the employer provided portion of a member's annual benefit payable in the form of a straight life annuity, at any time within a limitation year, shall not exceed one hundred sixty thousand dollars or a larger amount that is effective as of January 1 of each calendar year, is prescribed by the board and is due to any cost of living adjustment announced by the United States secretary of the treasury pursuant to section 415(d) of the internal revenue code. The board shall increase the amount pursuant to this subsection as of the effective date of the increase as prescribed by the United States secretary of the treasury. Benefit increases provided in this section resulting from the increase in the limitations of section 415(b) of the internal revenue code as amended by the economic growth and tax relief reconciliation act of 2001 shall be provided to all current and former members who have benefits that are limited by section 415(b) of the internal revenue code and who have an accrued benefit under ASRS immediately before July 1, 2001, other than an accrued benefit resulting from a benefit increase solely as a result of the increases provided by this section resulting from the increase in the limitations of section 415(b) of the internal revenue code as amended by the economic growth and tax relief reconciliation act of 2001.

B. Notwithstanding the limitations of subsection A of this section, the benefits payable to a member are deemed not to exceed the limitations determined under subsection A of this section if the retirement benefits payable to the member under this article do not exceed ten thousand dollars for the limitation year and if an employer has not at any time maintained a defined contribution plan in which the member has participated.

C. The limitations determined under subsection A of this section are subject to the following adjustments:

1. If a member has less than ten years of membership in ASRS, the maximum dollar limitation determined under subsection A of this section shall be multiplied by a fraction, the numerator of which is the number of years, or partial years, of membership in ASRS and the denominator of which is ten. The reduction provided in this paragraph also applies to the ten thousand dollar floor limitation provided in subsection B of this section, except that the reduction applies to years of service with an employer rather than to years of membership in ASRS. The reduction in this paragraph does not reduce the limitations determined under subsection A of this section to an amount less than one-tenth of the limitations as determined without regard to this paragraph.

2. If the member's benefit under ASRS commences before the member reaches sixty-two years of age, the benefit will be limited to:

(a) If the annuity starting date is in a limitation year beginning before July 1, 2007, the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the dollar limitation under section 415(b)(1)(A) of the internal revenue code as adjusted in subsection A of this section, with actuarial equivalence computed using whichever of the following produces the smaller annual amount:

(i) The interest rate and mortality table or other tabular factor specified by the board for determining actuarial equivalence for early retirement purposes.

(ii) A five per cent interest rate assumption and the applicable mortality table.

(b) If the annuity starting date is in a limitation year beginning on or after July 1, 2007 and ASRS does not have an immediately commencing straight life annuity payable at both age sixty-two and the age of benefit commencement, the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the dollar limitation under section 415(b)(1)(A) of the internal revenue code as adjusted in subsection A of this section, with actuarial equivalence computed using a five per cent interest rate assumption and the applicable mortality table and expressing the member's age based on completed calendar months as of the annuity start date.

(c) If the annuity starting date is in a limitation year beginning on or after July 1, 2007 and ASRS has an immediately commencing straight life annuity payable at both age sixty-two and the age of benefit commencement, the lesser of:

(i) The adjusted dollar limitation determined in accordance with subdivision (b) of this paragraph, determined without applying the limitations of section 415 of the internal revenue code.

(ii) The product of the dollar limitation under section 415(b)(1)(A) of the internal revenue code as adjusted in subsection A of this section, multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under ASRS at the member's annuity starting date to the annual amount of the immediately commencing straight life annuity under ASRS at age sixty-two, determined without applying the limitations of section 415 of the internal revenue code.

3. If the retirement benefit under ASRS commences after the member reaches sixty-five years of age, the dollar limitation under section 415(b)(1)(A) of the internal revenue code as adjusted in subsection A of this section on that benefit is increased to:

(a) If the annuity starting date is in a limitation year beginning before July 1, 2007, the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the dollar limitation under section 415(b)(1)(A) as adjusted under section 415(d) of the internal revenue code, with actuarial equivalence computed using whichever of the following produces the smaller annual amount:

(i) The interest rate and mortality table or other tabular factor specified by the board for determining actuarial equivalence for delayed retirement purposes.

(ii) A five per cent interest rate assumption and the applicable mortality table.

(b) If the annuity starting date is in a limitation year beginning on or after July 1, 2007 and ASRS does not have an immediately commencing straight life annuity payable at both age sixty-five and the age of benefit commencement, the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the dollar limitation under section 415(b)(1)(A) of the internal revenue code as adjusted in subsection A of this section, with actuarial equivalence computed using a five per cent interest rate assumption and the applicable mortality table and expressing the member's age based on completed calendar months as of the annuity starting date.

(c) If the annuity starting date is in a limitation year beginning on or after July 1, 2007 and ASRS has an immediately commencing straight life annuity payable at both age sixty-five and the age of benefit commencement, the lesser of:

(i) The adjusted dollar limitation determined in accordance with subdivision (b) of this paragraph, determined without applying the limitations of section 415 of the internal revenue code.

(ii) The product of the dollar limitation under section 415(b)(1)(A) of the internal revenue code as adjusted in subsection A of this section, multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under ASRS at the member's annuity starting date to the annual amount of the immediately commencing straight life annuity under ASRS at age sixty-five, determined without applying the limitations of section 415 of the internal revenue code.

4. For purposes of applying the limits of section 415 of the internal revenue code, a retirement benefit that is payable in any form other than a straight life annuity and that is not subject to section 417(e)(3) of the internal revenue code must be adjusted to an actuarially equivalent straight life annuity that equals either:

(a) For limitation years beginning on or after July 1, 2007, the greater of the annual amount of the straight life annuity, if any, payable under ASRS at the same annuity starting date, and the annual amount of a straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit computed using an interest rate of five per cent and the applicable mortality table under section 417(e)(3) of the internal revenue code.

(b) For limitation years beginning before July 1, 2007, the annual amount of a straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit computed using whichever of the following produces the greater annual amount:

(i) The interest rate and mortality table or other tabular factor specified by the board for adjusting benefits in the same form.

(ii) A five per cent interest rate assumption and the applicable mortality table.

5. For the purpose of applying the limits of section 415 of the internal revenue code, a retirement benefit that is payable in any form other than a straight life annuity to which section 417(e)(3) of the internal revenue code would apply if that section of the internal revenue code were applicable to ASRS must be adjusted to an actuarially equivalent straight life annuity that equals:

(a) If the annuity starting date is in a plan year beginning on or after July 1, 2006, the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, using whichever of the following produces the greater annual amount:

(i) The interest rate and mortality table or other tabular factor specified by the board for adjusting benefits in the same form.

(ii) A five and one-half per cent interest rate assumption and the applicable mortality table.

(iii) The applicable interest rate under section 417(e)(3) of the internal revenue code and the applicable mortality table, divided by 1.05. The stability period during which the applicable interest rate remains constant is the plan year. The look-back month that is used to determine the applicable interest rate during the stability period is the third full calendar month preceding the first day of the stability period. For the purposes of this item, "applicable interest rate" means the annual interest rate on thirty-year treasury securities as specified by the commissioner of the United States internal revenue service for a month in revenue rulings or notices or another guidance published by the commissioner in the internal revenue bulletin.

(b) If the annuity starting date is in a plan year beginning in July 1, 2004 or July 1, 2005, the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit payable, using whichever of the following produces the greater annual amount:

(i) The interest rate and mortality table or other tabular factor specified by the board for adjusting benefits in the same form.

(ii) A five and one-half per cent interest assumption and the applicable mortality table.

(c) If the annuity starting date is on or after July 1, 2004 and before December 31, 2004, and ASRS applies the transition rule in section 101(d)(3) of the pension funding equity act of 2005 in lieu of the rule in subdivision (b) of this paragraph, the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, determined in accordance with internal revenue service notice 2004-78.

6. When calculating the limitations of paragraph 4 or 5 of this subsection, the portion of any joint or survivor annuity that constitutes a qualified joint and survivor annuity as defined in section 417 of the internal revenue code shall be disregarded.

D. Subsection C, paragraphs 1 and 2 of this section do not apply to income received from ASRS as a pension, annuity or similar allowance as a result of the recipient developing a disability by personal injury or sickness or to amounts received from ASRS by beneficiaries, survivors or the estate of a member as a result of the death of the member.

E. Notwithstanding any other provision of this section, the annual benefit payable under this article may be reduced to the extent necessary, as determined by the board, to prevent disqualification of ASRS under section 415 of the internal revenue code that imposes additional limitations on the annual benefits payable to members who also may be participating in another tax qualified pension or savings plan of this state. An employer shall not provide employee retirement or deferred benefits if the benefits authorized by this section and as required by federal law result in the failure of ASRS to meet federal qualification standards as applied to public pension plans. The board shall advise affected members of any additional information concerning their annual benefits required by this subsection. All benefits payable pursuant to this subsection shall comply with the limitations of benefits contained in section 415 of the internal revenue code and the final treasury regulations issued under that section. Notwithstanding any provision of this article to the contrary, if the annual benefits within the meaning of section 415 of the internal revenue code for any member exceed the limits of section 415(b) of the internal revenue code and this section, ASRS may only correct the excess pursuant to the employee plans compliance resolution system prescribed in internal revenue service revenue procedure 2008-50 or any future guidance by the internal revenue service, including the preamble of the final treasury regulations issued under section 415 of the internal revenue code.

F. If the maximum amount of benefit allowed under section 415 of the internal revenue code is increased after the commencement date of a member's benefit due to any cost of living adjustment announced by the United States secretary of the treasury pursuant to the provisions of section 415(d) of the internal revenue code, the amount of the monthly benefit payable under ASRS to a member whose benefit is restricted due to the provisions of section 415(d) of the internal revenue code shall be increased by the board as of the date prescribed by the United States secretary of the treasury on which the increase shall become effective. The increase shall reflect the increase in the amount of retirement income that may be payable under this article as a result of the cost of living adjustment.

G. In determining the adjustments to the defined benefit dollar limitation authorized by subsection A of this section, the board shall prescribe a larger defined benefit dollar limitation if prescribed by the United States secretary of the treasury pursuant to section 415(d) of the internal revenue code. An adjustment to the defined benefit dollar limitation prescribed in subsection A of this section is not effective before the first calendar year for which the United States secretary of the treasury publishes the adjustment. After it is prescribed by the

board, the new defined benefit dollar limitation applies to the limitation year ending with or within the calendar year for which the secretary of the treasury makes the adjustment.

H. For the purposes of the limitations prescribed by this section, all member and employer contributions made to ASRS to provide a member benefits pursuant to section 38-771 or 38-771.01 and all member contributions that are not treated as picked up by the employer under section 414(h)(2) of the internal revenue code shall be treated as made to a separate defined contribution plan.

I. On termination or partial termination of ASRS, the accrued benefit of each member is, as of the date of termination or partial termination, fully vested and nonforfeitable to the extent then funded.

J. If ASRS terminates, the benefit of any highly compensated employee as defined in section 414(q) of the internal revenue code and any highly compensated former employee is limited to a benefit that is nondiscriminatory under section 401(a)(4) of the internal revenue code and as follows:

1. Benefits distributed to any of the twenty-five active and former highly compensated employees with the greatest compensation in the current or any prior fiscal year are restricted so that the annual payments are no greater than an amount equal to the payment that would be made on behalf of the member under a straight life annuity that is the actuarial equivalent of the sum of the member's accrued benefit, the member's other benefits under ASRS, excluding a social security supplement as defined in 26 Code of Federal Regulations section 1.411(a)-7(C)(4)(ii), and the amount the member is entitled to receive under a social security supplement.

2. Paragraph 1 of this subsection does not apply if either:

(a) After payment of the benefit to a member described in paragraph 1 of this subsection, the value of ASRS assets equals or exceeds one hundred ten per cent of the value of the current liabilities, as defined in section 412(l)(7) of the internal revenue code, of ASRS.

(b) The value of the benefits for a member described in paragraph 1 of this subsection is less than one per cent of the value of the current liabilities, as defined in section 412(l)(7) of the internal revenue code, of ASRS before distribution.

(c) The value of the benefits payable by ASRS to a member described in paragraph 1 of this subsection does not exceed three thousand five hundred dollars.

K. For the purposes of subsection J of this section, "benefit" includes loans in excess of the amount prescribed in section 72(p)(2)(A) of the internal revenue code, any periodic income, any withdrawal values payable to a living member and any death benefits not provided for by insurance on the member's life.

L. On retirement of a member who was a retired member, who resumed active membership and who subsequently retires, the limitations of this section in effect on the member's subsequent retirement apply to the member's retirement benefit payable as recomputed pursuant to section 38-766. In addition, the sum of the present value of the member's recomputed retirement benefits plus the present value of the benefits the member received during the member's prior retirement shall not exceed the present value of the limitations in effect on the member's subsequent retirement. The limitations prescribed in this subsection shall not reduce a member's retirement benefit below the retirement benefit the member was receiving before the member resumed active membership. For the purposes of determining present value under this subsection, the board shall use the actuarial equivalent assumptions provided in section 38-711, paragraph 2.

M. For the purposes of this section:

1. The following adjustments shall be made to the definition of compensation prescribed in subsection O of this section:

(a) Compensation shall be adjusted for the types of compensation that are prescribed in this paragraph and that are paid after a member's severance from employment with an employer. Amounts described in subdivisions (b), (c) and (d) of this paragraph may be included only as compensation to the extent the amounts are paid by the later of two and one-half months after severance from employment or by the end of the limitation year that includes the date of the severance from employment. Any other payment of compensation paid after severance of employment that is not described in the types of compensation prescribed in this paragraph is not considered compensation for purposes of this section, even if payment is made within the time period prescribed in this subdivision.

(b) Compensation shall include regular pay after severance of employment if the payment is regular compensation for services performed during the member's regular working hours or compensation for services performed outside the member's regular working hours, such as overtime or shift differential, commission, bonus or other similar payments, and the payment would have been paid to the member before a severance from employment if the member had continued in employment with the employer.

(c) Leave cash-outs shall be included in compensation if those amounts would have been included in compensation if they were paid before the member's severance from employment and the amounts are payment for unused accrued bona fide sick, vacation or other leave, but only if the member would have been able to use the leave if employment had continued.

(d) Deferred compensation shall be included in compensation if the compensation would have been included in compensation if it had been paid before the member's severance from employment and the compensation is received pursuant to a nonqualified unfunded deferred compensation plan, but only if the payment would have been paid at the same time if the member had continued in employment with the employer and only to the extent that the payment is includable in the member's gross income.

(e) Compensation does include payments to an individual who does not currently perform services for an employer by reason of qualified military service as defined in section 414(u)(5) of the internal revenue code to the extent those payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the employer rather than entering qualified military service.

(f) Compensation does not include compensation paid to a member who is a person with a permanent and total disability as defined in section 22(e)(3) of the internal revenue code.

(g) Compensation shall include amounts that are includable in the gross income of a member as required by section 409A or section 457(f)(1)(A) of the internal revenue code or because the amounts are constructively received by the member.

2. Compensation for a limitation year shall not include amounts earned but not paid during the limitation year solely because of the timing of pay periods and pay dates.

3. Payments awarded by an administrative agency or court or pursuant to a bona fide agreement by an employer to compensate a member for lost wages are compensation for the limitation year to which the back pay relates, but only to the extent the payments represent wages and compensation that would otherwise be included in compensation under this section.

N. The definition of limitation year prescribed in subsection O of this section may only be changed by an amendment to subsection O, except that if ASRS is terminated effective as of a date other than the last day of

the limitation year, the termination shall be treated as if this section has been amended to change the definition of limitation year.

O. For the purposes of this section:

1. Annual additions shall be determined as provided in section 38-747, subsection O.

2. "Annual benefit" means a benefit, including any portion of a member's retirement benefit payable to an alternate payee under a qualified domestic relations order that satisfies the requirements prescribed in section 414(p)(1)(A)(i) of the internal revenue code and section 38-773, payable annually in the form of a straight life annuity, disregarding the portion of a joint and survivor annuity that constitutes a qualified joint and survivor annuity as defined in section 417 of the internal revenue code, with no ancillary or incidental benefits or rollover contributions and excluding any portion of the benefit derived from member contributions or other contributions that are treated as a separate defined contribution plan under section 415 of the internal revenue code but including any of those contributions that are picked up by the employer under section 414(h) of the internal revenue code, or that otherwise are not treated as a separate defined contribution plan. If the benefit is payable in another form, the determination as to whether the limitation described in subsection A of this section has been satisfied shall be made by the board by adjusting the benefit so that it is actuarially equivalent to the annual benefit described in this paragraph in accordance with the regulations promulgated by the United States secretary of the treasury. In addition, for determining the annual benefit attributable to member contributions, the factors described in section 411(c)(2)(B) of the internal revenue code and the regulations promulgated under the internal revenue code shall be used by the board regardless of whether section 411 of the internal revenue code applies to ASRS. The factors described in section 411(c)(2)(B) of the internal revenue code shall be those factors described under section 417(e)(3) of the internal revenue code and determined on the basis of the 417(e) mortality table and an interest rate as prescribed in subsection C, paragraph 5 of this section.

3. "Applicable mortality table" means the mortality table described in internal revenue service revenue ruling 2001-62.

4. "Compensation" means the member's earned income, wages, salaries, fees for professional service and other amounts received for personal services actually rendered in the course of employment with the employer and includes amounts described in sections 104(a)(3) and 105(a) of the internal revenue code, but only to the extent that these amounts are includable in the gross income of the member. Compensation also includes any elective deferral as defined in section 402(g)(3) of the internal revenue code and any amount that is contributed or deferred by an employer at the election of a member and that is not includable in the gross income of the member by reason of section 125, 132(f)(4) or 457 of the internal revenue code. Compensation does not mean:

(a) Employer contributions to a plan of deferred compensation to the extent the contributions are not included in the gross income of the employee for the taxable year in which contributed and any distributions from a plan of deferred compensation, regardless of whether the amounts are includable in gross income of the employee when distributed, except that any amount received by a member pursuant to an unfunded nonqualified plan may be considered as compensation for the purposes of this section in the year the amounts are includable in the gross income of the member under the internal revenue code.

(b) Other amounts that receive special tax benefits, such as premiums for group term life insurance, but only to the extent that the premiums are not includable in the gross income of the employee, qualified transportation fringe benefits as defined in section 132 of the internal revenue code and, effective for plan years beginning from and after December 31, 1987, any amounts under section 125 of the internal revenue code that are not available to a member in cash in lieu of group health coverage because the member is unable to certify that the member has other health coverage.

5. "Defined benefit dollar limitation" means the dollar limitation determined under subsection A of this section.

6. "Defined benefit plan" has the same meaning prescribed in section 414(j) of the internal revenue code.

7. "Defined contribution plan" has the same meaning prescribed in section 414(i) of the internal revenue code.

8. "Limitation year" and "years of service" mean the fiscal year.

38-797.05. Employer and member contributions

A. Beginning July 1, 2011, employers shall contribute the percentage of the compensation of all of the members under their employment so that the total employer contributions equals the amount that the board determines is necessary to pay one-half of all benefits under and costs of administering the LTD program.

B. Beginning July 1, 2011, a member shall contribute a percentage of the member's compensation equal to the employer contribution for the member required pursuant to subsection A of this section.

C. The employer shall pay the member contributions required of members on account of compensation earned. All employer and member contributions shall be paid to the board. The board shall allocate the contributions to the LTD trust fund and shall place the contributions in the LTD program's depository.

D. Each employer shall certify on each payroll the amount to be contributed to the LTD program and shall remit that amount to the board. The contributions are irrevocable.

E. Payments due pursuant to this article by employers become delinquent after the due date prescribed in the board's rules and thereafter shall be increased by interest from and after that date until payment is received by the board. The board shall charge interest on the delinquent payments at an annual rate equal to the interest rate assumption approved by the board for actuarial equivalency pursuant to article 2 of this chapter. Delinquent payments due under this subsection, together with interest charges as provided in this subsection, may be recovered by an action in a court of competent jurisdiction against an employer liable for payments or, at the request of the director, may be deducted from any monies, including excise revenue taxes, payable to the employer by any department or agency of this state.

F. If more than the correct amount of contributions required is paid by an employer, proper adjustment shall be made in connection with subsequent payments. The board shall return excess contributions to the employer if the employer requests return of the contributions within one year after the date of overpayment.

G. Member contributions are not refundable and are not included in the calculation of survivor benefits pursuant to section 38-762.

41-192. Powers and duties of attorney general; restrictions on state agencies as to legal counsel; exceptions; compromise and settlement monies

A. The attorney general shall have charge of and direct the department of law and shall serve as chief legal officer of the state. The attorney general shall:

1. Be the legal advisor of the departments of this state and render such legal services as the departments require.

2. Establish administrative and operational policies and procedures within his department.

3. Approve long-range plans for developing departmental programs therein, and coordinate the legal services required by other departments of this state or other state agencies.

4. Represent school districts and governing boards of school districts in any lawsuit involving a conflict of interest with other county offices.

5. Represent political subdivisions, school districts and municipalities in suits to enforce state or federal statutes pertaining to antitrust, restraint of trade or price-fixing activities or conspiracies, if the attorney general notifies in writing the political subdivisions, school districts and municipalities of the attorney general's intention to bring any such action on its behalf. At any time within thirty days after the notification, the political subdivisions, school districts and municipalities, by formal resolution of its governing body, may withdraw the authority of the attorney general to bring the intended action on its behalf.

6. In any action brought by the attorney general pursuant to state or federal statutes pertaining to antitrust, restraint of trade, or price-fixing activities or conspiracies for the recovery of damages by this state or any of its political subdivisions, school districts or municipalities, in addition to the attorney general's other powers and authority, the attorney general on behalf of this state may enter into contracts relating to the investigation and prosecution of such action with any other party plaintiff who has brought a similar action for the recovery of damages and with whom the attorney general finds it advantageous to act jointly or to share common expenses or to cooperate in any manner relative to such action. In any such action, notwithstanding any other laws to the contrary, the attorney general may undertake, among other things, to render legal services as special counsel or to obtain the legal services of special counsel from any department or agency of the United States, of this state or any other state or any department or agency thereof or any county, city, public corporation or public district in this state or in any other state that has brought or intends to bring a similar action for the recovery of damages or their duly authorized legal representatives in such action.

7. Organize the civil rights division within the department of law and administer such division pursuant to the powers and duties provided in chapter 9 of this title.

8. Compile, publish and distribute to all state agencies, departments, boards, commissions and councils, and to other persons and government entities on request, at least every ten years, the Arizona agency handbook that sets forth and explains the major state laws that govern state agencies, including information on the laws relating to bribery, conflicts of interest, contracting with the government, disclosure of public information, discrimination, nepotism, financial disclosure, gifts and extra compensation, incompatible employment, political activity by employees, public access and misuse of public resources for personal gain. A supplement to the handbook reflecting revisions to the information contained in the handbook shall be compiled and distributed by the attorney general as deemed necessary.

B. Except as otherwise provided by law, the attorney general may:

1. Organize the department into such bureaus, subdivisions or units as he deems most efficient and economical, and consolidate or abolish them.

2. Adopt rules for the orderly conduct of the business of the department.

3. Subject to chapter 4, article 4 of this title, employ and assign assistant attorneys general and other employees necessary to perform the functions of the department.

4. Compromise or settle any action or claim by or against this state or any department, board or agency of this state. If the compromise or settlement involves a particular department, board or agency of this state, the compromise or settlement shall be first approved by the department, board or agency. If no department or agency is named or otherwise materially involved, the approval of the governor shall be first obtained.

5. Charge reasonable fees for distributing official publications, including attorney general legal opinions and the Arizona agency handbook. The fees received shall be transmitted to the state treasurer for deposit in the state general fund.

C. The powers and duties of a bureau, subdivision or unit shall be limited to those assigned by law to the department.

D. Notwithstanding any law to the contrary, except as provided in subsections E and F of this section, no state agency other than the attorney general shall employ legal counsel or make an expenditure or incur an indebtedness for legal services, but the following are exempt from this section:

1. The director of water resources.

2. The residential utility consumer office.

3. The industrial commission.

4. The Arizona board of regents.

5. The auditor general.

6. The corporation commissioners and the corporation commission other than the securities division.

7. The office of the governor.

8. The constitutional defense council.

9. The office of the state treasurer.

10. The Arizona commerce authority.

E. If the attorney general determines that he is disqualified from providing judicial or quasi-judicial legal representation or legal services on behalf of any state agency in relation to any matter, the attorney general shall give written notification to the state agency affected. If the agency has received written notification from the attorney general that the attorney general is disqualified from providing judicial or quasi-judicial legal representation or legal services in relation to any particular matter, the state agency is authorized to make expenditures and incur indebtedness to employ attorneys to provide the representation or services.

F. If the attorney general and the director of the department of agriculture cannot agree on the final disposition of a pesticide complaint under section 3-368, if the attorney general and the director determine that a conflict of interest exists as to any matter or if the attorney general and the director determine that the attorney general does not have the expertise or attorneys available to handle a matter, the director is authorized to make expenditures and incur indebtedness to employ attorneys to provide representation or services to the department with regard to that matter.

G. Any department or agency of this state authorized by law to maintain a legal division or incur expenses for legal services from funds derived from sources other than the general revenue of the state, or from any special or trust fund, shall pay from such source of revenue or special or trust fund into the general fund of the state, to the extent such funds are available and upon a reimbursable basis for warrants drawn, the amount actually expended by the department of law within legislative appropriations for such legal division or legal services.

H. Appropriations made pursuant to subsection G of this section shall not be subject to lapsing provisions otherwise provided by law. Services for departments or agencies to which this subsection and subsection F of this section are applicable shall be performed by special or regular assistants to the attorney general.

I. Notwithstanding section 35-148, monies received by the attorney general from charges to state agencies and political subdivisions for legal services relating to interagency service agreements shall be deposited, pursuant to sections 35-146 and 35-147, in an attorney general agency services fund. Monies in the fund are subject to legislative appropriation and are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

J. Unless otherwise provided by law, monies received for and belonging to the state and resulting from compromises and settlements entered into pursuant to subsection B of this section, excluding restitution and reimbursement to state agencies for costs or attorney fees, shall be deposited into the state treasury and credited to the state general fund pursuant to section 35-142. Monies received for and belonging to the state and resulting from a compromise or settlement are not considered custodial, private or quasi-private monies unless specifically provided by law. On or before January 15, April 15, July 15 and October 15, the attorney general shall file with the governor, with copies to the director of the department of administration, the president of the senate, the speaker of the house of representatives, the secretary of state and the staff director of the joint legislative budget committee, a full and complete account of the deposits into the state treasury made pursuant to this subsection in the previous calendar quarter. For the purposes of this subsection, "restitution" means monies intended to compensate a specific, identifiable person, including this state, for economic loss.

DEPARTMENT OF HEALTH SERVICES

Title 9, Chapter 6, Article 1, General; Article 2, Communicable Disease and Infestation Reporting; Article 3, Control Measures for Communicable Diseases and Infestations; Article 10, HIV-Related Testing and Notification; Article 11, STD-Related Testing and Notification; 12, Tuberculosis Control

Amend: R9-6-101; R9-6-201; R9-6-202; R9-6-203; Table 2; R9-6-204; R9-6-205; R9-6-206; R9-6-207; R9-6-301; R9-6-302; R9-6-303; R9-6-304; R9-6-306; R9-6-308; R9-6-311; R9-6-312; R9-6-313; R9-6-314; R9-6-316; R9-6-317; R9-6-319; R9-6-320; R9-6-322; R9-6-323; R9-6-324; R9-6-325; R9-6-326; R9-6-327; R9-6-328; R9-6-329; R9-6-330; R9-6-331; R9-6-332; R9-6-333; R9-6-338; R9-6-339; R9-6-340; R9-6-341; R9-6-342; R9-6-343; R9-6-344; R9-6-345; R9-6-346; R9-6-347; R9-6-348; R9-6-349; R9-6-350; R9-6-351; R9-6-352; R9-6-353; R9-6-354; R9-6-355; R9-6-356; R9-6-357; R9-6-359; R9-6-360; R9-6-362; R9-6-363; R9-6-364; R9-6-365; R9-6-366; R9-6-367; R9-6-368; R9-6-369; R9-6-371; R9-6-372; R9-6-373; R9-6-374; R9-6-375; R9-6-376; R9-6-378; R9-6-379; R9-6-380; R9-6-381; R9-6-382; R9-6-383; R9-6-384; R9-6-385; R9-6-386; R9-6-387; R9-6-388; R9-6-389; R9-6-390; R9-6-391; R9-6-392; R9-6-393; R9-6-394; R9-6-395; R9-6-396; R9-6-397; R9-6-1002; R9-6-1102; R9-6-1103; R9-6-1202

New Section: Table 2.1; Table 2.3; Table 2.4; R9-6-305; R9-6-307; R9-6-309; R9-6-310; R9-6-315; R9-6-318; R9-6-321; R9-6-337; R9-6-358; R9-6-361; R9-6-370; R9-6-377; R9-6-398

Renumber: R9-6-305; R9-6-306; R9-6-308; R9-6-309; R9-6-310; R9-6-311; R9-6-312; R9-6-313; R9-6-314; R9-6-315; R9-6-316; R9-6-317; R9-6-318; R9-6-319; R9-6-320; R9-6-321; R9-6-322; R9-6-323; R9-6-324; R9-6-325; R9-6-326; R9-6-327; R9-6-328; R9-6-329; R9-6-330; R9-6-331; R9-6-332; R9-6-333; R9-6-334; R9-6-335; R9-6-336; R9-6-337; R9-6-338; R9-6-339; R9-6-340; R9-6-341; R9-6-342; R9-6-343; R9-6-344; R9-6-345; R9-6-346; R9-6-347; R9-6-348; R9-6-349; R9-6-350; R9-6-351; R9-6-352; R9-6-353; R9-6-354; R9-6-355; R9-6-356; R9-6-357; R9-6-358; R9-6-359; R9-6-360; R9-6-361; R9-6-362; R9-6-363; R9-6-364; R9-6-365; R9-6-366; R9-6-367; R9-6-368; R9-6-369; R9-6-370; R9-6-371; R9-6-372; R9-6-373; R9-6-374; R9-6-375; R9-6-376; R9-6-377; R9-6-378; R9-6-379; R9-6-380; R9-6-381; R9-6-382; R9-6-383; R9-6-384; R9-6-385; R9-6-386; R9-6-387; R9-6-388; R9-6-389; R9-6-390; R9-6-391; R9-6-392; R9-6-393; R9-6-394; R9-6-395; R9-6-396; R9-6-397

Repeal: Table 1; Table 3; Table 4; R9-6-307; R9-6-334; R9-6-335; R9-6-336; R9-6-364; R9-6-369; R9-6-387

GOVERNOR'S REGULATORY REVIEW COUNCIL
M E M O R A N D U M

MEETING DATE: September 6, 2017 **AGENDA ITEM: D-10**

TO: Members of the Governor's Regulatory Review Council

FROM: Chris Kleminich, Staff Attorney

DATE: August 23, 2017

SUBJECT: **DEPARTMENT OF HEALTH SERVICES (R-17-0909)**
Title 9, Chapter 6, Article 1, General; Article 2, Communicable Disease and Infestation Reporting; Article 3, Control Measures for Communicable Diseases and Infestations; Article 10, HIV-Related Testing and Notification; Article 11, STD-Related Testing and Notification; Article 12, Tuberculosis Control

Amend: R9-6-101; R9-6-201; R9-6-202; R9-6-203; Table 2; R9-6-204; R9-6-205; R9-6-206; R9-6-207; R9-6-301; R9-6-302; R9-6-303; R9-6-304; R9-6-306; R9-6-308; R9-6-311; R9-6-312; R9-6-313; R9-6-314; R9-6-316; R9-6-317; R9-6-319; R9-6-320; R9-6-322; R9-6-323; R9-6-324; R9-6-325; R9-6-326; R9-6-327; R9-6-328; R9-6-329; R9-6-330; R9-6-331; R9-6-332; R9-6-333; R9-6-338; R9-6-339; R9-6-340; R9-6-341; R9-6-342; R9-6-343; R9-6-344; R9-6-345; R9-6-346; R9-6-347; R9-6-348; R9-6-349; R9-6-350; R9-6-351; R9-6-352; R9-6-353; R9-6-354; R9-6-355; R9-6-356; R9-6-357; R9-6-359; R9-6-360; R9-6-362; R9-6-363; R9-6-364; R9-6-365; R9-6-366; R9-6-367; R9-6-368; R9-6-369; R9-6-371; R9-6-372; R9-6-373; R9-6-374; R9-6-375; R9-6-376; R9-6-378; R9-6-379; R9-6-380; R9-6-381; R9-6-382; R9-6-383; R9-6-384; R9-6-385; R9-6-386; R9-6-387; R9-6-388; R9-6-389; R9-6-390; R9-6-391; R9-6-392; R9-6-393; R9-6-394; R9-6-395; R9-6-396; R9-6-397; R9-6-1002; R9-6-1102; R9-6-1103; R9-6-1202

New Section: Table 2.1; Table 2.3; Table 2.4; R9-6-305; R9-6-307; R9-6-309; R9-6-310; R9-6-315; R9-6-318; R9-6-321; R9-6-337; R9-6-358; R9-6-361; R9-6-370; R9-6-377; R9-6-398

Renumber: R9-6-305; R9-6-306; R9-6-308; R9-6-309; R9-6-310; R9-6-311; R9-6-312; R9-6-313; R9-6-314; R9-6-315; R9-6-316; R9-6-317; R9-6-318; R9-6-319; R9-6-320; R9-6-321; R9-6-322; R9-6-323; R9-6-324; R9-6-325; R9-6-326; R9-6-327; R9-6-328; R9-6-329; R9-6-330; R9-6-331; R9-6-332; R9-6-333; R9-6-334; R9-6-335; R9-6-336; R9-6-337; R9-6-338; R9-6-339; R9-6-340; R9-6-341; R9-6-342; R9-6-343; R9-6-344; R9-6-345; R9-6-346; R9-6-347; R9-6-348; R9-6-349; R9-6-350; R9-6-351; R9-6-352; R9-6-353; R9-6-354; R9-6-355; R9-6-356; R9-6-357; R9-6-358; R9-6-359; R9-6-360; R9-6-361;

R9-6-362; R9-6-363; R9-6-364; R9-6-365; R9-6-366; R9-6-367; R9-6-368; R9-6-369; R9-6-370; R9-6-371; R9-6-372; R9-6-373; R9-6-374; R9-6-375; R9-6-376; R9-6-377; R9-6-378; R9-6-379; R9-6-380; R9-6-381; R9-6-382; R9-6-383; R9-6-384; R9-6-385; R9-6-386; R9-6-387; R9-6-388; R9-6-389; R9-6-390; R9-6-391; R9-6-392; R9-6-393; R9-6-394; R9-6-395; R9-6-396; R9-6-397

Repeal: Table 1; Table 3; Table 4; R9-6-307; R9-6-334; R9-6-335; R9-6-336; R9-6-364; R9-6-369; R9-6-387

Purpose of the Agency and Summary of What the Rulemaking Does

The Department of Health Services (Department) is amending 95 rules, repealing 10 rules, and enacting 16 new rules in A.A.C. Title 9, Chapter 6, related to communicable diseases and infestations.

The Department indicates that the existing rules contain reporting requirements for several conditions that no longer need to be reported, and do not contain reporting requirements for several other conditions that should be reported. As such, the Department is revising the rules to update reportable conditions and their control measures, to ensure more accurate tracking and better reporting, and to improve the effectiveness of the rules in preventing a significant threat to public health. In addition to addressing such concerns, the rulemaking addresses changes in laboratory methodologies and allows for electronic reporting. The Department believes that the rulemaking reduces the overall regulatory burden of the rules.

Exemption or Request and Approval for Exception from the Moratorium

The Department received approval to proceed with the rulemaking from Governor Ducey's office on May 17, 2016.

Proposed Action

- *Section 101 – Definitions*: Definitions applicable to the entire chapter are modified.
- *Section 201 – Definitions*: Definitions applicable to the article, related to communicable disease and infestation reporting, are modified.
- *Section 202 – Reporting Requirements for a Health Care Provider Required to Report or an Administrator of a Health Care Institution or Correctional Facility*:
    - Subsection (D), related to reports for unexplained deaths with a history of fever, is eliminated.
    - Subsection (G), related to methods for submitting required reports, is eliminated.
- *Table 2.1 – Reporting Requirements for a Health Care Provider Required to Report or an Administrator of a Health Care Institution or Correctional Facility*: This table, which replaces the repealed Table 1, indicates the methods by which required reports should be submitted.
- *Section 203 – Reporting Requirements for an Administrator of a School, Child Care Establishment, or Shelter*: Clarifying changes are made.

- *Table 2.2 – Reporting Requirements for an Administrator of a School, Child Care Establishment, or Shelter*: The table, renumbered from Table 2, is being updated.
- *Section 204 – Clinical Laboratory Director Reporting Requirements*:
    - Subsection (B), related to specimens for which an immediate report is required, replaces the former Subsection (C) to list the information that a clinical laboratory director is required to include in the report.
    - Subsections (E) and (F) are eliminated to make the rule more concise.
- *Table 2.3 – Clinical Laboratory Director Reporting Requirements*: This table, which replaces the repealed Table 3, indicates the methods by which required reports from clinical laboratory directors should be submitted.
- *Section 205 – Reporting Requirements for a Pharmacist or an Administrator of a Pharmacy*: Clarifying changes are made.
- *Section 206 – Local Health Agency Responsibilities Regarding Communicable Disease Reports*: Subsection (E), related to reports for unexplained deaths with a history of fever, is eliminated.
- *Table 2.4 – Local Health Agency Reporting Requirements*: This table, which replaces the repealed Table 4, indicates the methods by which required reports from local health agencies should be submitted.
- *Section 207 – Federal or Tribal Entity Reporting*: Clarifying changes are made.
- *Section 301 – Definitions*: Definitions applicable to the article, related to control measures for communicable diseases and infestations, are modified.
- *Section 302 – Local Health Agency Control Measures*: A clarifying change is made.
- *Section 303 – Isolation, Quarantine, Exclusion, and Other Control Measures*:
    - Subsection (B), related to written orders issued by local health agencies for additional control measures, is added.
    - Subsection (F), allowing the Department to take any of the actions specified in the rule if it determines that isolation, quarantine, or other control measure requirements are necessary, is added.
- *Section 304 – Food Establishment Control Measures*: Clarifying changes are made.
- *Section 305 – Control Measures for Multi-drug-resistant Organisms*: This new rule provides case control measures:
    - A diagnosing health care provider or an administrator of a health care institution transferring a case with active infection of a bacterial disease, for which the agent is known to be a multi-drug-resistant organism, to another health care provider or health care institution or to a correctional facility will be required to, either personally or through a representative, ensure that the receiving health care provider, health care institution, or correctional facility is informed that the patient is infected with a multi-drug-resistant organism.
    - An administrator of a correctional facility transferring a case with active infection of a bacterial disease, for which the agent is known to be a multi-drug-resistant organism, to another correctional facility or to a health care institution will be required to, either personally or through a representative, ensure that the receiving correctional facility or health care institution is informed that the individual is infected with a multi-drug-resistant organism.

- *Section 306 – Amebiasis*: Changes are made to existing case control measures,[1] including the addition of restrictions on the use of an aquatic venue for a case or suspect case.
- *Old Section 307 – Aseptic Meningitis*: The rule, which provided outbreak control measures,[2] is repealed.
- *New Section 307 – Anaplasmosis*: The new rule establishes case control measures.
- *Section 308 – Anthrax*: Changes are made to existing case control measures and environmental control measures.[3]
- *Section 309 – Arboviral Infection*: The new rule establishes case control measures and environmental control measures.
- *Section 310 – Babesiosis*: The new rule establishes case control measures.
- *Section 311 – Basidiobolomycosis*: Citation changes are made.
- *Section 312 – Botulism*: Changes are made to existing case control measures and environmental control measures.
- *Section 313 – Brucellosis*: Changes are made to existing case control measures.
- *Section 314 – Campylobacteriosis*: Changes are made to existing case control measures, including the addition of restrictions on the use of an aquatic venue for a case or suspect case.
- *Section 315 – Carbapenem-resistant Enterobacteriaceae*: The new rule establishes case control measures and outbreak control measures.
- *Section 316 – Chagas Infection and Related Disease (American Trypanosomiasis)*: Citation changes are made.
- *Section 317 – Chancroid (Haemophilus ducreyi)*: Citation changes are made.
- *Section 318 – Chikungunya*: The new rule establishes case control measures and environmental control measures.
- *Section 319 – Chlamydia trachomatis Infection*: Changes are made to existing case control measures and contact control measures.[4]
- *Section 320 – Cholera*: Changes are made to existing case control measures, including a restriction on the use of an aquatic venue for a case or suspect case.
- *Section 321 – Clostridium difficile*: The new rule establishes case control measures.
- *Section 322 – Coccidioidomycosis (Valley Fever)*: Technical changes are made.

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[1] To understand the term "case control measures," see R9-6-101(13), where the Department proposes to define "case" as an individual:

a. With a communicable disease whose condition is documented:

i. By laboratory results that support the presence of the agent that causes the disease;

ii. By a health care provider's diagnosis based on clinical observation; or

iii. By epidemiologic associations with the communicable disease, the agent that causes the disease, or toxic products of the agent;

b. Who has experienced diarrhea, nausea, or vomiting as part of an outbreak; or

c. Who has experienced a vaccinia-related adverse event.

[2] To understand the term "outbreak control measures," see R9-6-101(58), where the Department defines "outbreak" as "an unexpected increase in incidence of a disease, infestation, or sign or symptom of illness."

[3] Please note that the Department does not define "environmental" in the chapter.

[4] To understand the term "contact control measures," see R9-6-101(23), where the Department defines "contact" as "an individual who has been exposed to an infectious agent in a manner that may have allowed transmission of the infectious agent to the individual during the communicable period."

- *Section 323 – Colorado Tick Fever*: Citation changes are made.
- *Section 324 – Conjunctivitis: Acute*: Citation changes are made.
- *Section 325 – Creutzfeldt-Jakob Disease*: Citation changes are made.
- *Section 326 – Cryptosporidiosis*: Changes are made to existing case control measures, including a restriction on the use of an aquatic venue for a case or suspect case. Environmental control measures are also established.
- *Section 327 – Cyclospora Infection*: Citation changes are made.
- *Section 328 – Cysticercosis*: Citation changes are made.
- *Section 329 – Dengue*: Changes are made to existing case control measures, including a requirement to ensure that each case is provided with health education that includes measures to avoid mosquito bites and reduce mosquito breeding sites. In addition, environmental control measures are established.
- *Section 330 – Diarrhea, Nausea, or Vomiting*: Changes are made to existing case control measures and environmental control measures.
- *Section 331 – Diphtheria*: Changes are made to existing case control measures and contact control measures.
- *Section 332 – Ehrlichiosis*: References to "anaplasmosis" are eliminated.
- *Section 333 – Emerging or Exotic Disease*: Changes are made to existing contact control measures.
- *Section 334 – Encephalitis: Viral or Parasitic*: Changes are made to existing case control measures.
- *Section 335 – Escherichia coli, Shiga Toxin-producing*: Changes are made to existing case control measures and environmental control measures. In addition, contact control measures are eliminated.
- *Section 336 – Giardiasis*: Changes are made to existing case control measures. In addition, contact control measures and outbreak control measures are eliminated.
- *Section 337 – Glanders*: The new rule establishes case control measures.
- *Section 338 – Gonorrhea*: The Department will no longer be required to review each gonorrhea case report for completeness, accuracy, and need for follow-up.
- *Section 339 – Haemophilus influenzae: Invasive Disease*: Upon receiving a report under R9-6-202 or R9-6-203 of a Haemophilus influenzae invasive disease case or suspect case, local health agencies will be required to notify the Department within one working day and provide the information contained in the report.
- *Section 340 – Hansen's Disease (Leprosy)*: Citation changes are made.
- *Section 341 – Hantavirus Infection*: Upon receiving a report under R9-6-202 of a hantavirus infection case or suspect case, local health agencies will be required to notify the Department within one working day and provide the information contained in the report. In addition, environmental control measures are established.
- *Section 342 – Hemolytic Uremic Syndrome*: Changes are made to existing case control measures.
- *Section 343 – Hepatitis A*: Upon receiving a report under R9-6-202 or R9-6-203 of a hepatitis A case or suspect case, local health agencies will be required to notify the Department within one working day and provide the information contained in the report.
- *Section 344 – Hepatitis B and Hepatitis D*: Citation changes are made.

- *Section 345 – Hepatitis C*: Case control measures are eliminated while outbreak control measures are established.
- *Section 346 – Hepatitis E*: Local health agencies will be required to exclude a hepatitis E case or suspect case from working as a food handler, caring for patients or residents in a health care institution, or caring for children in or attending a child care establishment during the first 14 days of illness or for seven days after onset of jaundice.
- *Section 347 – Human Immunodeficiency Virus (HIV) Infection and Related Disease*: Changes are made to existing case control measures and contact control measures.
- *Section 348 – Influenza-Associated Mortality in a Child*: Changes are made to existing case control measures.
- *Section 349 – Legionellosis (Legionnaires' Disease)*: Changes are made to existing case control measures and environmental control measures.
- *Section 350 – Leptospirosis*: Upon receiving a report under R9-6-202 of a leptospirosis case or suspect case, local health agencies will be required to notify the Department within one working day and provide the information contained in the report.
- *Section 351 – Listeriosis*: Changes are made to existing case control measures.
- *Section 352 – Lyme Disease*: Citation changes are made.
- *Section 353 – Lymphocytic Choriomeningitis*: Upon receiving a report under R9-6-202 of a lymphocytic choriomeningitis case or suspect case, local health agencies will be required to notify the Department within one working day and provide the information contained in the report.
- *Section 354 – Malaria*: Environmental control measures are established.
- *Section 355 – Measles (Rubeola)*: Changes are made to existing case control measures and contact control measures.
- *Section 356 – Melioidosis*: Changes are made to existing case control measures.
- *Section 357 – Meningococcal Invasive Disease*: Changes are made to existing case control measures.
- *Section 358 – Methicillin-resistant Staphylococcus aureus (MRSA)*: The new rule establishes case control measures and outbreak control measures.
- *Section 359 – Mumps*: Changes are made to existing case control measures and contact control measures.
- *Section 360 – Norovirus*: Changes are made to existing outbreak control measures and environmental control measures.
- *Section 361 – Novel Coronavirus (e.g., SARS or MERS)*: The new rule establishes case control measures and contact control measures.
- *Section 362 – Pediculosis (Lice Infestation)*: Contact control measures are added that require an administrator of a school or child care establishment that excludes a pediculosis case from the school or child care establishment to, either personally or through a representative, ensure that a parent or guardian of a child is notified that a pediculosis case was identified.
- *Section 363 – Pertussis (Whooping Cough)*: Changes are made to existing case control measures and contact control measures.
- *Old Section 364 – Rocky Mountain Spotted Fever*: This disease is now addressed in Section 377.
- *New Section 364 – Plague*: Changes are made to existing case control measures.

- *Section 365 – Poliomyelitis (Paralytic or Non-paralytic)*: Changes are made to existing case control measures.
- *Section 366 – Psittacosis (Ornithosis)*: Citation changes are made.
- *Section 367 – Q Fever*: Citation changes are made.
- *Section 368 – Rabies in a Human*: Local health agencies will be required to ensure that a specimen from each human rabies case or suspect case, as required by the Department, is submitted to the Arizona State Laboratory.
- *Old Section 369 – Severe Acute Respiratory Syndrome*: The rule, which provided case control measures and contact control measures, is repealed.
- *New Section 369 – Relapsing Fever (Borreliosis)*: Upon receiving a report under R9-6-202 of a borreliosis case or suspect case, local health agencies will be required to notify the Department within one working day and provide the information contained in the report.
- *Section 370 – Respiratory Disease in a Health Care Institution or Correctional Facility*: The new rule establishes outbreak control measures.
- *Section 371 – Rubella (German Measles)*: Changes are made to existing case control measures and contact control measures.
- *Section 372 – Rubella Syndrome, Congenital*: Changes are made to existing case control measures and contact control measures.
- *Section 373 – Salmonellosis*: Changes are made to existing case control measures. In addition, contact control measures are eliminated.
- *Section 374 – Scabies*: Changes are made to existing case control measures and outbreak control measures.
- *Section 375 – Shigellosis*: Changes are made to existing case control measures. In addition, contact control measures are eliminated.
- *Section 376 – Smallpox*: Changes are made to existing case control measures and contact control measures.
- *Section 377 – Spotted Fever Rickettsiosis (e.g., Rocky Mountain Spotted Fever)*: This disease was previously addressed in Section 364.
- *Section 378 – Streptococcal Group A Infection*: Clarifying changes are made.
- *Section 379 – Streptococcal Group B Infection in an Infant Younger Than 90 Days of Age*: Clarifying changes are made.
- *Section 380 – Streptococcus pneumoniae Invasive Infection*: Case control measures are eliminated while outbreak control measures are established.
- *Section 381 – Syphilis*: Changes are made to existing case control measures and outbreak control measures.
- *Section 382 – Taeniasis*: Citation changes are made.
- *Section 383 – Tetanus*: Citation changes are made.
- *Section 384 – Toxic Shock Syndrome*: Citation changes are made.
- *Section 385 – Trichinosis*: Upon receiving a report under R9-6-202 of a trichinosis case or suspect case, local health agencies will be required to notify the Department within one working day and provide the information contained in the report.
- *Section 386 – Tuberculosis*: Changes are made to existing case control measures.
- *Old Section 387 – Vancomycin-Resistant Staphylococcus epidermidis*: The rule, which provided case control measures, is repealed.

- *New Section 387 – Tularemia*: Changes are made to existing case control measures.
- *Section 388 – Typhoid Fever*: Changes are made to existing case control measures and contact control measures.
- *Section 389 – Typhus Fever*: Upon receiving a report under R9-6-202 of a typhus fever case or suspect case, local health agencies will be required to notify the Department within one working day and provide the information contained in the report.
- *Section 390 – Vaccinia-related Adverse Event*: Upon receiving a report under R9-6-202 of a vaccinia-related adverse event, local health agencies will be required to notify the Department within one working day and provide the information contained in the report.
- *Section 391 – Vancomycin-Resistant or Vancomycin-Intermediate Staphylococcus aureus*: Changes are made to existing case control measures.
- *Section 392 – Varicella (Chickenpox)*: Clarifying changes are made.
- *Section 393 – Vibrio Infection*: Changes are made to existing case control measures.
- *Section 394 – Viral Hemorrhagic Fever*: Clarifying changes are made.
- *Section 395 – West Nile Virus Infection*: Changes are made to existing case control measures, including a requirement to ensure that each case is provided with health education that includes measures to avoid mosquito bites and reduce mosquito breeding sites. In addition, environmental control measures are established.
- *Section 396 – Yellow Fever*: Changes are made to existing case control measures, including a requirement to ensure that each case is provided with health education that includes measures to avoid mosquito bites and reduce mosquito breeding sites. In addition, environmental control measures are established.
- *Section 397 – Yersiniosis (Enteropathogenic Yersinia)*: Changes are made to existing case control measures.
- *Section 398 – Zika Virus Infection*: The new rule establishes case control measures and environmental control measures.
- *Section 1002 – Local Health Agency Requirements*: A citation is being changed.
- *Section 1102 – Health Care Provider Requirements*: Clarifying changes are made.
- *Section 1103 – Local Health Agency Requirements*: Clarifying changes are made.
- *Section 1202 – Local Health Agency Reporting Requirements*: A clarifying change is made.

Substantive or Procedural Concerns

None.

1. Are the rules legal, consistent with legislative intent, and within the agency's statutory authority?

Yes. As authority for the rules, the Department cites to statutes that include A.R.S. § 36-136(F), under which the Department "may make and amend rules necessary for the proper administration and enforcement of the laws relating to the public health."

2. Are the rules written in a manner that is clear, concise, and understandable to the general public?

Yes. The rules are clear, concise, and understandable.

3. Does the agency adequately address the comments on the proposed rules and any supplemental proposals?

Yes. The Department indicates that no written comments have been received. Two oral comments from infectious disease prevention hospital staff members were made at the July 13, 2017 oral proceeding. A summary of those comments, along with the Department's responses, can be found on pages 16 and 17 of the Notice of Final Rulemaking. Staff believes that the Department has adequately addressed the comments.

4. Are the final rules a substantial change, considered as a whole, from the proposed rules and any supplemental proposals?

No. Only clarifying and technical changes have been made between the proposed rules and the final rules.

5. Does the preamble disclose a reference to any study relevant to the rules that the agency reviewed and either did or did not rely on in the agency's evaluation of or justification for the rules?

No. The Department indicates that it did not review or rely upon any study.

6. Are the rules more stringent than corresponding federal law and, if so, is there statutory authority that allows the agency to exceed the requirements of federal law?

No. The Department indicates that the rules do not directly correspond to any federal laws.

7. Do the rules require a permit or license and if so, does the agency use a general permit or is any exception applicable under A.R.S. § 41-1037?

No. The rules require no permit or license.

8. Do the rules establish a new fee or contain a fee increase?

No. The rules do not establish a new fee or contain a fee increase.

9. Conclusion

The Department requests a January 1, 2018 effective date for the rules to allow sufficient time for implementation. This analyst recommends approval of the rules.

GOVERNOR'S REGULATORY REVIEW COUNCIL
M E M O R A N D U M

MEETING DATE: September 6, 2017 **AGENDA ITEM: D-10**

TO: Members of the Governor's Regulatory Review Council

FROM: GRRC Economic Team

DATE: August 23, 2017

SUBJECT: **DEPARTMENT OF HEALTH SERVICES (R-17-0909)**
Title 9, Chapter 6, Article 1, General; Article 2, Communicable Disease and Infestation Reporting; Article 3, Control Measures for Communicable Diseases and Infestations; Article 10, HIV-Related Testing and Notification; Article 11, STD-Related Testing and Notification; Article 12, Tuberculosis Control

Amend: R9-6-101; R9-6-201; R9-6-202; R9-6-203; Table 2; R9-6-204; R9-6-205; R9-6-206; R9-6-207; R9-6-301; R9-6-302; R9-6-303; R9-6-304; R9-6-306; R9-6-308; R9-6-311; R9-6-312; R9-6-313; R9-6-314; R9-6-316; R9-6-317; R9-6-319; R9-6-320; R9-6-322; R9-6-323; R9-6-324; R9-6-325; R9-6-326; R9-6-327; R9-6-328; R9-6-329; R9-6-330; R9-6-331; R9-6-332; R9-6-333; R9-6-338; R9-6-339; R9-6-340; R9-6-341; R9-6-342; R9-6-343; R9-6-344; R9-6-345; R9-6-346; R9-6-347; R9-6-348; R9-6-349; R9-6-350; R9-6-351; R9-6-352; R9-6-353; R9-6-354; R9-6-355; R9-6-356; R9-6-357; R9-6-359; R9-6-360; R9-6-362; R9-6-363; R9-6-364; R9-6-365; R9-6-366; R9-6-367; R9-6-368; R9-6-369; R9-6-371; R9-6-372; R9-6-373; R9-6-374; R9-6-375; R9-6-376; R9-6-378; R9-6-379; R9-6-380; R9-6-381; R9-6-382; R9-6-383; R9-6-384; R9-6-385; R9-6-386; R9-6-387; R9-6-388; R9-6-389; R9-6-390; R9-6-391; R9-6-392; R9-6-393; R9-6-394; R9-6-395; R9-6-396; R9-6-397; R9-6-1002; R9-6-1102; R9-6-1103; R9-6-1202

New Section: Table 2.1; Table 2.3; Table 2.4; R9-6-305; R9-6-307; R9-6-309; R9-6-310; R9-6-315; R9-6-318; R9-6-321; R9-6-337; R9-6-358; R9-6-361; R9-6-370; R9-6-377; R9-6-398

Renumber: R9-6-305; R9-6-306; R9-6-308; R9-6-309; R9-6-310; R9-6-311; R9-6-312; R9-6-313; R9-6-314; R9-6-315; R9-6-316; R9-6-317; R9-6-318; R9-6-319; R9-6-320; R9-6-321; R9-6-322; R9-6-323; R9-6-324; R9-6-325; R9-6-326; R9-6-327; R9-6-328; R9-6-329; R9-6-330; R9-6-331; R9-6-332; R9-6-333; R9-6-334; R9-6-335; R9-6-336; R9-6-337; R9-6-338; R9-6-339; R9-6-340; R9-6-341; R9-6-342; R9-6-343; R9-6-344; R9-6-345; R9-6-346; R9-6-347; R9-6-348; R9-6-349; R9-6-350; R9-6-351; R9-6-352; R9-6-353; R9-6-354; R9-6-355; R9-6-356; R9-6-357; R9-6-358; R9-6-359; R9-6-360; R9-6-361;

R9-6-362; R9-6-363; R9-6-364; R9-6-365; R9-6-366; R9-6-367; R9-6-368; R9-6-369; R9-6-370; R9-6-371; R9-6-372; R9-6-373; R9-6-374; R9-6-375; R9-6-376; R9-6-377; R9-6-378; R9-6-379; R9-6-380; R9-6-381; R9-6-382; R9-6-383; R9-6-384; R9-6-385; R9-6-386; R9-6-387; R9-6-388; R9-6-389; R9-6-390; R9-6-391; R9-6-392; R9-6-393; R9-6-394; R9-6-395; R9-6-396; R9-6-397

Repeal: Table 1; Table 3; Table 4; R9-6-307; R9-6-334; R9-6-335; R9-6-336; R9-6-364; R9-6-369; R9-6-387

The economic analysis team has reviewed the economic, small business, and consumer impact statement (EIS) and makes the following comments. These comments are made to assist the Council in its review and may be used as the Council determines.

In this rulemaking, the Department is proposing to significantly update the rules in Chapter 6 that relate to the Department's responses to communicable diseases. The Department provides numerous disease control services, disease response services, and epidemiological services to many stakeholders in Arizona. While this rulemaking may impose some minimal burdens on stakeholders due to changes in procedures, the long-term benefits are substantial.

This rule update also provides language that the Department will use to increase electronic reporting of communicable diseases in Arizona. In situations where electronic reporting is not feasible, the Department will be able to specify an acceptable format that considers the resources of the reporting stakeholder. For the majority of reporters, electronic reporting will significantly reduce the costs of reporting and increase the quality of the communicable disease services provided by the Department.

The Department receives approximately 500,000 disease reports from clinical laboratories annually. Roughly 67% of these reports are submitted electronically. Currently, all 15 local health agencies, four tribal public health organizations, 24 clinical laboratories, one correctional facility, two childcare establishments, and 176 health care institutions already utilize some form of electronic reporting. Schools, shelters, and pharmacies do not currently report electronically, and the Department does not anticipate requiring electronic reporting for these stakeholders in the future.

Key stakeholders are the Department, local agencies responsible for vector control, health care providers, health care institutions, correctional facilities, schools, child care establishments, shelters, clinical laboratories, businesses employing individuals infected with a communicable disease, aquatic venues, pharmacies, health insurance providers, and the general public. The Department does not anticipate the need to hire full-time employees as a result of this rulemaking.

1. Costs and Benefits for:

a. The implementing agency:

The Department anticipates that clarifying the rules will reduce the amount of time that the Department spends answering questions about the communicable disease reporting rules. The Department also anticipates that the improved rules will reduce the number of incomplete or inadequate reports submitted to the Department. Reducing the time spent on these activities will permit DHS to spend more time analyzing the data that stakeholders submit.

b. Political subdivisions:

Local agencies that are responsible for controlling disease vectors will be impacted by these rules. They will benefit by conducting environmental assessments near suspected cases of vector-borne illnesses. Primarily, the most important vectors targeted for control are different mosquito species that are endemic to Arizona. The *Aedes aegypti* mosquito is the vector that spreads chikungunya, Zika virus, dengue, and yellow fever. The *Anopheles freeborni* mosquito is a carrier for malaria, and the *Culex tarsalis* is a vector for West Nile virus. Since these diseases can only spread by each specific mosquito species, environmental assessments to reduce mosquito populations can have a significant impact on combating these diseases.

Local health agencies will be impacted by these rules changing reporting requirements for communicable diseases. The Department does not anticipate that these changes will impose significant costs on these local agencies because many of them have already adopted these reporting requirements. Even for local health agencies where the costs will be more than minimal, the benefits of increased public health outcomes easily outweigh any of these costs.

c. Businesses:

Health care providers, health care institutions, clinical laboratories, health insurance providers, correctional facilities, pharmacies, aquatic venues, and businesses that employ individuals with communicable diseases will be impacted by these rules. These businesses may bear minimal costs due to changes in reporting requirements. DHS notes that these minimal costs will result in significant benefits to businesses in the long-term by reducing the overall time required to complete communicable disease reporting requirements.

d. Small businesses:

Small health care providers, small health care institutions, small clinical laboratories, pharmacies, schools, shelters, and child care establishments are small businesses that will be impacted by these rules. These small businesses will be impacted in the same manner as all businesses listed above.

e. Consumers directly affected by the rulemaking:

Consumers of health care services and the general public will receive significant public health benefits from these rules. The control and reduction of communicable diseases provides intangible benefits like better quality of life. There are also tangible benefits such as increased work productivity due to reducing worker absenteeism created by communicable diseases.

2. Do the probable benefits outweigh the probable costs?

The changes that these rules make will have some minimal compliance costs for stakeholders. In return, stakeholders will see significant benefits for public health outcomes. In the long-term, stakeholders should see fewer resources dedicated to compliance costs associated with reporting communicable disease incidents to the Department. The benefits outweigh the costs.

3. Analysis of methods to reduce the small business impact:

The Department indicates that this update to the rules will reduce burdens on small businesses compared to the current rules. The Department has also included language in these rules that permit flexibility in the manner that reporting is completed depending on the volume or frequency of reports.

4. The probable effect on state revenues:

The Department does not anticipate that this rulemaking will impact state revenue. Changes to reporting for HIV cases could make Arizona eligible for supplemental Centers for Disease Control (CDC) grant funding of $988,000.

5. Analysis of any less intrusive or less costly alternative methods:

The rulemaking updates rules that have become obsolete. The new rules will provide fewer burdens for stakeholders than the current rules.

6. Whether an analysis was submitted to the agency regarding the rule's impact on the competitiveness of businesses in this state as compared to the competitiveness of businesses in other states:

No analysis was submitted that compares the rule’s impact of the competitiveness of businesses in this state to the impact on businesses in other states.

7. A description of any data on which a rule is based with an explanation of how the data was obtained and why the data is acceptable data, and the methods used by the agency to evaluate the costs and benefits in the EIS.

No empirical or quantitative data were submitted for use in the EIS.

8. Conclusion:

The submitted economic, small business, and consumer impact statement is generally accurate, and contains the information required for compliance with ARS §§ 41-1035, 41-1052(D)(1-3), and 41-1055. This analyst recommends that the proposed rule amendments be approved.

ARIZONA DEPARTMENT
OF HEALTH SERVICES

POLICY & INTERGOVERNMENTAL AFFAIRS

July 20, 2017

Nicole O. Colyer, Esq., Chair
Governor's Regulatory Review Council
Arizona Department of Administration
100 N. 15th Avenue, Suite 305
Phoenix, AZ 85007

RE: 9 A.A.C. 6, Articles 1, 2, 3, 10, 11, and 12 Department of Health Services – Communicable Diseases and Infestations

Dear Ms. Colyer:

Enclosed are the administrative rules identified above which I am submitting, as the Designee of the Director of the Department of Health Services, for approval by the Governor's Regulatory Review Council under A.R.S. § 41-1052.

The following information is provided for your use in reviewing the enclosed rule package pursuant to A.R.S. § 41-1052 and A.A.C. R1-6-104:

1. The close of record:
The close of record was July 13, 2017. Submission of the rules is within the 120 days allowed for Final Rulemaking.

2. Procedures followed:
As required by the Administrative Procedure Act, a Notice of Rulemaking Docket Opening was filed with the Office of the Secretary of State and published in the *Arizona Administrative Register* on July 29, 2016. A Notice of Proposed Rulemaking was filed with the Office of the Secretary of State and published in the *Arizona Administrative Register* on June 9, 2017. The Department held one oral proceeding on July 13, 2017. The Department received no written comments about the proposed rules and two oral comments.

3. Whether the rulemaking relates to a five-year-review report and, if applicable, the date the report was approved by the Council:
The rulemaking for 9 A.A.C. 6, Article 2 relates to a five-year-review report approved by the Council on February 3, 2015. The rulemaking for 9 A.A.C. 6, Article 3 relates to a five-year-review report approved by the Council on July 9, 2013. The rulemaking in 9 A.A.C. 6, Articles 10, 11, and 12 does not relate to a five-year-review report, but just corrects information made incorrect by the rulemaking in 9 A.A.C. 6, Article 3.

4. Whether the rule contains a new fee and, if it does, citation of the statute expressly authorizing the new fee:
The rulemaking does not contain a fee.

5. Whether the rule contains a fee increase:
The rulemaking does not contain a fee increase.

6. Whether an immediate effective date is requested for the rule under A.R.S. § 41-1032:
The Department is requesting an effective date for this rulemaking of January 1, 2018.

7. A list of all items enclosed:
   a. Notice of Final Rulemaking, including the Preamble, Table of Contents, and text of the rule; and
   b. Economic, Small Business, and Consumer Impact Statement.

The Department is requesting that the rules be heard at the Council meeting on September 6, 2017.

I certify that the Preamble of this rulemaking discloses a reference to any study relevant to the rule that the Department reviewed and either did or did not rely on in its evaluation of or justification for the rule.

I certify that the Department, as the preparer of the economic, small business, and consumer impact statement, has notified the Joint Legislative Budget Committee that no new full-time employees are necessary to implement and enforce the rules.

Sincerely,

Robert Lane
Director's Designee

RL:rms

Enclosures

NOTICE OF FINAL RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 6. DEPARTMENT OF HEALTH SERVICES

COMMUNICABLE DISEASES AND INFESTATIONS

PREAMBLE

1.	Article, Part, or Section Affected (as applicable)	Rulemaking Action
	R9-6-101	Amend
	R9-6-201	Amend
	R9-6-202	Amend
	Table 1	Repeal
	Table 2.1	New Section
	R9-6-203	Amend
	Table 2	Renumber
	Table 2.2	New Section
	Table 2.2	Amend
	R9-6-204	Amend
	Table 3	Repeal
	Table 2.3	New Section
	R9-6-205	Amend
	R9-6-206	Amend
	Table 4	Repeal
	Table 2.4	New Section
	R9-6-207	Amend
	R9-6-301	Amend
	R9-6-302	Amend
	R9-6-303	Amend
	R9-6-304	Amend
	R9-6-305	Renumber
	R9-6-305	New Section
	R9-6-306	Renumber
	R9-6-306	Amend
	R9-6-307	Repeal
	R9-6-307	New Section

R9-6-308	Renumber
R9-6-308	Amend
R9-6-309	Renumber
R9-6-309	New Section
R9-6-310	Renumber
R9-6-310	New Section
R9-6-311	Renumber
R9-6-311	Amend
R9-6-312	Renumber
R9-6-312	Amend
R9-6-313	Renumber
R9-6-313	Amend
R9-6-314	Renumber
R9-6-314	Amend
R9-6-315	Renumber
R9-6-315	New Section
R9-6-316	Renumber
R9-6-316	Amend
R9-6-317	Renumber
R9-6-317	Amend
R9-6-318	Renumber
R9-6-318	New Section
R9-6-319	Renumber
R9-6-319	Amend
R9-6-320	Renumber
R9-6-320	Amend
R9-6-321	Renumber
R9-6-321	New Section
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R9-6-357	Amend
R9-6-358	Renumber
R9-6-358	New Section

R9-6-359	Renumber
R9-6-359	Amend
R9-6-360	Renumber
R9-6-360	Amend
R9-6-361	Renumber
R9-6-361	New Section
R9-6-362	Renumber
R9-6-362	Amend
R9-6-363	Renumber
R9-6-363	Amend
R9-6-364	Repeal
R9-6-364	Renumber
R9-6-364	Amend
R9-6-365	Renumber
R9-6-365	Amend
R9-6-366	Renumber
R9-6-366	Amend
R9-6-367	Renumber
R9-6-367	Amend
R9-6-368	Renumber
R9-6-368	Amend
R9-6-369	Repeal
R9-6-369	Renumber
R9-6-369	Amend
R9-6-370	Renumber
R9-6-370	New Section
R9-6-371	Renumber
R9-6-371	Amend
R9-6-372	Renumber
R9-6-372	Amend
R9-6-373	Renumber
R9-6-373	Amend
R9-6-374	Renumber
R9-6-374	Amend

R9-6-375	Renumber
R9-6-375	Amend
R9-6-376	Renumber
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R9-6-377	Renumber
R9-6-377	New Section
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R9-6-387	Repeal
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R9-6-387	Amend
R9-6-388	Renumber
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R9-6-390	Amend
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R9-6-391	Amend
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R9-6-395	Amend
R9-6-396	Renumber
R9-6-396	Amend
R9-6-397	Renumber
R9-6-397	Amend
R9-6-398	New Section
R9-6-1002	Amend
R9-6-1102	Amend
R9-6-1103	Amend
R9-6-1202	Amend

2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):

Authorizing statutes: A.R.S. §§ 36-132(A)(1), 36-136(F)

Implementing statutes: A.R.S. § 36-136(H)(1)

3. The effective date of the rules:

The Arizona Department of Health Services (Department) requests an effective date of January 1, 2018, to provide sufficient time for the Department and stakeholders to implement the new rules.

4. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:

Notice of Rulemaking Docket Opening: 22 A.A.R. 1954, July 29, 2016

Notice of Proposed Rulemaking: 23 A.A.R. 1067, June 9, 2017

5. The agency's contact person who can answer questions about the rulemaking:

Name: Ken Komatsu, State Epidemiologist

Address: Arizona Department of Health Services
Bureau of Epidemiology and Disease Control
150 N. 18th Ave., Suite 100

Phoenix, AZ 85007-3248
Telephone: (602) 364-3587
Fax: (602) 364-3199
E-mail: Ken.Komatsu@azdhs.gov
or
Name: Robert Lane, Chief
Address: Arizona Department of Health Services
Office of Administrative Counsel and Rules
150 N. 18th Ave., Suite 200
Phoenix, AZ 85007
Telephone: (602) 542-1020
Fax: (602) 364-1150
E-mail: Robert.Lane@azdhs.gov

6. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:

Arizona Revised Statutes (A.R.S.) § 36-136(H)(1) requires the Arizona Department of Health Services (Department) to make rules defining and prescribing "reasonably necessary measures for detecting, reporting, preventing, and controlling communicable and preventable diseases." The Department has adopted rules to implement this statute in Arizona Administrative Code (A.A.C.) Title 9, Chapter 6. The rules specifying reporting requirements for communicable diseases are in 9 A.A.C. 6, Article 2. The rules covering control measures for communicable diseases are in 9 A.A.C. 6, Article 3. The rules in 9 A.A.C. 6, Articles 2 and 3 contain requirements for the reporting of several conditions that no longer need to be included as reportable conditions and do not contain reporting requirements for other conditions that should be reportable to protect public health. The rules need to be revised to update reportable conditions and their control measures, ensure more accurate tracking and better reporting, and improve the effectiveness of the rules in preventing a significant threat to public health. After receiving an exception from the Governor's rulemaking moratorium established by Executive Order 2016-03, the Department is revising the rules to address these concerns, account for changes in laboratory methodologies, allow for electronic reporting, and reduce the regulatory burden of the rules. In addition, the Department is changing cross-references in other Articles in the Chapter that are being made incorrect by renumbering in Article 3. The amendments will conform to rulemaking format and style requirements of the Governor's Regulatory Review Council and the Office of the Secretary of State.

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

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

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

Not applicable

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

This analysis covers costs and benefits associated with the rule changes and does not describe effects imposed by statutes. No new FTEs will be required due to this rulemaking. Annual cost/revenue changes are designated as minimal when more than $0 and $5,000 or less, moderate when between $5,000 and $30,000, and substantial when $30,000 or greater in additional costs or revenues. A cost is listed as significant when meaningful or important, but not readily subject to quantification. The Department anticipates that persons affected by the rulemaking include the Department; local health agencies; local agencies responsible for vector control; health care providers; health care institutions; correctional facilities, including both public and private; schools, child care establishments, and shelters; clinical laboratories; businesses employing individuals infected with a communicable disease, including owners or operators of restaurants or other food establishments; owners or operators of aquatic venues; pharmacists and pharmacies; health insurance providers, including the Arizona Health Care Cost Containment System (AHCCCS); cases or suspect cases of a communicable disease; contacts of individuals infected with a communicable disease; other patients or residents in a health care institution; other prisoners or detainees in a correctional facility; and the general public.

The Department believes that having rules that are clearer and easier to understand may provide a significant benefit to the Department since staff could then spend less time on following up on incomplete or inadequate reports or answering questions about the communicable disease rules and more time analyzing the data received. The new rules specify that reports are required to be submitted in a Department-provided format, allowing for electronic submission. The Department anticipates receiving a significant benefit from this change. Adding communicable diseases to those reported by clinical laboratories will make reporting more uniform across reporting entities and may detect additional cases, providing a significant benefit to the Department while imposing no more than a minimal burden on the Department from reviewing

the additional reports and taking required action based on the reports. The Department believes that requiring the results of all CD4-T-lymphocyte counts and the results of all HIV tests except negative screening tests may provide a substantial benefit to the Department by providing better information about individuals infected with HIV, which the Department may use to develop better public health responses. This change will also make the Department eligible for grant funding from the Centers for Disease Control and Prevention (CDC), to which Arizona is currently ineligible. Since testing methodologies in clinical laboratories have changed since the current rules were adopted, with many tests not requiring a clinical laboratory to obtain an isolate from a specimen as part of the confirmation of a communicable disease, the new rules specify that a clinical laboratory is required for some communicable diseases to submit to the Arizona State Laboratory an isolate of the organism for each positive culture, if one is available, or a specimen for each positive test result. This change may cause the Department a minimal increase in costs if the Arizona State Laboratory, a component of the Department, must develop additional isolates from submitted specimens if necessary for identification and confirmation of disease status, to establish relationships between cases of the disease, to determine the drugs that may be used to treat an individual infected with the agent, and to identify trends in the agent's antigen content that may affect vaccine effectiveness or public health control measures. A change to require an isolate or specimen for other communicable diseases only by request may reduce the number of unnecessary isolates/specimens received and provide a moderate benefit to the Department when receiving, cataloging, and storing these isolates/specimens. The Department believes that decreasing the time period for reporting may provide a significant benefit to the Department by allowing the Department to respond to individual cases more quickly to reduce the chance of an outbreak, as well as to detect outbreaks more quickly to reduce the number of new cases. Changes that clarify the Department's role in the control of communicable diseases may provide a significant benefit to the Department in improving public health in Arizona.

Local health agencies may receive a significant benefit from the clarified requirements related to communicable disease reporting or control measures, since local health agencies may receive more complete and accurate reports and be able to complete epidemiologic investigations more efficiently. The Department anticipates that a local health agency may incur a minimal-to-moderate burden from the addition of new reportable communicable diseases, depending on the county and the number of cases in the county, and may receive a minimal-to-substantial benefit from the removal of some reportable communicable diseases from the new rules, depending on the number that had previously been received and acted upon. The Department believes that changes that add requirements for epidemiologic investigations may impose a minimal-to-

moderate burden on a local health agency and that a local health agency may receive a minimal-to-substantial benefit from the removal of requirements for epidemiologic investigations for other communicable diseases. The new rules also clarify that a local health agency may conduct an epidemiologic or other investigation, even if not specifically required by this Chapter, in cooperation with the Department. The Department believes this clarification may provide a significant benefit to a local health agency. A local health agency may also incur a minimal-to-moderate burden from the decrease in time to report to the Department for some communicable diseases and may receive a minimal-to moderate benefit from changes increasing the reporting time, with smaller local health agencies with fewer staff perhaps receiving a significant benefit from the increased time since reports about these communicable diseases would no longer need to be reported over weekends or holidays. Based on the estimates of the numbers of cases or suspect cases for which a local health agency may now be required to ensure submission of an isolate or specimen compared with the estimated number for which a local health agency will no longer be required to ensure submission, the Department anticipates that these changes may cause at most a minimal additional cost to a local health agency. The Department believes that changes related to isolation, quarantine, or exclusion may provide a significant benefit to a local health agency, while other changes to control measures may provide a minimal-to-moderate benefit to a local health agency due to the net decrease in the number of instances in which a local health agency is required under the new rules to take action. The addition of some responsibilities for local health agencies in the new rules is anticipated to cause a minimal-to-substantial increase in cost to a local health agency, depending on the number of cases or outbreaks. If a local health agency is not responsible for conducting environmental assessments for vector control within a jurisdiction, a local agency responsible for vector control in the jurisdiction may incur a minimal-to-moderate burden for performing additional assessments if the local agency responsible for vector control were not already performing these assessments.

Some of the added communicable diseases should already have been reported under the current rules in R9-6-202 and Table 1 as “emerging or exotic disease.” Because of the low incidence of the added communicable diseases, the Department expects that a health care provider required to report who had not reported the added communicable diseases under this category may incur up to a minimal additional burden for reporting them. A health care provider required to report might also incur minimal additional costs due to the added information being required in a report and from the reduced time to report certain communicable diseases. The removal of other diseases as reportable may provide a health care provider required to report with a minimal-to-moderate benefit, depending on the number of cases the health care provider

encounters. The Department believes that notification to a receiving facility that an individual known to be infected with certain antibiotic-resistant agents is being transferred to the facility is a standard of practice and is adding this requirement to the new rules. This notification may cause a minimal-to-moderate cost to a health care provider, depending on the number of cases for which notification by the health care provider would need to be made, but provide an offsetting minimal-to-substantial benefit to the receiving health care provider by reducing the chance the infection would spread. New requirements for a diagnosing health care provider to institute isolation precautions for certain diseases, including tuberculosis, and for a health care provider for a pregnant syphilis case to order serologic testing for syphilis at 28 to 32 weeks gestation and at delivery to reduce the risk of the baby being born with congenital syphilis are being added to the new rules and are expected to impose a minimal-to-moderate cost on a health care provider who diagnoses one of these diseases or is treating a pregnant syphilis case and provide a significant benefit in reducing the threat of transmission, including transmission to the fetus or newborn, thereby avoiding stillbirth, premature birth and/or potential deformities in the newborn.

An administrator of a health care institution that had not reported cases or suspect cases of added communicable diseases under the current rules may be expected to incur a minimal-to-moderate burden for reporting them. An administrator of a health care institution might also incur minimal additional costs due to the added information being required in a report and from the reduced time to report certain communicable diseases, with some of this cost mitigated through electronic reporting, especially for larger facilities. The Department anticipates that reporting outbreaks of respiratory disease in a health care institution may impose a minimal burden on an administrator of a health care institution and may result in significant cost savings if earlier reporting and institution of appropriate precautions and other responses results in less transmission and fewer cases. The Department estimates that removing the reporting requirements for certain communicable diseases may provide a minimal-to-substantial benefit to a health care institution, depending on the number of cases the health care institution encounters. The addition of requirements for isolation precautions for certain diseases may cause a health care institution to incur minimal-to-moderate costs to institute control measures for these communicable diseases and to receive minimal-to-substantial benefits from having the control measures in place. Additional requirements related to tuberculosis may provide a significant benefit to a health care institution by making requirements clearer and consistent with standards of care, but could cause a health care institution to incur minimal increased cost for providing additional information as part of a report and moderate additional costs if approval of release from isolation and airborne precautions of a tuberculosis suspect case takes longer than before.

Notification requirements upon transfer may cause a minimal additional cost to a health care institution as a sending facility, depending on the number of cases for which notification would need to be made, and provide as much as a substantial benefit as a receiving health care institution by reducing the chance the infection would spread.

An administrator of a correctional facility might incur minimal additional costs due to the added information being required in a report and from the reduced time to report certain communicable diseases. The Department also anticipates that reporting outbreaks of respiratory disease in a correctional facility would impose a minimal burden on an administrator of a correctional facility, but that the correctional facility may receive a minimal-to-moderate benefit from the earlier detection of cases and the institution of isolation precautions to reduce the number of new cases and a minimal-to-substantial benefit from the removal of requirements to report certain communicable diseases. The Department anticipates that a correctional facility may incur minimal-to-moderate costs to institute control measures for added communicable diseases, but receive minimal-to-substantial benefits from having the control measures in place, thus reducing the chance of an outbreak occurring. Similarly, a correctional facility may receive a moderate-to-substantial benefit from notification upon transfer by a health care provider or health care institution of a prisoner's or detainee's diagnosis with an antibiotic-resistant organism so precautions can be taken to prevent transmission. Requirements related to tuberculosis may cause a correctional facility to incur a minimal increased cost from providing the additional information when reporting a case of tuberculosis and to receive a minimal-to-substantial benefit from the changes related to removal from isolation precautions.

The Department believes that the addition of a few new items of information to a report may cause a school, child care establishment, or shelter to incur minimal additional costs for the added information and that a school, child care establishment, or shelter may receive a significant benefit from clarity and the reduced time spent finding and giving the additional information to a local health agency once it is requested separate from the report. In addition, the Department anticipates that a shelter could incur minimal-to-moderate costs for implementing additional control measures for measles, mumps, pertussis, and rubella recommended by a local health agency but receive a significant benefit from not having a case of one of these communicable diseases infect other individuals on the premises.

The new rules require the reporting by clinical laboratories of results from tests for several additional communicable diseases. Because the communicable diseases being added are already being reported or are rare, the Department believes that these changes will result in at most a minimal-to-moderate cost to a clinical laboratory. Changes in the requirements for

reporting of HIV-related tests are expected to result in a significant benefit to a clinical laboratory through having reporting requirements consistent with the rest of the country, and may result in at most a minimal-to-moderate cost to a clinical laboratory that had not already been reporting viral load and CD4 count values for all HIV-related tests. Many clinical laboratories already report results within the new time periods in the new rules. For clinical laboratories not reporting according to the time periods in the new rules, the Department believes a clinical laboratory may incur minimal-to-moderate costs to send the report out more quickly, depending on the number of reports, and may receive a significant benefit if the new rules encourage electronic reporting. Changes requiring a clinical laboratory to send isolates/specimens on the request of the Department may result in fewer isolates/specimens being submitted and a significant benefit to a clinical laboratory, while sending specimens for other communicable diseases may cause the clinical laboratory to incur minimal additional costs, which may be reduced by the clinical laboratory using the courier service provided by the Arizona State Laboratory. A new requirement to submit a drug sensitivity pattern determined when testing for the agent causing gonorrhea may cause a minimal-to-moderate cost increase to clinical laboratories, depending on the number of reports including a drug sensitivity pattern.

Workers in sensitive occupations who are infected with certain communicable diseases are excluded from working until specific criteria are met to reduce the chance for wide-spread transmission of the disease. The Department anticipates that the owner of a business employing one of these infected workers may incur a minimal-to-moderate cost due to more stringent exclusion criteria for some diseases and may receive a minimal-to-moderate benefit from less stringent exclusion criteria for other diseases and from the potential reduction in the number of new cases or an outbreak arising from an infected worker employed at the business. The environmental control and health education requirements added in the new rules may also provide a significant benefit to a business employing an individual infected with a communicable disease if an environmental assessment includes the business as a possible source of infection and any issues are identified so the owner or operator of the business can take steps to resolve the issues.

The new rules affect other businesses as well. They add an exclusion from an individual using an aquatic venue for specific periods after diarrhea has resolved for certain water-borne diseases. The Department believes that an owner or operator of an aquatic venue may incur minimal decreased revenue from fewer individuals with one of these diseases using the aquatic venue during the time period specified in rule for exclusion and may receive up to a substantial benefit from not having the aquatic venue contaminated and having to shut down operations until the area is no longer contaminated. Clarifying reporting requirements for pharmacists and

administrators of pharmacies may provide a significant benefit to these persons. The Department also anticipates that a health insurance company or health plan, including AHCCCS or Medicare, may receive up to a substantial benefit from the rule change requiring notification upon transfer through the reduction in the number of new cases for which the health insurance company or health plan would be required to pay for care.

Individuals infected with a communicable disease are expected to receive a minimal benefit from the clarification of reporting requirements and control measures for communicable diseases and a significant benefit from the reduced time to report for some of the reportable communicable, allowing individuals with expertise in the disease to provide faster assistance. Notification requirements upon transfer may provide a significant benefit to an individual infected with one of these diseases since the receiving health care provider, health care institution, or correctional facility may be able to provide better care to the individual. The environmental control and health education requirements added in the new rules may provide a significant indirect benefit to a case or suspect case by helping to protect the family members of the case or suspect case from becoming infected. Additional control measures in R9-6-303 may reduce the time of or avoid the need for isolation or exclusion in some instances, providing a significant benefit to an individual who would otherwise have been isolated or excluded. The new rules also allow local health agencies to determine when a case or suspect case should be excluded for certain diseases and when they may be removed from exclusion, which may provide a significant benefit to an infected individual who may be removed from isolation or exclusion earlier and may impose a significant cost on an individual who is excluded longer to protect public health.

The removal of contact control measures for certain diseases and changes requiring the notification of a parent or guardian of a child who is a contact of a pediculosis case may provide a significant benefit to a contact of an individual infected with a communicable disease. Other changes affecting when and for how long a contact is to be quarantined or excluded or adding additional control measures that may be used may provide a significant benefit to a contact. Requirements for environmental control measures and health education may also provide a significant benefit to the household or neighborhood contacts of an infected individual by identifying potential sources of infection and thereby reducing the risk of infection to the contacts. Notification before transfer of an individual infected with one of certain communicable diseases may also provide a significant benefit to staff or patients of a receiving facility.

The general public may receive a significant benefit from the clarity of the new rules and the ease with which they may be followed. Earlier detection of cases or outbreaks made possible by the new rules should lead to quicker response times and less disease/less transmission, as will

changes to control measures, such as education, vector control, environmental measures, exclusions, and isolation, established to prevent additional cases. Reduced transmission leads to less risk to others, which may provide a significant benefit to society in general.

10. A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:

To clarify the rules, the Department added a definition of "vaccine," corrected a statutory cross-reference, and corrected a few punctuation or rulemaking style errors. No other changes were made to the rules between the proposed rulemaking and the final rulemaking.

11. An agency's summary of the public stakeholder comments made about the rulemaking and the agency response to the comments:

The Department received no written comments during the public comment period. The Department held an oral proceeding for the proposed rules on July 13, 2017, at which oral comments were provided by infectious disease prevention staff members from two hospital systems. A summary of the comments received and the Department's responses follows:

Comment	Department's Response
A comment was made by a representative of Dignity Health asking that the rules: - make the definition of carbapenem-resistant enterobacteriaceae consistent with the 2013 CDC definition;	Carbapenem-resistant enterobacteriaceae is not defined in the rule, consistent with all other diseases included in the rule. Instead, as discussed during stakeholder meetings, the Department has on the Department's website for communicable diseases "case definitions" of all reportable conditions. The case definition for a reportable condition can incorporate the criteria for when a condition is considered reportable and what constitutes a case or suspect case. These case definitions are usually based on national guidance reflecting input from infectious disease and laboratory personnel. It is in a case definition that the genus and species names of organisms considered to be included under carbapenem-resistant enterobacteriaceae would be included. The Department plans to involve Arizona infectious disease and laboratory personnel in discussions of the carbapenem-resistant enterobacteriaceae case definition. The CDC definitions change periodically, and the 2013 version of the CDC reference cited is not the most current. No change will be made to the rule.
- remove vancomycin intermediate *Staphlococcus aureus* from the list of reportable conditions since the CDC does not list it as a serious, urgent, or concerning threat;	Vancomycin-intermediate *Staphlococcus aureus* is listed in the most recent CDC report as a concerning threat to public health. No change will be made to the rule.

- make the criteria for removal of isolation precautions for tuberculosis two negative sputum smears, rather than three as long as one is through a bronchial wash or other king of invasive technique.	As discussed during stakeholder meetings, there is insufficient evidence that testing of other specimens, such as through bronchoalveolar lavage, can be used to discontinue infection control precautions. Because of the significant public health risk associated with a false-negative result and the consensus of multiple expert guidelines (Infectious Diseases Society of America, CDC, American Thoracic Society, and Heartland Regional Training and Medical Consultation Center) to use only sputum nucleic acid amplification tests in making decisions whether to discontinue isolation and airborne precautions for a suspect case, no change will be made to the rules.
A comment was made by a representative of Honor Health: - echoing the need for more clarity in the genus/species of agents that constitute carbapenem-resistant enterobacteriaceae, but stating an understanding that this would be developed as part of a case definition;	The Department recognizes the need for more specificity in what constitutes a carbapenem-resistant enterobacteriaceae case or suspect case. As discussed during stakeholder meetings, the Department plans to develop the case definition with input from infectious disease and laboratory personnel throughout the state before their effective date. No change will be made to the rule.
- echoing a desire to reduce reportable diseases, such as vancomycin intermediate *Staphlococcus aureus*, if another mechanism could be found for providing isolates that would work;	The Department, as part of this rulemaking, has removed the reporting of a number of communicable diseases that had been reportable under the current rules, including aseptic meningitis and vancomycin-resistant *Staphlococcus epidermidis*. Because vancomycin-intermediate *Staphlococcus aureus* is listed in the most recent CDC report as a concerning threat to public health and there have been only four cases reported since January 2016, the Department does not consider it prudent to remove reporting for vancomycin-intermediate *Staphlococcus aureus* at this time. No change will be made to the rule.
- expressing support for the Department's removal of reporting of aseptic meningitis;	The Department thanks the commenter for the support.
- expressing support for changes in several Sections to specify that the control measures are for cases with active infection.	The Department thanks the commenter for the support.

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

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

The rules do not require a permit.

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

Not applicable

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

No business competitiveness analysis was received by the Department.

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

Not applicable

14. **Whether the rule was previously made, amended or repealed as an emergency rule. If so, cite the notice published in the *Register* as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:**

Not applicable

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

TITLE 9. HEALTH SERVICES

CHAPTER 6. DEPARTMENT OF HEALTH SERVICES

COMMUNICABLE DISEASES AND INFESTATIONS

ARTICLE 1. GENERAL

Section

R9-6-101. Definitions

ARTICLE 2. COMMUNICABLE DISEASE AND INFESTATION REPORTING

Section

R9-6-201. Definitions

R9-6-202. Reporting Requirements for a Health Care Provider Required to Report or an Administrator of a Health Care Institution or Correctional Facility

Table 1. ~~Reporting Requirements for a Health Care Provider Required to Report or an Administrator of a Health Care Institution or Correctional~~ Repealed

Table 2.1. Reporting Requirements for a Health Care Provider Required to Report or an Administrator of a Health Care Institution or Correctional Facility

R9-6-203. Reporting Requirements for an Administrator of a School, Child Care Establishment, or Shelter

Table ~~2.~~2.2. Reporting Requirements for an Administrator of a School, Child Care Establishment, or Shelter

R9-6-204. Clinical Laboratory Director Reporting Requirements

Table 3. ~~Clinical Laboratory Director Reporting Requirements~~ Repealed

Table 2.3. Clinical Laboratory Director Reporting Requirements

R9-6-205. Reporting Requirements for a Pharmacist or an Administrator of a Pharmacy

R9-6-206. Local Health Agency Responsibilities Regarding Communicable Disease Reports

Table 4. ~~Local Health Agency Reporting Requirements~~ Repealed

Table 2.4. Local Health Agency Reporting Requirements

R9-6-207. Federal or Tribal Entity Reporting

ARTICLE 3. CONTROL MEASURES FOR COMMUNICABLE DISEASES AND INFESTATIONS

Section

R9-6-301. Definitions

R9-6-302. Local Health Agency Control Measures

R9-6-303. Isolation, ~~and~~ Quarantine, Exclusion, and Other Control Measures

R9-6-304. Food Establishment Control Measures

R9-6-305. Control Measures for Multi-drug-resistant Organisms

~~R9-6-305.~~R9-6-306. Amebiasis

~~R9-6-307. Aseptic Meningitis~~

R9-6-307. Anaplasmosis

~~R9-6-306.~~R9-6-308. Anthrax

R9-6-309. Arboviral Infection

R9-6-310. Babesiosis

~~R9-6-308.~~R9-6-311. Basidiobolomycosis

~~R9-6-309.~~R9-6-312. Botulism

~~R9-6-310.~~R9-6-313. Brucellosis

~~R9-6-311.~~R9-6-314. Campylobacteriosis

R9-6-315. Carbapenem-resistant Enterobacteriaceae

~~R9-6-312.~~R9-6-316. Chagas Infection and Related Disease (American Trypanosomiasis)

~~R9-6-313.~~R9-6-317. Chancroid (*Haemophilus ducreyi*)

R9-6-318. Chikungunya

~~R9-6-314.~~R9-6-319. ~~Chlamydia~~ *Chlamydia trachomatis* Infection~~, Sexually Transmitted~~

~~R9-6-315.~~R9-6-320. Cholera

R9-6-321. *Clostridium difficile*

~~R9-6-316.~~R9-6-322. Coccidioidomycosis (Valley Fever)

~~R9-6-317.~~R9-6-323. Colorado Tick Fever

~~R9-6-318.~~R9-6-324. Conjunctivitis: Acute

~~R9-6-319.~~R9-6-325. Creutzfeldt-Jakob Disease

~~R9-6-320.~~R9-6-326. Cryptosporidiosis

~~R9-6-321.~~R9-6-327. *Cyclospora* Infection

~~R9-6-322.~~R9-6-328. Cysticercosis

~~R9-6-323.~~R9-6-329. Dengue

~~R9-6-330. Expired~~

~~R9-6-324.~~R9-6-330. Diarrhea, Nausea, or Vomiting

~~R9-6-325.~~R9-6-331. Diphtheria

~~R9-6-326.~~R9-6-332. ~~Ehrlichioses (~~Ehrlichiosis ~~and Anaplasmosis)~~

~~R9-6-327.~~R9-6-333. Emerging or Exotic Disease

~~R9-6-328.~~R9-6-334. Encephalitis: Viral or Parasitic

~~R9-6-329.~~R9-6-335. ~~Enterohemorrhagic~~ *Escherichia coli*, Shiga Toxin-producing

~~R9-6-331.~~R9-6-336. Giardiasis

R9-6-337. Glanders

~~R9-6-332.~~R9-6-338. Gonorrhea

~~R9-6-333.~~R9-6-339. *Haemophilus influenzae*: Invasive Disease

~~R9-6-334.~~R9-6-340. Hansen's Disease (Leprosy)

~~R9-6-335.~~R9-6-341. Hantavirus Infection

~~R9-6-336.~~R9-6-342. Hemolytic Uremic Syndrome

~~R9-6-343. Expired~~

~~R9-6-337.~~R9-6-343. Hepatitis A

~~R9-6-338.~~R9-6-344. Hepatitis B and Hepatitis D

~~R9-6-339.~~R9-6-345. Hepatitis C

~~R9-6-340.~~R9-6-346. Hepatitis E

~~R9-6-341.~~R9-6-347. Human Immunodeficiency Virus (HIV) Infection and Related Disease

~~R9-6-342.~~R9-6-348. Influenza-Associated Mortality in a Child

~~R9-6-344.~~R9-6-349. Legionellosis (Legionnaires' Disease)

~~R9-6-345.~~R9-6-350. Leptospirosis

~~R9-6-346.~~R9-6-351. Listeriosis

~~R9-6-347.~~R9-6-352. Lyme Disease

~~R9-6-348.~~R9-6-353. Lymphocytic Choriomeningitis

~~R9-6-349.~~R9-6-354. Malaria

~~R9-6-350.~~R9-6-355. Measles (Rubeola)

~~R9-6-351.~~R9-6-356. Melioidosis

~~R9-6-352.~~R9-6-357. Meningococcal Invasive Disease

R9-6-358. Methicillin-resistant *Staphylococcus aureus* (MRSA)

~~R9-6-353.~~R9-6-359. Mumps

~~R9-6-354.~~R9-6-360. Norovirus

R9-6-361. Novel Coronavirus (e.g., SARS or MERS)

~~R9-6-355.~~R9-6-362. Pediculosis (Lice Infestation)

~~R9-6-363. Expired~~

~~R9-6-356.~~R9-6-363. Pertussis (Whooping Cough)

~~R9-6-364. Rocky Mountain Spotted Fever~~

~~R9-6-357.~~R9-6-364. Plague

~~R9-6-358.~~R9-6-365. Poliomyelitis (Paralytic or Non-paralytic)

~~R9-6-359.~~R9-6-366. Psittacosis (Ornithosis)

~~R9-6-360.~~R9-6-367. Q Fever

~~R9-6-361.~~R9-6-368. Rabies in a Human

~~R9-6-369. Severe Acute Respiratory Syndrome~~

~~R9-6-362.~~R9-6-369. Relapsing Fever (Borreliosis)

R9-6-370. Respiratory Disease in a Health Care Institution or Correctional Facility

~~R9-6-365.~~R9-6-371. Rubella (German Measles)

~~R9-6-366.~~R9-6-372. Rubella Syndrome, Congenital

~~R9-6-367.~~R9-6-373. Salmonellosis

~~R9-6-368.~~R9-6-374. Scabies

~~R9-6-370.~~R9-6-375. Shigellosis

~~R9-6-371.~~R9-6-376. Smallpox

R9-6-377. Spotted Fever Rickettsiosis (e.g., Rocky Mountain Spotted Fever)

~~R9-6-372.~~R9-6-378. Streptococcal Group A Infection

~~R9-6-373.~~R9-6-379. Streptococcal Group B Infection in an Infant Younger Than 90 Days of Age

~~R9-6-374.~~R9-6-380. *Streptococcus pneumoniae* Invasive Infection

~~R9-6-375.~~R9-6-381. Syphilis

~~R9-6-376.~~R9-6-382. Taeniasis

~~R9-6-377.~~R9-6-383. Tetanus

~~R9-6-384. Expired~~

~~R9-6-378.~~R9-6-384. Toxic Shock Syndrome

~~R9-6-379.~~R9-6-385. Trichinosis

~~R9-6-380.~~R9-6-386. Tuberculosis

~~R9-6-387. Vancomycin-Resistant *Staphylococcus epidermidis*~~

~~R9-6-381.~~R9-6-387. Tularemia

~~R9-6-382.~~R9-6-388. Typhoid Fever

~~R9-6-383.~~R9-6-389. Typhus Fever

~~R9-6-385.~~R9-6-390. Vaccinia-related Adverse Event

~~R9-6-386.~~R9-6-391. Vancomycin-Resistant or Vancomycin-Intermediate *Staphylococcus aureus*

~~R9-6-388.~~R9-6-392. Varicella (Chickenpox)

~~R9-6-389.~~R9-6-393. *Vibrio* Infection

~~R9-6-394. Expired~~

~~R9-6-390.~~R9-6-394. Viral Hemorrhagic Fever

~~R9-6-391.~~R9-6-395. West Nile ~~Virus-related Syndromes~~ Virus Infection

~~R9-6-392.~~R9-6-396. Yellow Fever

~~R9-6-393.~~R9-6-397. Yersiniosis (Enteropathogenic *Yersinia*)

R9-6-398. Zika Virus Infection

ARTICLE 10. HIV-RELATED TESTING AND NOTIFICATION

Section

R9-6-1002. Local Health Agency Requirements

ARTICLE 11. STD-RELATED TESTING AND NOTIFICATION

Section

R9-6-1102. Health Care Provider Requirements

R9-6-1103. Local Health Agency Requirements

ARTICLE 12. TUBERCULOSIS CONTROL

Section

R9-6-1202. Local Health Agency Reporting Requirements

ARTICLE 1. GENERAL

R9-6-101. Definitions

In this Chapter, unless otherwise specified:

1. "Active tuberculosis" means the same as in A.R.S. § 36-711.
2. "Administrator" means the individual who is the senior leader at a child care establishment, health care institution, correctional facility, school, pharmacy, or shelter.
3. "Agency" means any board, commission, department, office, or other administrative unit of the federal government, the state, or a political subdivision of the state.
4. "Agent" means an organism that may cause a disease, either directly or indirectly.
5. "AIDS" means Acquired Immunodeficiency Syndrome.
6. "Airborne precautions" means, in addition to use of standard precautions:
    a. Either:
        i. Placing an individual in a private room with negative air-pressure ventilation, at least six air exchanges per hour, and air either:
            (1) Exhausted directly to the outside of the building containing the room, or
            (2) Recirculated through a HEPA filtration system before being returned to the interior of the building containing the room; or
        ii. If the building in which an individual is located does not have an unoccupied room meeting the specifications in subsection (6)(a)(i):
            (1) Placing the individual in a private room, with the door to the room kept closed when not being used for entering or leaving the room, until the individual is transferred to a health care institution that has a room meeting the specifications in subsection (6)(a)(i) or to the individual's residence, as medically appropriate; and
            (2) Ensuring that the individual is wearing a mask covering the individual's nose and mouth; and
    b. Ensuring the use by other individuals, when entering the room in which the individual is located, of a device that is:
        i. Designed to protect the wearer against inhalation of an atmosphere that may be harmful to the health of the wearer, and
        ii. At least as protective as a National Institute for Occupational Safety and Health-approved N-95 respirator.

7. “Approved test for tuberculosis” means a Mantoux skin test or other test for tuberculosis recommended by the Centers for Disease Control and Prevention or the Tuberculosis Control Officer appointed under A.R.S. § 36-714.

8. “Arizona State Laboratory” means the part of the Department authorized by A.R.S. Title 36, Chapter 2, Article 2, and A.R.S. § 36-132(A)(11) that performs serological, microbiological, entomological, and chemical analyses.

9. “Average window period” means the typical time between exposure to an agent and the ability to detect infection with the agent in human blood.

10. “Barrier” means a mask, gown, glove, face shield, face mask, or other membrane or filter to prevent the transmission of infectious agents and protect an individual from exposure to body fluids.

11. “Body fluid” means semen, vaginal secretion, tissue, cerebrospinal fluid, synovial fluid, pleural fluid, peritoneal fluid, pericardial fluid, amniotic fluid, urine, blood, lymph, or saliva.

12. “Carrier” means an infected individual without symptoms who can spread the infection to a susceptible individual.

13. “Case” means an individual:

    a. With a communicable disease whose condition is documented:

        i. By laboratory results that support the presence of the agent that causes the disease;

        ii. By a health care provider’s diagnosis based on clinical observation; or

        iii. By epidemiologic associations with the communicable disease, the agent that causes the disease, or toxic products of the agent;

    b. Who has experienced diarrhea, nausea, or vomiting as part of an outbreak;

    ~~c. Who has died without apparent cause within 48 hours after experiencing a fever;~~ or

    ~~d.~~c. Who has experienced a vaccinia-related adverse event.

14. “Case definition” means the disease-specific criteria that must be met for an individual to be classified as a case.

15. “Chief medical officer” means the senior health care provider in a correctional facility or that individual's designee who is also a health care provider.

16. “Child” means an individual younger than 18 years of age.

17. “Child care establishment” means:

    a. A “child care facility,” as defined in A.R.S. § 36-881;

b. A “child care group home,” as defined in A.R.S. § 36-897;

c. A child care home registered with the Arizona Department of Education under A.R.S. § 46-321; or

d. A child care home certified by the Arizona Department of Economic Security under A.R.S. Title 46, Chapter 7, Article 1.

18. “Clinical signs and symptoms” means evidence of disease or injury that can be observed by a health care provider or can be inferred by the health care provider from a patient’s description of subjective complaints.

19. “Cohort room” means a room housing only individuals infected with the same agent and no other agent.

20. “Communicable disease” means an illness caused by an agent or its toxic products that arises through the transmission of that agent or its products to a susceptible host, either directly or indirectly.

21. “Communicable period” means the time during which an agent may be transmitted directly or indirectly:

a. From an infected individual to another individual;

b. From an infected animal, arthropod, or vehicle to an individual; or

c. From an infected individual to an animal.

22. “Confirmatory test” means a laboratory analysis~~, such as a Western blot analysis~~ approved by the U.S. Food and Drug Administration to be used after a screening test to diagnose or monitor the progression of HIV infection.

23. “Contact” means an individual who has been exposed to an infectious agent in a manner that may have allowed transmission of the infectious agent to the individual during the communicable period.

24. “Correctional facility” means any place used for the confinement or control of an individual:

a. Charged with or convicted of an offense,

b. Held for extradition, or

c. Pursuant to a court order for law enforcement purposes.

25. “Court-ordered subject” means a subject who is required by a court of competent jurisdiction to provide one or more specimens of blood or other body fluids for testing.

26. “Dentist” means an individual licensed under A.R.S. Title 32, Chapter 11, Article 2.

27. “Department” means the Arizona Department of Health Services.

28. “Designated service area” means the same as in R9-18-101.

29. “Diagnosis” means an identification of a disease by an individual authorized by law to make the identification.

30. “Disease” means a condition or disorder that causes the human body to deviate from its normal or healthy state.

31. “Emerging or exotic disease” means:

    a. A new disease resulting from change in an existing organism;

    b. A known disease not usually found in the geographic area or population in which it is found;

    c. A previously unrecognized disease appearing in an area undergoing ecologic transformation; or

    d. A disease reemerging as a result of a situation such as antimicrobial resistance in a known infectious agent, a breakdown in public health measures, or deliberate release.

32. “Entity” has the same meaning as “person” in A.R.S. § 1-215.

33. “Epidemiologic investigation” means the application of scientific methods to ascertain a diagnosis; identify risk factors for a disease; determine the potential for spreading a disease; institute control measures; and complete forms and reports such as communicable disease, case investigation, and outbreak reports.

34. “Fever” means a temperature of ~~101°~~ 100.4° F or higher.

35. “Food establishment” has the same meaning as in the document incorporated by reference in A.A.C. R9-8-107.

36. “Food handler” means:

    a. A paid or volunteer full-time or part-time worker who prepares or serves food or who otherwise touches food in a food establishment; or

    b. An individual who prepares food for or serves food to a group of two or more individuals in a setting other than a food establishment.

37. “Foodborne” means that food serves as a mode of transmission of an infectious agent.

38. “Guardian” means an individual who is invested with the authority and charged with the duty of caring for an individual by a court of competent jurisdiction.

39. “HBsAg” means hepatitis B surface antigen.

40. “Health care institution” has the same meaning as in A.R.S. § 36-401.

41. “Health care provider” means the same as in A.R.S. § 36-661.

42. “Health education” means supplying to an individual or a group of individuals:

a. Information about a communicable disease or options for treatment of a communicable disease, and

b. Guidance about methods to reduce the risk that the individual or group of individuals will become infected or infect other individuals.

43. "HIV" means Human Immunodeficiency Virus.

44. "HIV-related test" has the same meaning as in A.R.S. § 36-661.

45. "Infected" or "infection" means when an individual has an agent for a disease in a part of the individual's body where the agent may cause a disease.

46. "Infectious active tuberculosis" means pulmonary or laryngeal active tuberculosis in an individual, which can be transmitted from the infected individual to another individual.

47. "Infectious agent" means an agent that can be transmitted to an individual.

48. "Infant" means a child younger than 12 months of age.

49. "Isolate" means:

a. To separate an infected individual or animal from others to limit the transmission of infectious agents, or

b. A pure strain of an agent obtained from a specimen.

50. "Isolation" means separation, during the communicable period, of an infected individual or animal from others to limit the trans-mission of infectious agents.

51. "Laboratory report" means a document that:

a. Is produced by a laboratory that conducts a test or tests on a subject's specimen; and

b. Shows the outcome of each test, including personal identifying information about the subject.

52. "Local health agency" means a county health department, a public health services district, a tribal health unit, or a U.S. Public Health Service Indian Health Service Unit.

53. "Local health officer" means an individual who has daily control and supervision of a local health agency or the individual's designee.

54. "Medical evaluation" means an assessment of an individual's health by a physician, physician assistant, or registered nurse practitioner.

55. "Medical examiner" means an individual:

a. Appointed as a county medical examiner by a county board of supervisors under A.R.S. § 11-592, or

b. Employed by a county board of supervisors under A.R.S. § 11-592 to perform the duties of a county medical examiner.

56. “Multi-drug resistant tuberculosis” means active tuberculosis that is caused by bacteria that are not susceptible to the antibiotics isoniazid and rifampin.

57. “Officer in charge” means the individual in the senior leadership position in a correctional facility or that individual’s designee.

58. “Outbreak” means an unexpected increase in incidence of a disease, infestation, or sign or symptom of illness.

59. “Parent” means a biological or adoptive mother or father.

60. “Person” has the same meaning as in A.R.S. § 1-215.

~~60.~~61. “Petition” means a formal written application to a court requesting judicial action on a matter.

~~61.~~62. “Pharmacy” has the same meaning as in A.R.S. § 32-1901.

~~62.~~63. “Physician” means an individual licensed as a doctor of:

a. Allopathic medicine under A.R.S. Title 32, Chapter 13;

b. Naturopathic medicine under A.R.S. Title 32, Chapter 14;

c. Osteopathic medicine under A.R.S. Title 32, Chapter 17; or

d. Homeopathic medicine under A.R.S. Title 32, Chapter 29.

~~63.~~64. “Physician assistant” has the same meaning as in A.R.S. § 32-2501.

~~64.~~65. “Pupil” means a student attending a school.

~~65.~~66. “Quarantine” means the restriction of activities of an individual or animal that has been exposed to a case or carrier of a communicable disease during the communicable period, to prevent transmission of the disease if infection occurs.

~~66.~~67. “Registered nurse practitioner” has the same meaning as in A.R.S. § 32-1601.

68. “Respiratory disease” means a communicable disease with acute onset of fever and symptoms such as cough, sore throat, or shortness of breath.

~~67.~~69. “Risk factor” means an activity or circumstance that increases the chances that an individual will become infected with or develop a communicable disease.

~~68.~~70. “School” means:

a. An “accommodation school,” as defined in A.R.S. § 15-101;

b. A “charter school,” as defined in A.R.S. § 15-101;

c. A “private school,” as defined in A.R.S. § 15-101;

d. A “school,” as defined in A.R.S. § 15-101;

e. A college or university;

f. An institution that offers a “private vocational program,” as defined in A.R.S. § 32-3001; or

g. An institution that grants a "degree," as defined in A.R.S. § 32-3001, for completion of an educational program of study.

~~69.~~71. "Screening test" means a laboratory analysis approved by the U.S. Food and Drug Administration as an initial test to indicate the possibility that an individual is infected with a communicable disease.

~~70.~~72. "Sexual contact" means vaginal intercourse, anal intercourse, fellatio, ~~or~~ cunnilingus, or other deliberate interaction with another individual's genital area for a non-medical or non-hygienic reason.

~~71.~~73. "Shelter" means:

a. A facility or home that provides "shelter care," as defined in A.R.S. § 8-201;

b. A "homeless shelter," as defined in A.R.S. § 16-121; or

c. A "shelter for victims of domestic violence," as defined in A.R.S. § 36-3001.

~~72.~~74. "Significant exposure" means the same as in A.R.S. § 32-3207.

~~73.~~75. "Standard precautions" means the use of barriers by an individual to prevent parenteral, mucous membrane, and nonintact skin exposure to body fluids and secretions other than sweat.

~~74.~~76. "Subject" means an individual whose blood or other body fluid has been tested or is to be tested.

~~75.~~77. "Submitting entity" means the same as in A.R.S. § 13-1415.

~~76.~~78. "Suspect case" means an individual whose medical history, signs, or symptoms indicate that the individual:

a. May have or is developing a communicable disease;

b. May have experienced diarrhea, nausea, or vomiting as part of an outbreak;

~~c. May have died without apparent cause within 48 hours after experiencing a fever;~~ or

~~d.~~c. May have experienced a vaccinia-related adverse event.

~~77.~~79. "Syndrome" means a pattern of signs and symptoms characteristic of a disease.

~~78.~~80. "Test" means an analysis performed on blood or other body fluid to evaluate for the presence or absence of a disease.

~~79.~~81. "Test result" means information about the outcome of a laboratory analysis of a subject's specimen and does not include personal identifying information about the subject.

~~80.~~82. "Treatment" means a procedure or method to cure, improve, or palliate an illness or a disease.

~~81.~~83. "Tuberculosis control officer" means the same as in A.R.S. § 36-711.

~~82. "Unexplained death with a history of fever" means the demise of an individual who has had a fever within 48 hours before death and whose illness has not been diagnosed at the time of death.~~

84. "Vaccine" means a preparation of a weakened or killed agent, a portion of the agent's structure, or a synthetic substitute for a portion of the agent's structure that, upon administration into the body of an individual or animal, stimulates a response in the body to produce or increase immunity to a particular disease.

~~83.~~85. "Vaccinia-related adverse event" means a reaction to the administration of a vaccine against smallpox that requires medical evaluation of the reaction.

~~84.~~86. "Victim" means an individual on whom another individual is alleged to have committed a sexual offense, as defined in A.R.S. § 13-1415.

~~85.~~87. "Viral hemorrhagic fever" means disease characterized by fever and hemorrhaging and caused by a virus.

~~86.~~88. "Waterborne" means that water serves as a mode of transmission of an infectious agent.

~~87.~~89. "Working day" means the period from 8:00 a.m. to 5:00 p.m. on a Monday, Tuesday, Wednesday, Thursday, or Friday that is not a state holiday.

ARTICLE 2. COMMUNICABLE DISEASE AND INFESTATION REPORTING

R9-6-201. Definitions

In this Article, unless otherwise specified:

1. "Clinical laboratory" has the same meaning as in A.R.S. § 36-451.
2. "Drug" has the same meaning as in A.R.S. § 32-1901.
3. "Epidemiologic curve" means a graphic display of the number of cases over time.
4. "Normally sterile site" means an anatomic location, or tissue or body fluid from an anatomic location, in which microorganisms are not found in the absence of disease and includes:
    a. The lower respiratory tract;
    b. Blood;
    c. Bone marrow;
    d. Cerebrospinal fluid;
    e. Pleural fluid;
    f. Peritoneal fluid;
    g. Synovial fluid;
    h. Pericardial fluid;
    i. Amniotic fluid;
    j. Lymph;
    k. A closed abscess; or
    l. Another anatomic location other than the skin, mouth, eyes, upper respiratory tract, middle ear, urogenital tract, or gastrointestinal tract.
5. "Health care provider required to report" means a physician, physician assistant, registered nurse practitioner, or dentist who diagnoses, treats, or detects a case or suspect case of a communicable disease listed in Table ~~1~~ 2.1 or detects an occurrence listed in Table ~~1~~ 2.1.
6. "Pharmacist" has the same meaning as in A.R.S. § 32-1901.
7. "Point of contact" means an individual through whom the Department or a local health agency can obtain information upon request.
8. "Whole blood" means human blood from which plasma, erythrocytes, leukocytes, and thrombocytes have not been separated.

R9-6-202. Reporting Requirements for a Health Care Provider Required to Report or an Administrator of a Health Care Institution or Correctional Facility

A. A health care provider required to report shall, either personally or through a representative, submit a report, in a Department-provided format, to the local health agency within the time limitation in Table ~~1~~ 2.1 and as specified in subsection (C)~~, (D), or (E)~~ or (D).

B. An administrator of a health care institution or correctional facility in which a case or suspect case of a communicable disease listed in Table ~~1~~ 2.1 is diagnosed, treated, or detected or an occurrence listed in Table ~~1~~ 2.1 is detected shall, either personally or through a representative, submit a report, in a Department-provided format, to the local health agency within the time limitation in Table ~~1~~ 2.1 and as specified in subsection (C)~~, (D), or (E)~~ or (D).

C. Except as described in ~~subsections (D) and (E)~~ subsection (D), for each case, suspect case, or occurrence for which a report on an individual is required by subsection (A) or (B) and Table ~~1~~ 2.1, a health care provider required to report or an administrator of a health care institution or correctional facility shall submit a report that includes:

1. The following information about the case or suspect case:
   - a. Name;
   - b. Residential and mailing addresses;
   - c. County of residence;
   - d. ~~If~~ Whether the individual is living on a reservation and, if so, the name of the reservation;
   - e. Whether the individual is a member of a tribe and, if so, the name of the tribe;
   - ~~e.~~f. Telephone number and, if available, email address;
   - ~~f.~~g. Date of birth;
   - ~~g.~~h. Race and ethnicity;
   - ~~h.~~i. Gender;
   - ~~i.~~j. If known, whether the individual is pregnant;
   - ~~j.~~k. If known, whether the individual is alive or dead;
   - ~~k.~~l. If known, the individual's occupation;
   - ~~l.~~m. If the individual is attending or working in a school or child care establishment or working in a health care institution or food establishment, the name and address of the school, child care establishment, health care institution, or food establishment; and
   - ~~m.~~n. For a case or suspect case who is a child requiring parental consent for treatment, the name, residential address, ~~and~~ telephone number, and, if available, email address of the child's parent or guardian, if known;
2. The following information about the disease:

a. The name of the disease;

b. The date of onset of symptoms;

c. The date of diagnosis;

d. The date of specimen collection;

e. Each type of specimen collected;

f. Each type of laboratory test completed;

g. The date of the result of each laboratory test; and

h. A description of the laboratory test results, including quantitative values if available;

3. If reporting a case or suspect case of tuberculosis:

a. The site of infection; ~~and~~

b. A description of the treatment prescribed, if any, including:

i. The name of each drug prescribed,

ii. The dosage prescribed for each drug, and

iii. The date of prescription for each drug; and

c. Whether the diagnosis was confirmed by a laboratory and, if so, the name, address, and phone number of the laboratory;

4. If reporting a case or suspect case of chancroid, gonorrhea, ~~genital herpes infection,~~ or ~~genital chlamydia~~ *Chlamydia trachomatis* infection:

a. The gender of the individuals with whom the case or suspect case had sexual contact;

b. A description of the treatment prescribed, if any, including:

i. The name of each drug prescribed,

ii. The dosage prescribed for each drug, and

iii. The date of prescription for each drug;

c. The site of infection; and

d. Whether the diagnosis was confirmed by a laboratory and, if so, the name, address, and phone number of the laboratory;

5. If reporting a case or suspect case of syphilis:

a. The information required under subsection (C)(4); and

b. Identification of:

i. The stage of the disease, or

ii. Whether the syphilis is congenital;

6. If reporting a case of congenital syphilis in an infant, and in addition to the information required under subsection (C)(5) and A.R.S. § 36-694(A), the following information:
   a. The name and date of birth of the infant's mother;
   b. The residential address, mailing address, ~~and~~ telephone number, and, if available, email address of the infant's mother;
   c. The date and test results for the infant's mother of the prenatal syphilis test required in A.R.S. § 36-693; and
   d. If the prenatal syphilis test of the infant's mother indicated that the infant's mother was infected with syphilis:
      i. Whether the infant's mother received treatment for syphilis,
      ii. The name and dosage of each drug prescribed to the infant's mother for treatment of syphilis and the date each drug was prescribed, and
      iii. The name and phone number of the health care provider required to report who treated the infant's mother for syphilis;
7. The name, address, ~~and~~ telephone number, and, if available, email address of the individual making the report; and
8. The name, ~~and~~ address, telephone number, and, if available, email address of the:
   a. Health care provider, if reporting under subsection (A) and different from the individual specified in subsection (C)(7); or
   b. Health care institution or correctional facility, if reporting under subsection (B).

~~**D.** For each unexplained death with a history of fever, a health care provider required to report or an administrator of a health care institution or correctional facility shall submit a report that includes:~~

~~1. The following information about the deceased individual:~~
   ~~a. Name;~~
   ~~b. Residential address;~~
   ~~c. Date of birth;~~
   ~~d. Telephone number; and~~
   ~~e. If known, medical history;~~

~~2. A description of the clinical course of the illness that resulted in death;~~

~~3. A list of the laboratory tests completed on the deceased individual and, if available, the laboratory test results, including quantitative values;~~

~~4. The suspected cause or causes of death;~~

~~5. If known, the status of the autopsy;~~

~~6. The name, residential address, and telephone number of a family member of the deceased individual who can serve as a point of contact;~~

~~7. The name, address, and telephone number of the individual making the report; and~~

~~8. The name and address of the:~~

~~a. Health care provider, if reporting under subsection (A) and different from the individual specified in subsection (D)(7); or~~

~~b. Health care institution or correctional facility, if reporting under subsection (B).~~

~~E.~~D. For each outbreak for which a report is required by subsection (A) or (B) and Table ~~1~~ 2.1, a health care provider required to report or an administrator of a health care institution or correctional facility shall submit a report that includes:

1. A description of the signs and symptoms;
2. If possible, a diagnosis and identification of suspected sources;
3. The number of known cases and suspect cases;
4. A description of the location and setting of the outbreak;
5. The name, address, ~~and~~ telephone number, and, if available, email address of the individual making the report; and
6. The name, ~~and~~ address, telephone number, and, if available, email address of the:
   a. Health care provider, if reporting under subsection (A) and different from the individual specified in subsection ~~(E)(5)~~ (D)(5); or
   b. Health care institution or correctional facility, if reporting under subsection (B).

~~F.~~E. When an HIV-related test is ordered for an infant who was perinatally exposed to HIV to determine whether the infant is infected with HIV, the health care provider who orders the HIV-related test or the administrator of the health care institution in which the HIV-related test is ordered shall:

1. Report the results of the infant's HIV-related test to the Department, either personally or through a representative, within five working days after receiving the results of the HIV-related test;
2. Include the following information in the report specified in subsection ~~(F)(1)~~ (E)(1):
   a. The name and date of birth of the infant;
   b. The residential address, mailing address, and telephone number of the infant;
   c. The name and date of birth of the infant's mother;
   d. The date of the last medical evaluation of the infant;
   e. The types of HIV-related tests ordered for the infant;
   f. The dates of the infant's HIV-related tests;

g. The results of the infant's HIV-related tests; and

h. The ordering health care provider's name, address, and telephone number; and

3. Include with the report specified in subsection ~~(F)(1)~~ (E)(1) a report for the infant's mother including the following information:

a. The name and date of birth of the infant's mother;

b. The residential address, mailing address, and telephone number of the infant's mother;

c. The date of the last medical evaluation of the infant's mother;

d. The types of HIV-related tests ordered for the infant's mother;

e. The dates of the HIV-related tests for the infant's mother;

f. The results of the HIV-related tests for the infant's mother;

g. What HIV-related risk factors the infant's mother has;

h. Whether the infant's mother delivered the infant vaginally or by C-section;

i. Whether the infant's mother was receiving HIV-related drugs prior to the infant's birth to reduce the risk of perinatal transmission of HIV; and

j. The name, address, and telephone number of the health care provider who ordered the HIV-related tests for the infant's mother.

~~**G.**~~ ~~Except as provided in Table 1, a health care provider required to report or an administrator of a health care institution or correctional facility shall, either personally or through a representative, submit a report required under this Section:~~

~~1. By telephone;~~

~~2. In a document sent by fax, delivery service, or mail; or~~

~~3. Through an electronic reporting system authorized by the Department.~~

Table 1. ~~**Reporting Requirements for a Health Care Provider Required to Report or an Administrator of a Health Care Institution or Correctional**~~ **Repealed**

~~+*,O~~	~~Amebiasis~~	~~+~~	~~Hantavirus infection~~	~~)~~	~~Rubella syndrome, congenital~~
~~(~~	~~Anthrax~~	~~(~~	~~Hemolytic uremic syndrome~~	~~+*,O~~	~~Salmonellosis~~
~~+~~	~~Aseptic meningitis: viral~~	~~+*,O~~	~~Hepatitis A~~	~~O~~	~~Scabies~~
~~+~~	~~Basidiobolomycosis~~	~~+~~	~~Hepatitis B and D~~	~~(~~	~~Severe acute respiratory syndrome~~
~~(~~	~~Botulism~~	~~+~~	~~Hepatitis C~~	~~+*,O~~	~~Shigellosis~~
~~)~~	~~Brucellosis~~	~~+*,O~~	~~Hepatitis E~~	~~(~~	~~Smallpox~~
~~+*,O~~	~~Campylobacteriosis~~	~~+~~	~~Herpes genitalis~~	~~+~~	~~Streptococcal Group A: Invasive disease~~
~~+~~	~~Chagas disease (American trypanosomiasis)~~	~~+~~	~~HIV infection and related disease~~	~~+~~	~~Streptococcal Group B: Invasive disease in infants younger than 90 days of age~~
~~+~~	~~Chancroid~~	~~)~~	~~Influenza-associated mortality in a child~~	~~+~~	~~*Streptococcus pneumoniae* (pneumococcal invasive disease)~~
~~+~~	~~*Chlamydia* infection, sexually transmitted~~	~~+~~	~~Kawasaki syndrome~~	~~+~~	~~Syphilis~~
~~)*~~	~~Cholera~~	~~+~~	~~Legionellosis (Legionnaires' disease)~~	~~+*,O~~	~~Taeniasis~~
~~+~~	~~Coccidioidomycosis (valley fever)~~	~~+~~	~~Leptospirosis~~	~~+~~	~~Tetanus~~
~~+~~	~~Colorado tick fever~~	~~(~~	~~Listeriosis~~	~~+~~	~~Toxic shock syndrome~~
~~O~~	~~Conjunctivitis: acute~~	~~+~~	~~Lyme disease~~	~~+~~	~~Trichinosis~~
~~+~~	~~Creutzfeldt-Jakob disease~~	~~+~~	~~Lymphocytic choriomeningitis~~	~~)~~	~~Tuberculosis, active disease~~
~~+*,O~~	~~Cryptosporidiosis~~	~~+~~	~~Malaria~~	~~)~~	~~Tuberculosis latent infection in a child 5 years of age or younger (positive screening test result)~~
~~+~~	~~*Cyclospora* infection~~	~~(~~	~~Measles (rubeola)~~	~~(~~	~~Tularemia~~
~~+~~	~~Cysticercosis~~	~~(~~	~~Meningococcal invasive disease~~	~~(~~	~~Typhoid fever~~
~~+~~	~~Dengue~~	~~)~~	~~Mumps~~	~~)~~	~~Typhus fever~~
~~O~~	~~Diarrhea, nausea, or vomiting~~	~~(~~	~~Pertussis (whooping cough)~~	~~(~~	~~Unexplained death with a history of fever~~
~~(~~	~~Diphtheria~~	~~(~~	~~Plague~~	~~)~~	~~Vaccinia-related adverse event~~
~~+~~	~~Ehrlichiosis and Anaplasmosis~~	~~(~~	~~Poliomyelitis~~		
~~(~~	~~Emerging or exotic disease~~	~~+~~	~~Psittacosis (ornithosis)~~	~~(~~	~~Vancomycin-resistant or Vancomycin-intermediate *Staphylococcus aureus*~~
~~)~~	~~Encephalitis, viral or parasitic~~	~~)~~	~~Q fever~~	~~(~~	~~Vancomycin-resistant *Staphylococcus epidermidis*~~
~~(~~	~~Enterohemorrhagic *Escherichia coli*~~	~~(~~	~~Rabies in a human~~	~~+~~	~~Varicella (chickenpox)~~
~~(~~	~~Enterotoxigenic *Escherichia coli*~~	~~+~~	~~Relapsing fever (borreliosis)~~	~~+*,O~~	~~*Vibrio* infection~~
~~+*,O~~	~~Giardiasis~~	~~+~~	~~Reye syndrome~~	~~(~~	~~Viral hemorrhagic fever~~
~~+~~	~~Gonorrhea~~	~~+~~	~~Rocky Mountain spotted fever~~	~~+~~	~~West Nile virus infection~~
~~+~~	~~*Haemophilus influenzae*: invasive disease~~	~~)*~~	~~Rubella (German measles)~~	~~(~~	~~Yellow fever~~
~~+~~	~~Hansen's disease (Leprosy)~~			~~+*,O~~	~~Yersiniosis~~

~~**Key:**~~

~~(~~ ~~Submit a report by telephone or through an electronic reporting system authorized by the Department within 24 hours after a case or suspect case is diagnosed, treated, or detected or an occurrence is detected.~~

~~*~~ ~~If a case or suspect case is a food handler or works in a child care establishment or a health care institution, instead of reporting within the general reporting deadline, submit a report within 24 hours after the case or suspect case is diagnosed, treated, or detected.~~

~~)~~ ~~Submit a report within one working day after a case or suspect case is diagnosed, treated, or detected.~~

~~+~~ ~~Submit a report within five working days after a case or suspect case is diagnosed, treated, or detected.~~

~~O~~ ~~Submit a report within 24 hours after detecting an outbreak.~~

Table 2.1. Reporting Requirements for a Health Care Provider Required to Report or an Administrator of a Health Care Institution or Correctional Facility

+ *,O	Amebiasis	(	Glanders	O	Respiratory disease in a health care institution or correctional facility
+	Anaplasmosis	+	Gonorrhea	) *	Rubella (German measles)
(	Anthrax	)	*Haemophilus influenza*, invasive disease	)	Rubella syndrome, congenital
+	Arboviral infection	+	Hansen's disease (Leprosy)	) *,O	Salmonellosis
+	Babesiosis	)	Hantavirus infection	O	Scabies
+	Basidiobolomycosis	)	Hemolytic uremic syndrome	) *,O	Shigellosis
(	Botulism	) *,O	Hepatitis A	(	Smallpox
)	Brucellosis	+	Hepatitis B and Hepatitis D	)	Spotted fever rickettsiosis (e.g., Rocky Mountain spotted fever)
+ *,O	Campylobacteriosis	+	Hepatitis C	+	Streptococcal group A infection, invasive disease
+	Chagas infection and related disease (American trypanosomiasis)	+ *,O	Hepatitis E	+	Streptococcal group B infection in an infant younger than 90 days of age, invasive disease
+	Chancroid	+	HIV infection and related disease	+	*Streptococcus pneumoniae* infection (pneumococcal invasive disease)
)	Chikungunya	)	Influenza-associated mortality in a child	+ [1]	Syphilis
+	*Chlamydia trachomatis* infection	)	Legionellosis (Legionnaires' disease)	+ *,O	Taeniasis
) *	Cholera	)	Leptospirosis	+	Tetanus
+	Coccidioidomycosis (Valley Fever)	)	Listeriosis	+	Toxic shock syndrome
+	Colorado tick fever	+	Lyme disease	)	Trichinosis
O	Conjunctivitis, acute	)	Lymphocytic choriomeningitis	)	Tuberculosis, active disease
+	Creutzfeldt-Jakob disease	+	Malaria	)	Tuberculosis latent infection in a child 5 years of age or younger (positive screening test result)
) *,O	Cryptosporidiosis	(	Measles (rubeola)	(	Tularemia
)	*Cyclospora* infection	)	Melioidosis	)	Typhoid fever
+	Cysticercosis	(	Meningococcal invasive disease	)	Typhus fever
)	Dengue	)	Mumps	)	Vaccinia-related adverse event
O	Diarrhea, nausea, or vomiting	(	Novel coronavirus infection (e.g., SARS or MERS)	(	Vancomycin-resistant or Vancomycin-intermediate *Staphylococcus aureus*
(	Diphtheria	)	Pertussis (whooping cough)	+	Varicella (chickenpox)
+	Ehrlichiosis	(	Plague	) *,O	*Vibrio* infection
(	Emerging or exotic disease	(	Poliomyelitis (paralytic or non-paralytic)	(	Viral hemorrhagic fever
(	Encephalitis, parasitic	+	Psittacosis (ornithosis)	+	West Nile virus infection
)	Encephalitis, viral	)	Q fever	(	Yellow fever
)	*Escherichia coli*, Shiga toxin-producing	(	Rabies in a human	) *,O	Yersiniosis (enteropathogenic *Yersinia*)
+ *,O	Giardiasis	)	Relapsing fever (borreliosis)	)	Zika virus infection

Key:

(Submit a report by telephone or through an electronic reporting system authorized by the Department within 24 hours after a case or suspect case is diagnosed, treated, or detected or an occurrence is detected.

* Submit a report within 24 hours after a case or suspect case is diagnosed, treated, or detected, instead of reporting within the general reporting deadline, if the case or suspect case is a food handler or works in a child care establishment or a health care institution.

[1] Submit a report within one working day if the case or suspect case is a pregnant woman.

) Submit a report within one working day after a case or suspect case is diagnosed, treated, or detected.

\+ Submit a report within five working days after a case or suspect case is diagnosed, treated, or detected.

O Submit a report within 24 hours after detecting an outbreak.

R9-6-203. Reporting Requirements for an Administrator of a School, Child Care Establishment, or Shelter

A. An administrator of a school, child care establishment, or shelter shall, either personally or through a representative, submit a report, in a Department-provided format, ~~a case, suspect case, or outbreak listed in Table 2~~ to the local health agency within the time limitation ~~and as specified~~ in Table ~~2~~ 2.2 and as specified in subsection (B).

B. ~~An~~ For each individual with a disease, infestation, or symptoms of a communicable disease or infestation listed in Table 2.2, or an outbreak of the communicable disease or infestation, an administrator of a school, child care establishment, or shelter shall submit a report ~~by telephone~~ that includes:

1. The name and address of the school, child care establishment, or shelter;
2. The number of individuals with the disease, infestation, or symptoms;
3. The date and time that the disease or infestation was detected or that the symptoms began;
4. The number of rooms, grades, or classes affected and the name of each;
5. The following information about each ~~affected~~ individual with the disease, infestation, or symptoms:
   a. Name;
   b. Date of birth or age;
   c. If the individual is a child, name and contact information for the individual's parent or guardian;
   ~~c.~~d. Residential address and telephone number; and
   ~~d.~~e. Whether the individual is a staff member, a student, a child in care, or a resident;
6. The number of individuals attending or residing at the school, child care establishment, or shelter; and
7. The name, address, ~~and~~ telephone number, and, if available, email address of the individual making the report.

Table ~~2~~.2.2. Reporting Requirements for an Administrator of a School, Child Care Establishment, or Shelter

+	Campylobacteriosis	(	Mumps
O	Conjunctivitis, acute	(	Pertussis (whooping cough)
(	Cryptosporidiosis	(	Rubella (German measles)
O	Diarrhea, nausea, or vomiting	(	Salmonellosis
(	~~Enterohemorrhagic~~ *Escherichia coli*, Shiga toxin-producing	O	Scabies
(	*Haemophilus influenzae*~~:~~, invasive disease	(	Shigellosis
(	Hepatitis A	O	Streptococcal ~~Group~~ group A infection
(	Measles	+	Varicella (chickenpox)
(	Meningococcal invasive disease		

(Submit a report within 24 hours after detecting a case or suspect case.
+ Submit a report within five working days after detecting a case or suspect case.
O Submit a report within 24 hours after detecting an outbreak.

R9-6-204. Clinical Laboratory Director Reporting Requirements

A. Except as specified in subsection (D), a director of a clinical laboratory that obtains a test result described in Table ~~3~~ 2.3 or that receives a specimen for detection of an infectious agent or toxin listed in Table ~~3~~ 2.3 shall, either personally or through a representative, submit a report, in a Department-provided format, and, if applicable, an isolate or a specimen to the Department within the time limitation and as specified in Table ~~3~~ 2.3 and subsection (B) or (C).

B. For each specimen for which an immediate report is required by subsection (A) and Table 2.3, a clinical laboratory director shall ensure the report includes:

1. The name and address of the laboratory;
2. The name and telephone number of the director of the clinical laboratory;
3. The name and, as available, the address, telephone number, and email address of the subject;
4. The date of birth of the subject;
5. The gender of the subject;
6. The laboratory identification number;
7. The specimen type;
8. The date of collection of the specimen;
9. The type of test ordered on the specimen; and
10. The ordering health care provider's name, address, telephone number, and, if available, email address.

~~B.~~C. Except as provided in Table ~~3~~ 2.3 and as specified in subsection (D), for each test result for a subject for which a report is required by subsection (A) and Table ~~3~~ 2.3, a clinical laboratory director shall ensure the report includes:

1. The name and address of the laboratory;
2. The name and telephone number of the director of the clinical laboratory;
3. The name and, ~~if~~ as available, the address, ~~and~~ telephone number, and email address of the subject;
4. The date of birth of the subject;
5. The gender of the subject;
6. The laboratory identification number;
7. The specimen type;
8. The date of collection of the specimen;
9. The date of the result of the test;
10. The type of test completed on the specimen;

11. The test result, including quantitative values and reference ranges, if ~~available~~ applicable; and

12. The ordering health care provider's name, address, ~~and~~ telephone number, and, if available, email address.

~~**C.** For each specimen for which athe drafts. It appears, though that n immediate report is required by subsection (A) and Table 3, a clinical laboratory director shall submit a report that includes:~~

~~1. The name and, if available, the address and telephone number of the subject;~~

~~2. The date of birth of the subject;~~

~~3. The gender of the subject;~~

~~4. The laboratory identification number;~~

~~5. The specimen type;~~

~~6. The date of collection of the specimen;~~

~~7. The type of test ordered on the specimen; and~~

~~8. The ordering health care provider's name, address, and telephone number.~~

D. When the Arizona State Laboratory obtains a test result from anonymous HIV testing sent to the Arizona State Laboratory as described in R9-6-1005, the director of the Arizona State Laboratory shall, either personally or through a representative:

1. Submit a report to the Department within five working days after obtaining a positive test result; and

2. Include in the report the following information:

   a. The laboratory identification number of the subject;

   b. The date of birth, gender, race, and ethnicity of the subject;

   c. The date the specimen was collected;

   d. The type of tests completed on the specimen;

   e. The test results, including quantitative values if available; and

   f. The name, address, and telephone number of the person who submitted the specimen to the Arizona State Laboratory.

~~**E.** The Department shall supply the director of each clinical laboratory with forms that may be used by the clinical laboratory when making a report required under subsection (A) or (D) and Table 3.~~

~~**F.** A clinical laboratory director shall submit a report by telephone; in a document sent by fax, delivery service, or mail; or through an electronic reporting system authorized by the Department. Except as provided in Table 3, each report shall contain the information required under subsection (B), (C), or (D).~~

Table 3. ~~Clinical Laboratory Director Reporting Requirements~~ Repealed

)	Arboviruses	+,ã	*Haemophilus influenzae*, other, isolated from a normally sterile site	+	*Plasmodium* spp.
%, (,ã	*Bacillus anthracis*	+	Hantavirus	+	Respiratory syncytial virus
(,ã	*Bordetella pertussis*	+[1]	Hepatitis A virus (anti-HAV-IgM serologies)	(,+	Rubella virus and anti-rubella-IgM serologies
),ã	*Brucella* spp.	+[1]	Hepatitis B virus (anti-Hepatitis B-core-IgM serologies, Hepatitis B-surface or envelope antigen serologies, or detection of viral nucleic acid)	),ã	*Salmonella* spp.
),ã	*Burkholderia mallei* and *B. pseudomallei*	+[1]	Hepatitis C virus	(	SARS-associated corona virus
+	*Campylobacter* spp.	+[1]	Hepatitis D virus	),ã	*Shigella* spp.
+	CD_4-T-lymphocyte count of fewer than 200 per microliter of whole blood or CD_4-T-lymphocyte percentage of total lymphocytes of less than 14%	+[1],+	Hepatitis E virus (anti-HEV-IgM serologies)	+	*Streptococcus* Group A, isolated from a normally sterile site
+	*Chlamydia trachomatis*	+	HIV (by culture, antigen, antibodies to the virus, or detection of viral nucleic acid)	+	Streptococcus Group B, isolated from a normally sterile site in an infant younger than 90 days of age
%, (	*Clostridium botulinum* toxin (botulism)	+	HIV—any test result for an infant (by culture, antigen, antibodies to the virus, or detection of viral nucleic acid)	+,ã	*Streptococcus pneumoniae* and its drug sensitivity pattern, isolated from a normally sterile site
+	*Coccidioides* spp., by culture or serologies	+	Influenza virus	+	*Treponema pallidum* (syphilis)
)	*Coxiella burnetti*	+,ã	*Legionella* spp. (culture or DFA)	+	*Trypanosoma cruzi* (Chagas disease)
+	*Cryptosporidium* spp.	),ã	*Listeria* spp., isolated from a normally sterile site		
)	*Cyclospora* spp.	(,+	Measles virus and anti-measles-IgM serologies	),ã	Vancomycin-resistant or Vancomycin-intermediate *Staphylococcus aureus*
+	Dengue virus	+[2]	Methicillin-resistant *Staphylococcus aureus*, isolated from a normally sterile site	),ã	Vancomycin-resistant *Staphylococcus epidermidis*
%, (	Emerging or exotic disease agent	),+	Mumps virus and anti-mumps-IgM serologies	%, (	Variola virus (smallpox)
+	*Entamoeba histolytica*	+,ã[3]	*Mycobacterium tuberculosis* complex and its drug sensitivity pattern	),ã	*Vibrio* spp.
)	*Escherichia coli* O157:H7			%, (	Viral hemorrhagic fever agent
),ã	*Escherichia coli*, *Shiga*-toxin producing	+	*Neisseria gonorrhoeae*	+	West Nile virus
%, (,ã	*Francisella tularensis*	(,ã	*Neisseria meningitidis*, isolated from a normally sterile site	),ã	*Yersinia* spp. (other than *Y. pestis*)
(,ã	*Haemophilus influenzae*, type b, isolated from a normally sterile site	+	Norovirus	%, (,ã	*Yersinia pestis* (plague)

~~Key:~~

% ~~Submit a report immediately after receiving one specimen for detection of the agent. Report receipt of subsequent specimens within five working days after receipt.~~

(~~Submit a report within 24 hours after obtaining a positive test result.~~

) ~~Submit a report within one working day after obtaining a positive test result.~~

+ ~~Submit a report within five working days after obtaining a positive test result or a test result specified in Table 3.~~

ã ~~Submit an isolate of the organism for each positive culture to the Arizona State Laboratory at least once each week, as applicable.~~

+ ~~For each positive test result, submit a specimen to the Arizona State Laboratory within 24 hours after obtaining the positive test result.~~

[1] ~~When reporting a positive result for any of the specified tests, report the results of all other tests performed for the subject as part of the disease panel.~~

[2] ~~Submit a report only when an initial positive result is obtained for an individual.~~

[3] ~~Submit an isolate of the organism only when an initial positive result is obtained for an individual, when a change in resistance pattern is detected, or when a positive result is obtained > 12 months after the initial positive result is obtained for an individual.~~

Table 2.3. Clinical Laboratory Director Reporting Requirements

+	*Anaplasma* spp.	%,) , ã	*Francisella tularensis*	+	*Plasmodium* spp.
) , ã [4]	Arboviruses	) , ã [4,5]	*Haemophilus influenzae*, from a normally sterile site	) , ã	Rabies virus from a human
+	*Babesia* spp.	)	Hantavirus	) , ã [4]	Rabies virus from an animal
%, (, ã	*Bacillus anthracis*	) [1]	Hepatitis A virus (anti-HAV-IgM serologies, detection of viral nucleic acid, or genetic sequencing)	+	Respiratory syncytial virus
) , ã [4]	*Bordetella pertussis*	+ [1]	Hepatitis B virus (anti-Hepatitis B core-IgM serologies, Hepatitis B surface or envelope antigen serologies, detection of viral nucleic acid, or genetic sequencing)	) , ã [4]	*Rickettsia* spp. – any test result
) , ã	*Brucella* spp.	+ [1]	Hepatitis C virus	) [1], ã	Rubella virus and anti-rubella-IgM serologies
) , ã	*Burkholderia mallei* and *B. pseudomallei*	+ [1]	Hepatitis D virus	) , ã	*Salmonella* spp.
+ , ã [4]	*Campylobacter* spp.	+ [1], ã [4]	Hepatitis E virus	) , ã [4]	*Shigella* spp.
+ , ã [4]	Carbapenem-resistant Enterobacteriaceae (CRE)	+	HIV—any test result (by culture, antigen, antibodies to the virus, detection of viral nucleic acid, or genetic sequencing), except from a negative screening test	+ , ã [4]	*Streptococcus* group A, from a normally sterile site
+	CD_4-T-lymphocyte count	+	HIV—any test result for an infant (by culture, antigen, antibodies to the virus, detection of viral nucleic acid, or genetic sequencing)	+	Streptococcus group B, from a normally sterile site in an infant younger than 90 days of age
) , ã [4]	Chikungunya virus	+ , ã [4]	Influenza virus	+ , ã [4]	*Streptococcus pneumoniae* and its drug sensitivity pattern, from a normally sterile site
+	*Chlamydia trachomatis*	) ,+	*Legionella* spp. (excluding single serological results)	+ [1]	*Treponema pallidum* (syphilis) or rapid plasma reagin
+	*Chlamydia psittaci /Chlamydophila psittaci*	)	*Leptospira* spp.	+	*Trypanosoma cruzi* (Chagas disease)
%, (	*Clostridium botulinum* toxin (botulism)	)	*Lymphocytic choriomeningitis* virus	) , ã	Vancomycin-resistant or Vancomycin-intermediate *Staphylococcus aureus*
+ , ã [4]	*Coccidioides* spp.	) , ã	*Listeria* spp., from a normally sterile site	%, (, ã	Variola virus (smallpox)
)	*Coxiella burnetti*	([1], ã	Measles virus and anti-measles-IgM serologies	) , ã	*Vibrio* spp.
)	*Cryptosporidium* spp.	+ [2]	Methicillin-resistant *Staphylococcus aureus*, from a normally sterile site	%, (, ã	Viral hemorrhagic fever agent
)	*Cyclospora* spp.	) [1], ã	Mumps virus and anti-mumps-IgM serologies	+	West Nile virus
) , ã [4]	Dengue virus	) , ã [3]	*Mycobacterium tuberculosis* complex and its drug sensitivity pattern	(, ã	Yellow fever virus
+	*Ehrlichia* spp.	+ , ã [4]	*Neisseria gonorrhoeae* and, if performed, the drug sensitivity pattern	%, (, ã	*Yersinia pestis* (plague)
%, (	Emerging or exotic disease agent	(, ã	*Neisseria meningitidis*, from a normally sterile site	) , ã	*Yersinia* spp. (other than *Y. pestis*)
+	*Entamoeba histolytica*	)	Norovirus	) , ã	Zika virus
) , ã	*Escherichia coli, Shiga* toxin-producing	(	Novel coronavirus infection (e.g., SARS or MERS)		

Key:

% Submit a report immediately after receiving one specimen for detection of the agent. Report the receipt of subsequent specimens within five working days after receipt.

(Submit a report within 24 hours after obtaining a positive test result.

) Submit a report within one working day after obtaining a positive test result.

+ Submit a report within five working days after obtaining a positive test result or a test result specified in Table 2.3.

ã Submit an isolate of the organism for each positive culture, if available, or a specimen for each positive test result to the Arizona State Laboratory within one working day.

+ Submit an isolate of the organism for each positive culture to the Arizona State Laboratory within one working day.

When appearing after one of the symbols above, the following modify the requirement:

[1] When reporting a positive result for any of the specified tests, report the results of all other tests performed for the subject as part of the disease panel or as a reflex test.

[2] Submit a report only when an initial positive result is obtained for an individual.

[3] Submit an isolate or specimen of the organism, as applicable, only when an initial positive result is obtained for an individual, when a change in resistance pattern is detected, or when a positive result is obtained ≥ 12 months after the initial positive result is obtained for an individual.

[4] Submit an isolate or specimen, as applicable, only by request.

[5] Submit an isolate of the organism, if available, or a specimen when a positive result is obtained for an individual < 5 years of age.

R9-6-205. Reporting Requirements for a Pharmacist or an Administrator of a Pharmacy

A. A pharmacist who fills an individual's initial prescription for two or more of the drugs listed in subsection (B) or an administrator of a pharmacy in which an individual's initial prescription for two or more of the drugs listed in subsection (B) is filled shall, either personally or through a representative, submit a report, in a Department-provided format, that complies with subsection (C) to the Department within five working days after the prescription is filled.

B. Any combination of two or more of the following drugs when initially prescribed for an individual triggers the reporting requirement of subsection (A):

1. Isoniazid,
2. Streptomycin,
3. Any rifamycin,
4. Pyrazinamide, or
5. Ethambutol.

C. A pharmacist or an administrator of a pharmacy shall submit a report required under subsection (A) ~~by telephone; in a document sent by fax, delivery service, or mail; or through an electronic reporting system authorized by the Department and shall include in the report~~ that includes:

1. The following information about the individual for whom the drugs are prescribed:
   a. Name,
   b. Address,
   c. Telephone number, and
   d. Date of birth; and
2. The following information about the prescription:
   a. The name of the drugs prescribed,
   b. The date of prescription, and
   c. The name and telephone number of the prescribing health care provider.

R9-6-206. Local Health Agency Responsibilities Regarding Communicable Disease Reports

A. The Department shall ~~supply~~ notify each local health agency ~~with forms~~ of the format to be used by:

1. A health care provider required to report when making a ~~written~~ report required under R9-6-202(A) and Table ~~1~~ 2.1;
2. An administrator of a health care institution or correctional facility when making a ~~written~~ report required under R9-6-202(B) and Table ~~1~~ 2.1; and
3. An administrator of a school, child care establishment, or shelter when making a ~~written~~ report required under R9-6-203(A) and Table ~~2~~ 2.2.

B. A local health agency shall ~~distribute copies of the Department-provided forms specified in subsection (A) as needed to~~ inform health care providers required to report and administrators of health care institutions, correctional facilities, schools, child care establishments, and shelters of the format to use when making a report, as specified in subsection (A).

C. Except as specified in Table **4** 2.4 and Article 3, a local health agency shall provide to the Department the information contained in each report of a case, suspect case, or occurrence received by the local health agency under R9-6-202 or R9-6-203, including any report of disease in a nonresident of the jurisdiction who is or has been diagnosed or treated in the jurisdiction, within five working days after receipt and shall specify:

1. Which of the following best describes the individual identified in each report:
   a. The individual meets the case definition for a case of the specific disease,
   b. The individual is a suspect case,
   c. The individual does not meet the case definition for a case or suspect case of the specific disease, or
   d. The local health agency has not yet determined the status of the disease in the individual; and
2. The status of the epidemiologic investigation for each report.

D. Except as specified in Table **4** 2.4 and Article 3, a local health agency shall submit to the Department a ~~written or electronic~~ report, in a ~~format specified by the Department~~ Department-provided format, of an epidemiologic investigation conducted by the local health agency:

1. In response to a report of a case, suspect case, or occurrence:
   a. Submitted under R9-6-202 or R9-6-203, or
   b. About which the local health agency was notified by the Department;
2. Within 30 calendar days after receiving the report submitted under R9-6-202 or R9-6-203 or notification by the Department;
3. If an epidemiologic investigation is required for the reported disease under Article 3; and
4. Including in the report of the epidemiologic investigation:
   a. The information described in:
      i. R9-6-202(C) for a report submitted under R9-6-202,
      ii. R9-6-203(B) for a report submitted under R9-6-203, or
      iii. R9-6-202(C) for a report about which the Department notified the local health agency;
   b. A description of all laboratory or other test results, performed in addition to the laboratory tests described in R9-6-202(C) and contributing to the diagnosis;

c. A description of the case's symptoms of the disease and other signs that may be observed that indicate that the individual may have the disease, if applicable;

d. A classification of the case according to the case definition;

e. A description of the condition or status of the case at the end of the epidemiologic investigation;

f. A description of the case's specific risk factors for acquiring the disease or other epidemiologic evidence of how the case acquired the infection that resulted in the disease;

g. A description of how the local health agency provided or arranged for the case to receive health education about the nature of the disease and how to prevent transmission or limit disease progression;

h. A description of the case's specific risk factors for transmitting the disease considered by the local health agency when conducting an assessment of contacts;

i. A description of the control measures used by the local health agency to reduce the spread of the disease; and

j. The date the report of the case, suspect case, or occurrence was submitted or the Department notified the local health agency.

~~**E.**~~ ~~For each reported case or suspect case of unexplained death with a history of fever, the local health agency for the jurisdiction in which the death occurred shall:~~

~~1.~~ ~~Within one working day after receiving a report of unexplained death with a history of fever, submit to the Department in a format specified by the Department:~~

~~a.~~ ~~The following information about the deceased individual:~~

~~i.~~ ~~Name;~~

~~ii.~~ ~~Residential address;~~

~~iii.~~ ~~Date of birth;~~

~~iv.~~ ~~Race and ethnicity;~~

~~v.~~ ~~County of residence;~~

~~vi.~~ ~~If the individual was living on a reservation at the time of the individual's death, the name of the reservation;~~

~~vii.~~ ~~Gender;~~

~~viii.~~ ~~Whether the individual was pregnant and, if so, the result of the pregnancy; and~~

~~ix.~~ ~~Occupation~~;

~~b. The date of onset of symptoms;~~

~~c. The approximate date and time of death;~~

~~d. A description of the setting where the death occurred and of the circumstances leading up to the time of death;~~

~~e. The name, residential address, and telephone number of a family member of the deceased individual who may be contacted;~~

~~f. The name, address, and telephone number of the individual making the report to the local health agency; and~~

~~g. The name and address of the:~~

~~i. Health care provider required to report, if:~~

~~(1) The unexplained death with a history of fever was reported to the local health agency under R9-6-202(A), and~~

~~(2) The health care provider is different from the individual specified in subsection (E)(1)(f); or~~

~~ii. Health care institution or correctional facility, if the unexplained death with a history of fever was reported to the local health agency under R9-6-202(B); and~~

~~2. Within 30 calendar days after receiving the report of unexplained death with a history of fever, submit to the Department a written or electronic report of the epidemiologic investigation required under Article 3, in a format provided by the Department, including:~~

~~a. The name and date of birth of the deceased individual;~~

~~b. The date of each specimen collection;~~

~~c. Identification of each type of specimen collected;~~

~~d. Identification of each type of laboratory test completed;~~

~~e. A description of the laboratory test results, including quantitative results if available;~~

~~f. If an autopsy was completed, the autopsy results;~~

~~g. A hypothesis or conclusion as to the cause of death; and~~

~~h. Specific recommendations for preventing future deaths, if applicable.~~

~~F.~~**E.** ~~Except as specified in Table 4 and Article 3, for~~ For each instance when the local health agency receives a report or reports indicating an outbreak or possible outbreak, the local health agency shall:

1. Within ~~one working day~~ 24 hours after receiving the report or reports, provide to the Department, in a Department-provided format, the following information:

a. The location of the outbreak or possible outbreak;

b. If known, the number of cases and suspect cases;

c. The date that the outbreak was reported or the dates that cases suggestive of an outbreak were reported;

d. The setting of the outbreak or possible outbreak;

e. The name of the disease suspected or known to be the cause of the outbreak or possible outbreak; and

f. The name and telephone number of an individual at the local health agency who can serve as a point of contact regarding the outbreak or possible outbreak; and

2. Within 30 calendar days after receiving the last report or reports associated with the outbreak, submit to the Department a ~~written or electronic~~ report, in a Department-provided format, ~~specified by the Department,~~ of the epidemiologic investigation conducted by the local health agency in response to the outbreak or possible outbreak, including:

a. A description of the outbreak location and setting;

b. The date that the local health agency was notified of the outbreak;

c. A description of how the local health agency verified the outbreak;

d. The number of individuals reported to be ill during the outbreak;

e. The number of individuals estimated to be at risk for illness as a result of the outbreak;

f. The specific case definition used;

g. A summary profile of the signs and symptoms;

h. An epidemiologic curve;

i. A copy of the laboratory evidence collected, including all laboratory test results, for all specimens submitted for testing to a laboratory other than the Arizona State Laboratory;

j. Hypotheses of how the outbreak occurred;

k. A description of the control measures used and the dates the control measures were implemented;

l. The conclusions drawn based upon the results of the epidemiologic investigation;

m. Recommendations for preventing future outbreaks; and

n. The name, address, and telephone number of the individual making the report to the Department.

Table 4. ~~**Local Health Agency Reporting Requirements**~~ **Repealed**

~~**III**~~	~~Amebiasis~~	~~**III**~~	~~Hantavirus infection~~	~~**III**~~	~~Rocky Mountain spotted fever~~
~~(,**III,** ã~~	~~Anthrax~~	~~**III**~~	~~Hemolytic uremic syndrome~~	~~(,**III, *S***~~	~~Rubella (German measles)~~
~~**O III**~~	~~Aseptic meningitis, viral~~	~~**III**~~	~~Hepatitis A~~	~~(,**III, *S***~~	~~Rubella syndrome, congenital~~
~~+~~	~~Basidiobolomycosis~~	~~**III**~~	~~Hepatitis B and Hepatitis D~~	~~**III**~~	~~Salmonellosis~~
~~(,**III,*S***~~	~~Botulism~~	~~**III**~~	~~Hepatitis C~~	~~**O** +~~	~~Scabies~~
~~**III,** ã~~	~~Brucellosis~~	~~**III**~~	~~Hepatitis E~~	~~(,**III**~~	~~Severe acute respiratory syndrome~~
~~**III**~~	~~Campylobacteriosis~~	~~**None**~~	~~Herpes genitalis~~	~~**III**~~	~~Shigellosis~~
~~**III**~~	~~Chagas infection and related disease (American Trypanosomiasis)~~	~~**III**~~	~~Human Immunodeficiency Virus (HIV) infection and related disease~~	~~(,**III**~~	~~Smallpox~~
~~**III**~~	~~Chancroid (*Haemophilus ducreyi*)~~	~~**III**~~	~~Influenza-associated mortality in a child~~	~~**O III**~~	~~Streptococcal Group A infection~~
~~**5-day only**~~	~~Chlamydia infection, sexually transmitted~~	~~+~~	~~Kawasaki syndrome~~	~~**III**~~	~~Streptococcal Group B infection in an infant younger than 90 days of age~~
~~) ,**III**~~	~~Cholera~~	~~**III**~~	~~Legionellosis (Legionnaires' disease)~~	~~+~~	~~*Streptococcus pneumoniae* infection~~
~~**O III**~~	~~Coccidioidomycosis (Valley Fever)~~	~~**III**~~	~~Leptospirosis~~	~~**III,O III**~~	~~Syphilis~~
~~**III**~~	~~Colorado tick fever~~	~~**III,** ã~~	~~Listeriosis~~	~~**III**~~	~~Taeniasis~~
~~**O** +~~	~~Conjunctivitis: acute~~	~~**III**~~	~~Lyme disease~~	~~**III**~~	~~Tetanus~~
~~+~~	~~Creutzfeldt-Jakob disease~~	~~**III**~~	~~Lymphocytic choriomeningitis~~	~~**III**~~	~~Toxic shock syndrome~~
~~**III**~~	~~Cryptosporidiosis~~	~~**III**~~	~~Malaria~~	~~**III**~~	~~Trichinosis~~
~~**III**~~	~~*Cyclospora* infection~~	~~(,**III,*S***~~	~~Measles (rubeola)~~	~~**III,** ã~~	~~Tuberculosis~~
~~+~~	~~Cysticercosis~~	~~**III,** ã~~	~~Melioidosis~~	~~(,**III,** ã~~	~~Tularemia~~
~~**III**~~	~~Dengue~~	~~(,**III,** ã~~	~~Meningococcal invasive disease~~	~~**III**~~	~~Typhoid fever~~
~~**O III**~~	~~Diarrhea, nausea, or vomiting~~	~~(,**III,*S***~~	~~Mumps~~	~~**III**~~	~~Typhus fever~~
~~(,**III**~~	~~Diphtheria~~	~~**O III**~~	~~Norovirus~~	~~) ,**III**~~	~~Unexplained death with a history of fever~~
~~**III**~~	~~Ehrlichioses (Ehrlichiosis and Anaplasmosis)~~	~~**5-day only**~~	~~Pediculosis (lice infestation)~~	~~**III**~~	~~Vaccinia-related adverse event~~
~~(,**III**~~	~~Emerging or exotic disease~~	~~**III**~~	~~Pertussis (whooping cough)~~	~~(,**III,** ã~~	~~Vancomycin-resistant or Vancomycin-intermediate *Staphylococcus aureus*~~
~~) ,**III**~~	~~Encephalitis: viral or parasitic~~	~~(,**III,** ã~~	~~Plague~~	~~) ,**III,** ã~~	~~Vancomycin-resistant *Staphylococcus epidermidis*~~
~~**III**~~	~~Enterohemorrhagic *Escherichia coli*~~	~~(,**III,*S***~~	~~Poliomyelitis~~	~~+~~	~~Varicella (chickenpox)~~
~~**III**~~	~~Enterotoxigenic *Escherichia coli*~~	~~**III**~~	~~Psittacosis (ornithosis)~~	~~**III**~~	~~*Vibrio* infection~~
~~**O III**~~	~~Giardiasis~~	~~) ,**III**~~	~~Q Fever~~	~~(,**III,*S***~~	~~Viral hemorrhagic fever~~
~~**5-day only**~~	~~Gonorrhea~~	~~(,**III**~~	~~Rabies in a human~~	~~**III**~~	~~West Nile virus-related syndromes~~
~~**III**~~	~~*Haemophilus influenzae*: invasive disease~~	~~**III**~~	~~Relapsing fever (borreliosis)~~	~~) ,**III**~~	~~Yellow fever~~
~~+~~	~~Hansen's disease (Leprosy)~~	~~+~~	~~Reye syndrome~~	~~) ,**III,** ã~~	~~Yersiniosis (enteropathogenic *Yersinia*)~~

~~Unless otherwise specified, notify the Department within five working days after receiving a report under R9-6-202 or R9-6-203.~~

~~**Key:**~~

~~(Notify the Department within 24 hours after receiving a report under R9-6-202 or R9-6-203.~~
~~) Notify the Department within one working day after receiving a report under R9-6-202 or R9-6-203.~~
~~**III** Submit an epidemiologic investigation report within 30 calendar days after receiving a report under R9-6-202 or R9-6-203 or notification by the Department.~~
~~+ Submit an epidemiologic investigation report within 60 calendar days after receiving a report under R9-6-202 or R9-6-203 or notification by the Department.~~
~~ã Ensure that an isolate from a case is submitted to the Arizona State Laboratory.~~
~~***S*** Ensure that specimens from a case, as specified by the Department, are submitted to the Arizona State Laboratory.~~
~~**O** Submit a report after conducting an epidemiological investigation of an outbreak.~~

Table 2.4. Local Health Agency Reporting Requirements

+ , è	Amebiasis	+	Gonorrhea	) , è , ã	Rubella (German measles)
+ , è	Anaplasmosis	) , è	*Haemophilus influenza*, invasive disease	(, è , ã	Rubella syndrome, congenital
(, è , ã	Anthrax	+ , è	Hansen's disease (Leprosy)	) , è	Salmonellosis
+ , è	Arboviral infection	) , è	Hantavirus infection	) , è	Shigellosis
+ , è	Babesiosis	) , è	Hemolytic uremic syndrome	(, è , ã	Smallpox
+ , è	Basidiobolomycosis	) , è	Hepatitis A	) , è	Spotted fever rickettsiosis (e.g., Rocky Mountain spotted fever)
(, è , ã	Botulism	+ , è	Hepatitis B and Hepatitis D	+	Streptococcal group A infection, invasive disease
+ , è , ã	Brucellosis	+ , è	Hepatitis E	+	Streptococcal group B infection in an infant younger than 90 days of age, invasive disease
+ , è	Campylobacteriosis	+ , è	HIV infection and related disease	+	*Streptococcus pneumoniae* infection, (pneumococcal invasive disease)
+ , è	Chagas infection and related disease (American Trypanosomiasis)	) , è	Influenza-associated mortality in a child	+ , è	Syphilis
+ , è	Chancroid (*Haemophilus ducreyi*)	) , è	Legionellosis (Legionnaires' disease)	+ , è	Taeniasis
+ , è	Chikungunya	) , è	Leptospirosis	+ , è	Tetanus
+	*Chlamydia trachomatis* infection	) , è , ã	Listeriosis	+ , è	Toxic shock syndrome
) , è	Cholera	+ , è	Lyme disease	) , è	Trichinosis
+	Coccidioidomycosis (Valley Fever)	) , è	Lymphocytic choriomeningitis	) , è , ã	Tuberculosis, active disease
+ , è	Colorado tick fever	+ , è	Malaria	) , è	Tuberculosis latent infection in a child five years of age or younger (positive screening test result)
+ , è	Creutzfeldt-Jakob disease	(, è , ã	Measles (rubeola)		
+ , è	Cryptosporidiosis	) , è , ã	Melioidosis	(, è , ã	Tularemia
+ , è	*Cyclospora* infection	(, è , ã	Meningococcal invasive disease	) , è	Typhoid fever
+ , è	Cysticercosis	) , è , ã	Mumps	) , è	Typhus fever
) , è	Dengue	(, è	Novel coronavirus (e.g., SARS or MERS)	) , è	Vaccinia-related adverse event
(, è	Diphtheria	) , è	Pertussis (whooping cough)	) , è , ã	Vancomycin-resistant or Vancomycin-intermediate *Staphylococcus aureus*
+ , è	Ehrlichiosis	(, è , ã	Plague	+ , è [1]	Varicella (chickenpox)
(, è	Emerging or exotic disease	(, è , ã	Poliomyelitis (paralytic or non-paralytic)	) , è	*Vibrio* infection
(, è	Encephalitis, parasitic	+ , è	Psittacosis (ornithosis)	(, è , ã	Viral hemorrhagic fever
) , è	Encephalitis, viral	) , è	Q Fever	+ , è	West Nile virus infection
) , è	*Escherichia coli*, Shiga toxin-producing	(, è , ã	Rabies in a human	(, è , ã	Yellow fever
+ , è	Giardiasis	) , è	Relapsing fever (borreliosis)	) , è , ã	Yersiniosis (enteropathogenic *Yersinia)*
) , è , ã	Glanders			) , è , ã	Zika virus infection

Key:

(Notify the Department within 24 hours after receiving a report under R9-6-202 or R9-6-203.
) Notify the Department within one working day after receiving a report under R9-6-202 or R9-6-203.
+ Notify the Department within five working days after receiving a report under R9-6-202 or R9-6-203
è Submit an epidemiologic investigation report within 30 calendar days after receiving a report under R9-6-202 or R9-6-203 or notification by the Department.
ã Ensure that an isolate of the organism for each positive culture, if available, or a specimen for each positive test result is submitted to the Arizona State Laboratory within one working day.
[1] Submit an epidemiologic investigation report only if a case or suspect case has died as a result of the communicable disease.

R9-6-207. Federal or Tribal Entity Reporting

A. To the extent permitted by law, a federal or tribal entity shall comply with the reporting requirements in this Article as follows:

1. If the federal or tribal entity is participating in the diagnosis or treatment of an individual, the federal or tribal entity shall comply with the reporting requirements in R9-6-202 and Table 2.1 for a health care provider;
2. If the federal or tribal entity is operating a facility that provides health care services, the federal or tribal entity shall comply with the reporting requirements in R9-6-202 and Table 2.1 for an administrator of a health care institution;
3. If the federal or tribal entity is operating a correctional facility, the federal or tribal entity shall comply with the reporting requirements in R9-6-202 and Table 2.1 for an administrator of a correctional facility;
4. If the federal or tribal entity is operating a facility that provides child care services, the federal or tribal entity shall comply with the reporting requirements in R9-6-203 and Table 2.2 for an administrator of a child care establishment;
5. If the federal or tribal entity is operating a facility that offers instruction to students in a grade level from kindergarten through grade 12, a college or university, a "private vocational program" as defined in A.R.S. § 32-3001, or an institution that grants a "degree" as defined in A.R.S. § 32-3001, the federal or tribal entity shall comply with the reporting requirements in R9-6-203 and Table 2.2 for an administrator of a school;

~~4.~~6. If the federal or tribal entity is operating a clinical laboratory, the federal or tribal entity shall comply with the reporting requirements in R9-6-204 and Table 2.3 for a clinical laboratory director; and

~~5.~~7. If the federal or tribal entity is operating a facility that provides pharmacy services, the federal or tribal entity shall comply with the reporting requirements in R9-6-205 for an administrator of a pharmacy~~;~~.

~~6. If the federal or tribal entity is operating a facility that provides child care services, the federal or tribal entity shall comply with the reporting requirements for an administrator of a child care establishment; and~~

~~7. If the federal or tribal entity is operating a facility that offers instruction to students in a grade level from kindergarten through grade 12, a college or university, a "private vocational program" as defined in A.R.S. § 32-3001, or an institution that grants a "degree" as defined in A.R.S. § 32-3001, the federal or tribal entity shall comply with the reporting requirements for an administrator of a school.~~

B. For the purposes of this Section, "federal or tribal entity" means a person operating within this state, whether on federal or tribal land or otherwise, under the authority of an agency or other administrative subdivision of the federal government or a tribal nation and who is:

1. Licensed as a doctor of allopathic, naturopathic, osteopathic, or homeopathic medicine under the laws of this or another state;
2. Licensed as a physician assistant under the laws of this or another state;
3. Licensed as a registered nurse practitioner under the laws of this or another state;
4. Licensed as a dentist under the laws of this or another state;
5. Operating a facility that provides health care services;
6. Operating a correctional facility;
7. Operating a facility that provides child care services;
8. Operating a facility that offers instruction to students in a grade level from kindergarten through grade 12, a college or university, a "private vocational program" as defined in A.R.S. § 32-3001, or an institution that grants a "degree" as defined in A.R.S. § 32-3001;

~~7.~~9. Operating a clinical laboratory; or

~~8.~~10. Operating a facility that provides pharmacy services~~;~~.

~~9. Operating a facility that provides child care services; or~~

~~10. Operating a facility that offers instruction to students in a grade level from kindergarten through grade 12, a college or university, a "private vocational program" as defined in A.R.S. § 32-3001, or an institution that grants a "degree" as defined in A.R.S. § 32-3001.~~

ARTICLE 3. CONTROL MEASURES FOR COMMUNICABLE DISEASES AND INFESTATIONS

R9-6-301. Definitions

In this Article, unless otherwise specified:

1. "Aquatic venue" means an artificially constructed structure or modified natural structure that:
   a. Is used:
      i. For water contact recreation, as defined in A.A.C. R9-8-801; or
      ii. To treat a diagnosed injury, illness, or medical condition under the supervision of a health professional, as defined in A.R.S. § 32-3201;
   b. Is open to all individuals or to all residents of a community, members of a club or camp, individuals being treated by a specific health professional, or patrons of other such establishments; and
   c. Includes a:
      i. Natural bathing place as defined in A.A.C. R18-5-201;
      ii. Public spa as defined in A.A.C. R18-5-201;
      iii. Public swimming pool as defined in A.A.C. R18-5-201;
      iv. Semi-artificial bathing place as defined in A.A.C. R18-5-201;
      v. Semi-public spa as defined in A.A.C. R18-5-201;
      vi. Semi-public swimming pool as defined in A.A.C. R18-5-201; and
      vii. Water-play area, an artificially constructed depression in which water issues from showers or other nozzles and drains away to leave little or no standing water.

~~1.~~2. "Blood bank" means a facility where human whole blood or a blood component is collected, prepared, tested, processed, or stored, or from which human whole blood or a blood component is distributed.

~~2.~~3. "Blood center" means a mobile or stationary facility that procures human whole blood or a blood component that is transported to a blood bank.

~~3.~~4. "Contact precautions" means, in addition to use of standard precautions:
   a. Placing an individual in a private room or a cohort room with a distance of three or more feet separating the individual's bed from the bed of another individual; and

b. Ensuring the use of a gown and gloves by other individuals when entering the room in which the individual is located.

~~4.~~5. "Contaminated" means to have come in contact with a disease-causing agent or toxin.

~~5.~~6. "Disinfection" means killing or inactivating communicable-disease-causing agents on inanimate objects by directly applied chemical or physical means.

~~6.~~7. "Disinfestation" means any physical, biological, or chemical process to reduce or eliminate undesired arthropod or rodent populations.

~~7.~~8. "Droplet precautions" means, in addition to use of standard precautions:

a. Placing an individual in a private room or a cohort room with a distance of three or more feet and a curtain separating the individual's bed from the bed of another individual;

b. Ensuring that the individual wears a mask covering the individual's mouth and nose, if medically appropriate, when not in the room described in subsection ~~(7)(a)~~ (8)(a); and

c. Ensuring the use of a mask covering the mouth and nose by other individuals when entering the room in which the individual is located.

~~8.~~9. "Follow-up" means the practice of investigating and monitoring cases, carriers, contacts, or suspect cases to detect, treat, or prevent disease.

~~9.~~10. "Incapacitated adult" means an individual older than 18 years of age for whom a guardian has been appointed by a court of competent jurisdiction.

11. "Isolation precautions" means methods to limit the transmission of an infectious agent, based on the infectious agent and the location of infection in or on the infected individual or animal, that includes isolation of the infected individual or animal and may include any one or combination of the following:

a. Standard precautions,

b. Contact precautions,

c. Droplet precautions, or

d. Airborne precautions.

~~10.~~12. "Midwife" has the same meaning as in A.R.S. § 36-751.

13. "Multi-drug-resistant organism" means a bacterial agent on a Department-provided list that is known to not be killed or whose growth is not slowed by specific classes of antibiotics.

~~11.~~14. "Pediculocide" means a shampoo or cream rinse manufactured and labeled for controlling head lice.

~~12.~~15. "Person in charge" means the individual present at a food establishment who is responsible for the food establishment's operation at the time in question.

~~13.~~16. "Plasma center" means a facility where the process of plasmapheresis or another form of apheresis is conducted.

~~14.~~17. "State health officer" means the Director of the Department or the Director's designee.

18. "Vector" means a living animal, usually a mosquito, tick, flea, or other arthropod, that may transmit an infectious agent to an individual.

R9-6-302. Local Health Agency Control Measures

A local health agency shall:

1. Review each report received under Article 2 for completeness and accuracy;
2. Confirm each diagnosis;
3. Conduct epidemiologic and other investigations required by this Chapter or in cooperation with the Department;
4. Facilitate notification of known contacts;
5. Conduct surveillance;
6. Determine trends;
7. Implement control measures, quarantines, isolations, and exclusions as required by the Arizona Revised Statutes and this Chapter;
8. Disseminate surveillance information to health care providers;
9. Provide health education to a disease case or contact to reduce the risk of transmission of the respective disease; and
10. Report to the Department, as specified in R9-6-206 and this Article.

R9-6-303. Isolation, ~~and~~ Quarantine, Exclusion, and Other Control Measures

A. When a local health agency is required by this Article to isolate or quarantine an individual or group of individuals, the local health agency:

1. Shall issue a written order:
   a. For isolation or quarantine and other control measures;
   b. To each individual or group of individuals and, for each individual who is a minor or incapacitated adult, the individual's parent or guardian, except as provided in subsection (A)(2);
   c. That specifies:
      i. The isolation or quarantine and other control measure requirements being imposed, including, if applicable, requirements for physical examinations

and medical testing to ascertain and monitor each individual's health status;

ii. The identity of each individual or group of individuals subject to the order;

iii. The premises at which each individual or group of individuals is to be isolated or quarantined;

iv. The date and time at which isolation or quarantine and other control measure requirements begin; and

v. The justification for isolation or quarantine and other control measure requirements, including, if known, the disease for which the individual or individuals are believed to be cases, suspect cases, or contacts; and

d. That may provide information about existing medical treatment, if available and necessary to render an individual less infectious, and the consequences of an individual's failure to obtain the medical treatment; and

2. May post the written order in a conspicuous place at the premises at which a group of individuals is to be isolated or quarantined if:

a. The written order applies to the group of individuals, and

b. It would be impractical to provide a copy to each individual in the group.

B. A local health agency may issue a written order for additional control measures:

1. Except as provided in subsection (A)(2), to each affected individual, group of individuals, or person and, for each individual who is a minor or incapacitated adult, the individual's parent or guardian;

2. That specifies:

a. The control measure requirements being imposed, including, if applicable, requirements for:

i. Being excluded from working as a food handler, caring for patients or residents in a health care institution, or caring for children in or attending a school or child care establishment;

ii. Avoiding other locations where the individual or an individual in the group of individuals may pose a health risk to other individuals;

iii. Observing airborne precautions, droplet precautions, or contact precautions and the methods by which the individual shall comply with the requirement;

iv. Prophylaxis or immunization, as applicable, as an alternative to or to reduce the length of exclusion;

v. Physical examinations and medical testing to ascertain and monitor the individual's health status; or

vi. Not creating a situation where additional individuals may be exposed to the communicable disease;

b. The identity of each individual, group of individuals, or person subject to the order;

c. The date and time at which the control measure requirements begin; and

d. The justification for the control measure requirements, including:

i. If known, the disease for which the individual or individuals are believed to be cases, suspect cases, or contacts; and

ii. If applicable, the possible consequences of the individual, group of individuals, or person failing to follow the recommendations of the Department or the local health agency to control the spread of the communicable disease; and

3. That may provide information about the disease, existing medical treatment, if applicable, and the consequences of an individual's failure to comply with the order.

~~B.~~**C.** Within 10 calendar days after the issuing of a written order described in subsection (A) or (B), if a local health agency determines that isolation, ~~or~~ quarantine, or ~~and~~ other control measure requirements need to continue for more than 10 calendar days after the date of the order, the local health agency shall file a petition for a court order that:

1. Authorizes the continuation of isolation, ~~or~~ quarantine, or ~~and~~ other control measure requirements pertaining to an individual, ~~or~~ a group of individuals, or a person;

2. Includes the following:

a. The isolation, ~~or~~ quarantine, or ~~and~~ other control measure requirements being imposed, including, if applicable, requirements for physical examinations and medical testing to ascertain and monitor an individual's health status;

b. The identity of each individual, ~~or~~ group of individuals, or person subject to isolation, ~~or~~ quarantine, or ~~and~~ other control measure requirements;

c. If applicable, the ~~The~~ premises at which each individual or group of individuals is isolated or quarantined;

d. The date and time at which isolation, ~~or~~ quarantine, or ~~and~~ other control measure requirements began; and

e. The justification for isolation, ~~or~~ quarantine, or ~~and~~ other control measure requirements, including, if applicable and known, the disease for which the individual or individuals are believed to be cases, suspect cases, or contacts; and

3. Is accompanied by the sworn affidavit of a representative of the local health agency or the Department attesting to the facts asserted in the petition, together with any further information that may be relevant and material to the court's consideration.

~~C.~~**D.** A local health agency that files a petition for a court order under subsection ~~(B)~~ (C) shall provide notice to each individual, ~~or~~ group of individuals, or person identified in the petition according to the Arizona Rules of Civil Procedure, except that notice shall be provided within 24 hours after the petition is filed.

~~D.~~**E.** In the event of noncompliance with a written order issued under subsection (A) or (B), a local health agency may contact law enforcement to request assistance in enforcing the order.

F. If the Department determines that isolation, quarantine, or other control measure requirements are necessary, the Department, under A.R.S. § 36-136(G), may take any of the actions specified in subsections (A) through (E).

R9-6-304. Food Establishment Control Measures

The person in charge of a food establishment shall ensure compliance with all food handler exclusion requirements in this Article or as ordered by a local health agency or the Department.

R9-6-305. Control Measures for Multi-drug-resistant Organisms

Case control measures:

1. A diagnosing health care provider or an administrator of a health care institution transferring a case with active infection of a bacterial disease, for which the agent is known to be a multi-drug-resistant organism, to another health care provider or health care institution or to a correctional facility shall, either personally or through a representative, ensure that the receiving health care provider, health care institution, or correctional facility is informed that the patient is infected with a multi-drug-resistant organism.

2. An administrator of the correctional facility transferring a case with active infection of a bacterial disease, for which the agent is known to be a multi-drug-resistant organism, to another correctional facility or to a health care institution shall, either personally or through a representative, ensure that the receiving correctional facility or health care institution is informed that the individual is infected with a multi-drug-resistant organism.

~~**R9-6-305.**~~**R9-6-306. Amebiasis**

Case control measures: A local health agency shall:

1. Exclude an amebiasis case or suspect case with diarrhea from:

a. ~~working~~ Working as a food handler, caring for children in or attending a child care establishment, or caring for patients or residents in a health care institution until:

i. Either:

~~a.~~(1) Treatment with an amebicide is initiated, and

~~b.~~(2) ~~Two successive stool specimens~~ A stool specimen negative for amoebae ~~are~~ is obtained from ~~specimens collected at least 24 hours apart~~ the amebiasis case or suspect case; or

ii. The local health agency has determined that the amebiasis case or suspect case is unlikely to infect other individuals; and

b. Using an aquatic venue for two weeks after diarrhea has resolved;

2. Conduct an epidemiologic investigation of each reported amebiasis case or suspect case; and

3. For each amebiasis case, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D).

~~**R9-6-307. Aseptic Meningitis**~~

~~Outbreak control measures: A local health agency shall:~~

~~1. Conduct an epidemiologic investigation of each reported outbreak of aseptic meningitis; and~~

~~2. For each outbreak of aseptic meningitis, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-202(E).~~

R9-6-307. Anaplasmosis

Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported anaplasmosis case or suspect case; and

2. For each anaplasmosis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

~~**R9-6-306.**~~**R9-6-308. Anthrax**

A. Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of an anthrax case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;

2. Conduct an epidemiologic investigation of each reported anthrax case or suspect case;

3. For each anthrax case, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D); and

4. Ensure that an isolate or a specimen, as available, from each anthrax case or suspect case is submitted to the Arizona State Laboratory.

B. Environmental control measures: A local health agency shall, in conjunction with the Department and applicable federal agencies, provide or arrange for disinfection of areas or objects ~~sterilization by dry heating or incineration of objects~~ contaminated by *Bacillus anthracis* through sterilization by dry heating, incineration of objects, or other appropriate means.

R9-6-309. Arboviral Infection

A. Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported arboviral infection case or suspect case;

2. For each arboviral infection case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D); and

3. Ensure that each arboviral infection case is provided with health education that includes measures to:

   a. Avoid mosquito bites, and

   b. Reduce mosquito breeding sites.

B. Environmental control measures: In cooperation with the Department, a local health agency or another local agency responsible for vector control within a jurisdiction shall conduct an assessment of the environment surrounding each arboviral infection case or suspect case and implement vector control measures as necessary.

R9-6-310. Babesiosis

Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported babesiosis case or suspect case; and

2. For each babesiosis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

~~R9-6-308.~~R9-6-311. Basidiobolomycosis

Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported basidiobolomycosis case or suspect case; and

2. For each basidiobolomycosis case, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D).

~~R9-6-309.~~R9-6-312. Botulism

A. Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a botulism case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;
2. Conduct an epidemiologic investigation of each reported botulism case or suspect case; and
3. For each botulism case or suspect case:
   a. Submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D); and
   b. Ensure that ~~a specimen~~ one or more specimens from each botulism case or suspect case ~~is~~ are submitted to the Arizona State Laboratory~~; and~~.
   ~~c. In consultation with the Department, determine if treatment of the botulism case is required.~~

B. Environmental control measures: An individual in possession of:

1. Food known to be contaminated by *Clostridium botulinum* or *Clostridium botulinum* toxin shall boil the contaminated food for 10 minutes and then discard it, and
2. Utensils known to be contaminated by *Clostridium botulinum* or *Clostridium botulinum* toxin shall boil the contaminated utensils for 10 minutes before reuse or disposal.

~~R9-6-310.~~R9-6-313. Brucellosis

Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported brucellosis case or suspect case;
2. For each brucellosis case, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D); and
3. Ensure that an isolate or a specimen, as available, from each brucellosis case is submitted to the Arizona State Laboratory.

~~R9-6-311.~~R9-6-314. Campylobacteriosis

Case control measures: A local health agency shall:

1. Exclude a campylobacteriosis case or suspect case with diarrhea from:
   a. ~~working~~ Working as a food handler, caring for children in or attending a child care establishment, or caring for patients or residents in a health care institution until:
      i. Diarrhea has resolved,

~~a.~~ii. A ~~culture~~ stool specimen negative for *Campylobacter* spp. is obtained from ~~a stool specimen~~ the campylobacteriosis case or suspect case, or

iii. The local health agency has determined that the case or suspect case is unlikely to infect other individuals; and

~~b. Diarrhea has resolved;~~

b. Using an aquatic venue until diarrhea has resolved;

2. Conduct an epidemiologic investigation of each reported campylobacteriosis case or suspect case; and

3. For each campylobacteriosis case, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D).

R9-6-315. Carbapenem-resistant Enterobacteriaceae

A. Case control measures:

1. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall:

a. Institute isolation precautions as necessary for a carbapenem-resistant enterobacteriaceae case or carrier to prevent transmission; and

b. If a carbapenem-resistant enterobacteriaceae case or carrier is being transferred to another health care provider or health care institution or to a correctional facility, comply with R9-6-305.

2. An administrator of a correctional facility, either personally or through a representative, shall:

a. Institute isolation precautions as necessary for a carbapenem-resistant enterobacteriaceae case or carrier to prevent transmission; and

b. If a carbapenem-resistant enterobacteriaceae case or carrier is being transferred to another correctional facility or to a health care institution, comply with R9-6-305.

3. A local health agency, in consultation with the Department, shall:

a. Ensure that a case or carrier of carbapenem-resistant enterobacteriaceae is isolated as necessary to prevent transmission; and

b. Upon request, ensure that an isolate or a specimen, as available, from each case or carrier of carbapenem-resistant enterobacteriaceae is submitted to the Arizona State Laboratory.

B. Outbreak control measures: A local health agency shall:

1. Conduct an epidemiologic investigation for each outbreak or suspected outbreak of carbapenem-resistant enterobacteriaceae; and

2. For each outbreak or suspected outbreak of carbapenem-resistant enterobacteriaceae, submit to the Department the information required under R9-6-206(E).

~~R9-6-312.~~R9-6-316. Chagas Infection and Related Disease (American Trypanosomiasis)

Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported Chagas infection or disease case or suspect case; and
2. For each Chagas infection or disease case:
   a. Submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D); and
   b. Provide to the Chagas infection or disease case or ensure that another person provides to the Chagas infection or disease case health education that includes:
      i. The treatment options for Chagas infection or disease,
      ii. Where the Chagas infection or disease case may receive treatment for Chagas infection or disease, and
      iii. For women of childbearing age, the risks of transmission of Chagas infection or disease to a fetus.

~~R9-6-313.~~R9-6-317. Chancroid (*Haemophilus ducreyi*)

A. Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported chancroid case or suspect case;
2. For each chancroid case, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D); and
3. Comply with the requirements specified in R9-6-1103 concerning treatment and health education for a chancroid case.

B. Contact control measures: When a chancroid case has named a contact, a local health agency shall comply with the requirements specified in R9-6-1103 concerning notification, testing, treatment, and health education for the contact.

R9-6-318. Chikungunya

A. Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a chikungunya case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
2. Conduct an epidemiologic investigation of each reported chikungunya case or suspect case;

3. For each chikungunya case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D); and

4. Ensure that each chikungunya case is provided with health education that includes measures to:

a. Avoid mosquito bites, and

b. Reduce mosquito breeding sites.

B. Environmental control measures: In cooperation with the Department, a local health agency or another local agency responsible for vector control within a jurisdiction shall conduct an assessment of the environment surrounding each chikungunya case or suspect case and implement vector control measures as necessary.

~~R9-6-314.~~R9-6-319. ~~Chlamydia~~ *Chlamydia trachomatis* Infection~~, Sexually Transmitted~~

A. Case control measures:

~~1. The Department shall review each chlamydia infection case report for completeness, accuracy, and need for follow-up.~~

~~2.~~ A local health agency shall comply with the requirements specified in R9-6-1103 concerning treatment and health education for a ~~chlamydia~~ *Chlamydia trachomatis* infection case that seeks treatment from the local health agency.

B. Contact control measures: If an individual who may have been exposed to chlamydia through sexual contact with a ~~chlamydia~~ *Chlamydia trachomatis* infection case seeks treatment for symptoms of chlamydia infection from a local health agency, the local health agency shall comply with the requirements specified in R9-6-1103 concerning treatment and health education for the individual.

~~R9-6-315.~~R9-6-320. Cholera

A. Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a cholera case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;

2. Exclude a cholera case or suspect case from:

a. ~~working~~ Working as a food handler, caring for patients or residents in a health care institution, or caring for children in or attending a child care establishment until ~~two successive cultures~~ a stool specimen negative for ~~Vibrio cholerae~~ toxigenic *Vibrio cholerae* ~~are~~ is obtained from ~~stool specimens collected at least 24 hours apart and~~ the cholera case or suspect case ~~at least 48 hours after discontinuing antibiotics~~; and

b. Using an aquatic venue until diarrhea has resolved;

3. Conduct an epidemiologic investigation of each reported cholera case or suspect case; and

4. For each cholera case, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D).

B. Contact control measures: A local health agency shall provide follow-up for each cholera contact for five calendar days after exposure.

R9-6-321. ***Clostridium difficile***

Case control measures:

1. A diagnosing health care provider or an administrator of a health care institution transferring a known *Clostridium difficile* case with active infection and diarrhea to another health care provider or health care institution or to a correctional facility shall, either personally or through a representative, ensure that the receiving health care provider, health care institution, or correctional facility is informed that the patient is a known *Clostridium difficile* case.

2. If a known *Clostridium difficile* case with active infection and diarrhea is being transferred from a correctional facility to another correctional facility or to a health care institution, an administrator of the correctional facility, either personally or through a representative, shall ensure that the receiving correctional facility or health care institution is informed that the individual is a known *Clostridium difficile* case.

~~R9-6-316.~~R9-6-322. **Coccidioidomycosis (Valley Fever)**

Outbreak control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported outbreak of coccidioidomycosis; and

2. For each outbreak of coccidioidomycosis, submit to the Department~~, as specified in Article 2, Table 4,~~ the information required under ~~R9-6-202(E)~~ R9-6-206(E).

~~R9-6-317.~~R9-6-323. **Colorado Tick Fever**

Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported Colorado tick fever case or suspect case; and

2. For each Colorado tick fever case, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D).

~~R9-6-318.~~R9-6-324. **Conjunctivitis: Acute**

A. Case control measures: An administrator of a school or child care establishment, either personally or through a representative, shall exclude an acute conjunctivitis case from attending the school or child care establishment until the symptoms of acute conjunctivitis subside or treatment for acute conjunctivitis is initiated and maintained for 24 hours.

B. Outbreak control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported conjunctivitis outbreak; and
2. For each conjunctivitis outbreak, submit to the Department~~, as specified in Article 2, Table 4,~~ the information required under ~~R9-6-206(F)~~ R9-6-206(E).

~~R9-6-319.~~R9-6-325. Creutzfeldt-Jakob Disease

Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported Creutzfeldt-Jakob disease case or suspect case; and
2. For each Creutzfeldt-Jakob disease case, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D).

~~R9-6-320.~~R9-6-326. Cryptosporidiosis

A. Case control measures: A local health agency shall:

1. Exclude a cryptosporidiosis case or suspect case with diarrhea from:
   a. ~~working~~ Working as a food handler, caring for patients or residents in a health care institution, or caring for children in or attending a child care establishment until diarrhea has resolved; and
   b. Using an aquatic venue for two weeks after diarrhea has resolved;
2. Conduct an epidemiologic investigation of each reported cryptosporidiosis case or suspect case; and
3. For each cryptosporidiosis case, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D).

B. Environmental control measures: A local health agency shall conduct a sanitary inspection or ensure that a sanitary inspection is conducted of each facility or location regulated under 9 A.A.C. 8 that is associated with an outbreak of cryptosporidiosis.

~~R9-6-321.~~R9-6-327. *Cyclospora* Infection

Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported *Cyclospora* infection case or suspect case; and
2. For each *Cyclospora* infection case submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D).

~~R9-6-322.~~R9-6-328. Cysticercosis

Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported cysticercosis case or suspect case; and
2. For each cysticercosis case, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D).

~~R9-6-323.~~R9-6-329. Dengue

A. Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a dengue case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;

~~1.~~2. Conduct an epidemiologic investigation of each reported dengue case or suspect case; ~~and~~

~~2.~~3. For each dengue case, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D); and

4. Ensure that each dengue case is provided with health education that includes measures to:
   a. Avoid mosquito bites, and
   b. Reduce mosquito breeding sites.

B. Environmental control measures: In cooperation with the Department, a local health agency or another local agency responsible for vector control within a jurisdiction shall conduct an assessment of the environment surrounding each dengue case or suspect case and implement vector control measures as necessary.

~~R9-6-330. Expired~~

~~R9-6-324.~~R9-6-330. Diarrhea, Nausea, or Vomiting

~~**A.** Environmental control measures: A local health agency shall conduct a sanitary inspection or ensure that a sanitary inspection is conducted of each water, sewage, or food preparation facility associated with an outbreak of diarrhea, nausea, or vomiting.~~

~~**B.**~~**A.** Outbreak control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported outbreak of diarrhea, nausea, or vomiting;
2. Submit to the Department~~, as specified in Article 2, Table 4,~~ the information required under ~~R9-6-206(F)~~ R9-6-206(E) ~~for:~~
   ~~a. Each suspected foodborne illness outbreak,~~
   ~~b. Each suspected waterborne illness outbreak, and~~

~~c.~~ ~~Each outbreak of viral gastroenteritis.~~; and

3. Exclude each case that is part of an outbreak of diarrhea, nausea, or vomiting from:

a. Working as a food handler, caring for patients or residents in a health care institution, or caring for children in or attending a child care establishment until:

i. Diarrhea and vomiting have resolved, or

ii. The local health agency has determined that the case is unlikely to infect other individuals; and

b. Using an aquatic venue for two weeks after diarrhea has resolved.

B. Environmental control measures: A local health agency shall conduct a sanitary inspection or ensure that a sanitary inspection is conducted of each facility or location regulated under 9 A.A.C. 8 that is associated with an outbreak of diarrhea, nausea, or vomiting.

~~R9-6-325.~~R9-6-331. Diphtheria

A. Case control measures:

1. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall:

a. Isolate and institute droplet precautions for a pharyngeal diphtheria case or suspect case until~~:~~

~~i.~~ ~~Two~~ two successive sets of cultures negative for *Cornyebacterium diphtheriae* are obtained from nose and throat specimens collected from the case or suspect case at least 24 hours apart and at least 24 hours after cessation of treatment; ~~or~~

~~ii.~~ ~~Fourteen calendar days after initiation of treatment;~~ and

b. Isolate and institute contact precautions for a cutaneous diphtheria case or suspect case until~~:~~

~~i.~~ ~~Two~~ two successive sets of cultures negative for *Cornyebacterium diphtheriae* are obtained from skin specimens collected from the case or suspect case at least 24 hours apart and at least 24 hours after cessation of treatment~~; or~~

~~ii.~~ ~~Fourteen calendar days after initiation of treatment~~.

2. A local health agency shall:

a. Upon receiving a report under R9-6-202 of a diphtheria case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;

b. Conduct an epidemiologic investigation of each reported diphtheria case or suspect case; and

c. For each diphtheria case, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D).

B. Contact control measures: A local health agency shall:

1. Exclude each diphtheria contact from working as a food handler, caring for patients or residents in a health care institution, or caring for children in or attending a school or child care establishment until a set of cultures negative for *Cornyebacterium diphtheriae* is obtained from the contact's nose and throat specimens;
2. In consultation with the Department, quarantine a contact of a diphtheria case, if indicated, until two successive sets of cultures negative for *Cornyebacterium diphtheriae* are obtained from nose and throat specimens collected from the contact at least 24 hours apart;
3. Offer each previously immunized diphtheria contact prophylaxis and a vaccine containing diphtheria toxoid; and
4. Offer each unimmunized diphtheria contact prophylaxis and the primary vaccine series ~~and treatment~~.

~~R9-6-326.~~R9-6-332. ~~Ehrlichioses (~~Ehrlichiosis ~~and Anaplasmosis)~~

Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported ehrlichiosis ~~or anaplasmosis~~ case or suspect case; and
2. For each ehrlichiosis ~~or anaplasmosis~~ case, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D).

~~R9-6-327.~~R9-6-333. Emerging or Exotic Disease

A. Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of an emerging or exotic disease case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;
2. In consultation with the Department, isolate an emerging or exotic disease case or suspect case as necessary to prevent transmission;
3. Conduct an epidemiologic investigation of each reported emerging or exotic disease case or suspect case; and
4. For each emerging or exotic disease case, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D).

B. Contact control measures: A local health agency, in consultation with the Department, shall quarantine or exclude an emerging or exotic disease contact as necessary, according to R9-6-303, to prevent transmission.

~~R9-6-328.~~R9-6-334. Encephalitis~~:~~, Viral or Parasitic

Case control measures: A local health agency shall:

~~1. Upon receiving a report under R9-6-202 of a viral or parasitic encephalitis case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;~~

1. Upon receiving a report of encephalitis under R9-6-202, notify the Department:
   a. For a case or suspect case of parasitic encephalitis, within 24 hours after receiving the report and provide to the Department the information contained in the report; and
   b. For a case or suspect case of viral encephalitis, within one working day after receiving the report and provide to the Department the information contained in the report;
2. Conduct an epidemiologic investigation of each reported viral or parasitic encephalitis case or suspect case; and
3. For each encephalitis case, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D).

~~R9-6-329.~~R9-6-335. ~~Enterohemorrhagic~~ *Escherichia coli*, Shiga Toxin-producing

A. Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 or R9-6-203 of a Shiga toxin-producing *Escherichia coli* case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;

~~1.~~2. Exclude ~~an enterohemorrhagic~~ a Shiga toxin-producing *Escherichia coli* case or suspect case with diarrhea from:
   a. ~~working~~ Working as a food handler, caring for patients or residents in a health care institution, or caring for children in or attending a child care establishment until:
      ~~a.~~i. Two successive ~~cultures~~ stool specimens, collected from the Shiga toxin-producing *Escherichia coli* case or suspect case at least 24 hours apart, are negative for ~~enterohemorrhagic~~ Shiga toxin-producing *Escherichia*

coli ~~are obtained from stool specimens collected from the case at least 24 hours apart and at least 48 hours after discontinuing antibiotics,~~; ~~or~~

~~b.~~ii. Diarrhea has resolved; or

iii. The local health agency has determined that the case or suspect case is unlikely to infect other individuals; and

b. Using an aquatic venue for two weeks after diarrhea has resolved;

~~2.~~3. Conduct an epidemiologic investigation of each reported ~~enterohemorrhagic~~ Shiga toxin-producing *Escherichia coli* case or suspect case; and

~~3.~~4. For each ~~enterohemorrhagic~~ Shiga toxin-producing *Escherichia coli* case, submit to the Department, as specified in ~~Article 2,~~ Table **4** 2.4, the information required under R9-6-206(D).

~~**B.** Contact control measures: A local health agency shall exclude an enterohemorrhagic *Escherichia coli* contact with diarrhea of unknown cause from working as a food handler, caring for patients or residents in a health care institution, or caring for children in or attending a child care establishment until diarrhea has resolved.~~

~~**C.**~~**B.** Environmental control measures: A local health agency shall:

1. If an animal located in a private residence is suspected to be the source of infection for ~~an enterohemorrhagic~~ a Shiga toxin-producing *Escherichia coli* case or outbreak, provide health education for the animal's owner about ~~enterohemorrhagic~~ Shiga toxin-producing *Escherichia coli* and the risks of becoming infected with ~~enterohemorrhagic~~ Shiga toxin-producing *Escherichia coli*; and
2. If an animal located in a setting other than a private residence is suspected to be the source of infection for ~~an enterohemorrhagic~~ a Shiga toxin-producing *Escherichia coli* case or outbreak:
   a. Provide health education for the animal's owner about ~~enterohemorrhagic~~ Shiga toxin-producing *Escherichia coli* and the risks of becoming infected with ~~enterohemorrhagic~~ Shiga toxin-producing *Escherichia coli*, and
   b. Require the animal's owner to provide information to individuals with whom the animal may come into contact about ~~enterohemorrhagic~~ Shiga toxin-producing *Escherichia coli* and methods to reduce the risk of transmission.

~~R9-6-331.~~R9-6-336. Giardiasis

~~**A.** Case control measures: A local health agency shall exclude a giardiasis case or suspect case from working as a food handler, caring for patients or residents in a health care institution, or caring for children in or attending a child care establishment until:~~

~~1. Two successive stool specimens negative for *Giardia lamblia* are obtained from specimens collected from the case at least 24 hours apart; or~~

~~2. Treatment for giardiasis is initiated and diarrhea has resolved.~~

~~**B.** Contact control measures: A local health agency shall exclude a giardiasis contact with diarrhea of unknown cause from working as a food handler, caring for patients or residents in a health care institution, or caring for children in or attending a child care establishment until diarrhea has resolved.~~

~~**C.** Outbreak control measures: A local health agency shall:~~

~~1. Conduct an epidemiologic investigation of each reported giardiasis outbreak;~~

~~2. For each giardiasis case involved in an outbreak, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D); and~~

~~3. For each giardiasis outbreak, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(F).~~

Case control measures: A local health agency shall:

1. Exclude a giardiasis case or suspect case with diarrhea from:
   a. Working as a food handler, caring for patients or residents in a health care institution, or caring for children in or attending a child care establishment until:
      i. Treatment for giardiasis is initiated and diarrhea has resolved, or
      ii. The local health agency has determined that the case or suspect case is unlikely to infect other individuals; and
   b. Using an aquatic venue for two weeks after diarrhea has resolved;
2. Conduct an epidemiologic investigation of each reported giardiasis case or suspect case; and
3. For each giardiasis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

R9-6-337. Glanders

Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a glanders case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
2. Conduct an epidemiologic investigation of each reported glanders case or suspect case;
3. For each glanders case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D); and

4. Ensure that an isolate or a specimen, as available, from each glanders case or suspect case is submitted to the Arizona State Laboratory.

~~R9-6-332.~~R9-6-338. Gonorrhea

A. Case control measures:

~~1. The Department shall review each gonorrhea case report for completeness, accuracy, and need for follow-up.~~

~~2.~~1. For the prevention of gonorrheal ophthalmia, a physician, physician assistant, registered nurse practitioner, or midwife attending the birth of an infant in this state shall treat the eyes of the infant immediately after the birth with one of the following, unless treatment is refused by the parent or guardian:

a. Erythromycin ophthalmic ointment 0.5%, or

b. Tetracycline ophthalmic ointment 1%.

~~3.~~2. A local health agency shall comply with the requirements specified in R9-6-1103 concerning treatment and health education for a gonorrhea case that seeks treatment from the local health agency.

B. Contact control measures: If an individual who may have been exposed to gonorrhea through sexual contact with a gonorrhea case seeks treatment for symptoms of gonorrhea from a local health agency, the local health agency shall comply with the requirements specified in R9-6-1103 concerning treatment and health education for the individual.

~~R9-6-333.~~R9-6-339. *Haemophilus influenzae*: Invasive Disease

A. Case control measures:

1. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall isolate and institute droplet precautions for a *Haemophilus influenzae* meningitis or epiglottitis case or suspect case for 24 hours after the initiation of treatment.

2. A local health agency shall:

a. Upon receiving a report under R9-6-202 or R9-6-203 of a *Haemophilus influenzae* invasive disease case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;

~~a.~~b. Conduct an epidemiologic investigation of each reported *Haemophilus influenzae* invasive disease case or suspect case; and

~~b.~~c. For each *Haemophilus influenzae* invasive disease case, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D).

B. Contact control measures: A local health agency shall evaluate the level of risk of transmission from each contact's exposure to a *Haemophilus influenzae* invasive disease case and, if indicated, shall provide or arrange for each contact to receive immunization or treatment.

~~R9-6-334.~~R9-6-340. Hansen's Disease (Leprosy)

A. Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported Hansen's disease case or suspect case; and
2. For each Hansen's disease case, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D).

B. Contact control measures: In consultation with the Department, a local health agency shall examine contacts of a Hansen's disease case, if indicated, for signs and symptoms of leprosy at six-to-twelve month intervals for five years after the last exposure to an infectious case.

~~R9-6-335.~~R9-6-341. Hantavirus Infection

Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a hantavirus infection case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;

~~1.~~2. ~~Provide or arrange for~~ Ensure that a hantavirus infection case or, if the case is a child or incapacitated adult, the parent or guardian of the case ~~to receive~~ receives health education about reducing the risks of becoming reinfected with or of having others become infected with hantavirus;

~~2.~~3. Conduct an epidemiologic investigation of each reported hantavirus infection case or suspect case; and

~~3.~~4. For each hantavirus infection case, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D).

B. Environmental control measures: A local health agency shall conduct an environmental assessment for each hantavirus infection case or suspect case.

~~R9-6-336.~~R9-6-342. Hemolytic Uremic Syndrome

A. Case control measures: A local health agency shall:

~~1. Exclude a hemolytic uremic syndrome case or suspect case from working as a food handler, caring for patients or residents in a health care institution, or caring for children in or attending a child care establishment until:~~

~~a. Two successive cultures negative for enterohemorrhagic *Escherichia coli* and *Shigella* spp. are obtained from stool specimens collected from the case at least 24 hours apart and at least 48 hours after discontinuing antibiotics, or~~

~~b. Diarrhea has resolved;~~

1. Upon receiving a report under R9-6-202 of a hemolytic uremic syndrome case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;

2. Conduct an epidemiologic investigation of each reported hemolytic uremic syndrome case or suspect case; and

3. For each hemolytic uremic syndrome case, submit to the Department, as specified in ~~Article 2,~~ Table **4** 2.4, the information required under R9-6-206(D).

B. Contact control measures: A local health agency shall exclude a hemolytic uremic syndrome contact with diarrhea of unknown cause from working as a food handler until diarrhea has resolved.

~~R9-6-343. Expired~~

~~R9-6-337.~~R9-6-343. Hepatitis A

A. Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 or R9-6-203 of a hepatitis A case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;

~~1.~~2. Exclude a hepatitis A case or suspect case from working as a food handler, caring for patients or residents in a health care institution, or caring for children in or attending a child care establishment during the first 14 calendar days of illness or for seven calendar days after onset of jaundice;

~~2.~~3. Conduct an epidemiologic investigation of each reported hepatitis A case or suspect case; and

~~3.~~4. For each hepatitis A case, submit to the Department, as specified in ~~Article 2,~~ Table **4** 2.4, the information required under R9-6-206(D).

B. Contact control measures: A local health agency shall:

1. Exclude a hepatitis A contact with symptoms of hepatitis A from working as a food handler during the first 14 calendar days of illness or for seven calendar days after onset of jaundice;
2. For 45 calendar days after exposure, monitor a food handler who was a contact of a hepatitis A case during the infectious period for symptoms of hepatitis A; and
3. Evaluate the level of risk of transmission from each contact's exposure to a hepatitis A case and, if indicated, provide or arrange for each contact to receive prophylaxis and immunization.

~~R9-6-338.~~R9-6-344. Hepatitis B and Hepatitis D

A. Case control measures:

1. A local health agency shall:
   a. Evaluate a health care provider identified as the source of hepatitis B virus transmission in the work place and, if indicated, ensure reassignment of the health care provider to a position where the occupational risk of transmission is eliminated;
   b. Conduct an epidemiologic investigation of each reported case or suspect case of hepatitis B or hepatitis B co-infected with hepatitis D; and
   c. For each acute case of hepatitis B or hepatitis B co-infected with hepatitis D or case of perinatal hepatitis B, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D).
2. The operator of a blood bank, blood center, or plasma center shall notify a donor of a test result with significant evidence suggestive of hepatitis B, as required under A.R.S. § 32-1483 and 21 CFR 630.6.

B. Contact control measures: A local health agency shall:

1. Refer each non-immune hepatitis B contact to a health care provider for prophylaxis and initiation of the hepatitis B vaccine series, and
2. Provide health education related to the progression of hepatitis B disease and the prevention of transmission of hepatitis B infection to each non-immune hepatitis B contact.

~~R9-6-339.~~R9-6-345. Hepatitis C

~~Case control measures:~~

~~1. A local health agency shall:~~
   ~~a. Conduct an epidemiologic investigation of each reported acute hepatitis C case or suspect case; and~~

~~b. For each acute hepatitis C case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D).~~

~~2. The Department shall provide health education related to the progression of hepatitis C disease and the prevention of transmission of hepatitis C infection to each reported non-acute hepatitis C case or suspect case.~~

Outbreak control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported hepatitis C outbreak;
2. For each hepatitis C outbreak, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(E);
3. Evaluate a health care provider identified as the source of hepatitis C virus transmission in the work place and, if indicated, ensure reassignment of the health care provider to a position where the occupational risk of transmission is eliminated; and
4. Ensure that health education related to the progression of hepatitis C disease and the prevention of transmission of hepatitis C infection is provided to each individual who may have been exposed to hepatitis C during the outbreak.

~~R9-6-340.~~R9-6-346. Hepatitis E

Case control measures: A local health agency shall:

1. Exclude a hepatitis E case or suspect case from working as a food handler, caring for patients or residents in a health care institution, or caring for children in or attending a child care establishment during the first 14 calendar days of illness or for seven calendar days after onset of jaundice;

~~1.~~2. Conduct an epidemiologic investigation of each reported hepatitis E case or suspect case; and

~~2.~~3. For each hepatitis E case, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D).

~~R9-6-341.~~R9-6-347. ~~Human Immunodeficiency Virus (~~HIV~~)~~ Infection and Related Disease

A. Case control measures:

1. A local health agency shall:
   a. Conduct an epidemiologic investigation, including a review of medical records, of each reported HIV-infected individual or suspect case; and
   b. For each HIV-infected individual, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D).

2. The operator of a blood bank, blood center, or plasma center shall notify a donor of a test result with significant evidence suggestive of HIV infection, as required under A.R.S. § 32-1483 and 21 CFR 630.6.

3. The Department and a local health agency shall offer anonymous HIV-testing to an individual as specified in R9-6-1005.

B. Contact control measures: The Department or the Department's designee shall confidentially notify an individual reported to be at risk for HIV infection under ~~A.R.S. § 36-664(J)~~ A.R.S. § 36-664(I) as specified in R9-6-1006(A).

C. Environmental control measures: An employer, as defined under A.R.S. § 23-401, or health care provider shall comply with the requirements specified in A.R.S. § 23-403 and A.A.C. R20-5-602.

~~R9-6-342.~~R9-6-348. Influenza-Associated Mortality in a Child

Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a case or suspect case of an influenza-associated death of a child, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;

~~1.~~2. ~~Confirm that influenza was the cause of death for~~ Conduct an epidemiologic investigation of each reported case or suspect case of influenza-associated mortality in a child; and

~~2.~~3. For each case of influenza-associated mortality in a child, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under ~~R9-6-206(C)~~ R9-6-206(D).

~~R9-6-344.~~R9-6-349. Legionellosis (Legionnaires' Disease)

A. Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a legionellosis case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;

~~1.~~2. Conduct an epidemiologic investigation of each reported legionellosis case or suspect case; and

~~2.~~3. For each legionellosis case, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D).

B. Environmental control measures: The owner of a water, cooling, or ventilation system or equipment that is determined by the Department or a local health agency to ~~have caused~~ be associated with a case of *Legionella* infection shall ~~disinfect the system before resuming its use~~ comply with the environmental control measures recommended by the Department or local health agency to prevent the exposure of other individuals.

~~R9-6-345.~~R9-6-350. Leptospirosis

Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a leptospirosis case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;

~~1.~~2. Conduct an epidemiologic investigation of each reported leptospirosis case or suspect case; and

~~2.~~3. For each leptospirosis case, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D).

~~R9-6-346.~~R9-6-351. Listeriosis

Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a listeriosis case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;

~~1.~~2. Conduct an epidemiologic investigation of each reported listeriosis case or suspect case;

~~2.~~3. For each listeriosis case, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D); and

~~3.~~4. Ensure that an isolate or a specimen, as available, from each listeriosis case is submitted to the Arizona State Laboratory.

~~R9-6-347.~~R9-6-352. Lyme Disease

Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported Lyme disease case or suspect case; and

2. For each Lyme disease case, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D).

~~R9-6-348.~~R9-6-353. Lymphocytic Choriomeningitis

Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a lymphocytic choriomeningitis case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;

~~1.~~2. Conduct an epidemiologic investigation of each reported lymphocytic choriomeningitis case or suspect case; and

~~2.~~3. For each lymphocytic choriomeningitis case, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D).

~~R9-6-349.~~R9-6-354. **Malaria**

A. Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported malaria case or suspect case; and
2. For each malaria case, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D).

B. Environmental control measures: In cooperation with the Department, a local health agency or another local agency responsible for vector control within a jurisdiction shall conduct an assessment of the environment surrounding each malaria case or suspect case and implement vector control measures as necessary.

~~R9-6-350.~~R9-6-355. **Measles (Rubeola)**

A. Case control measures:

1. An administrator of a school or child care establishment, either personally or through a representative, shall:
   a. Exclude a measles case from the school or child care establishment and from school- or child-care-establishment-sponsored events from the onset of illness through the fourth calendar day after the rash appears; and
   b. Exclude a measles suspect case from the school or child care establishment and from school- or child-care-establishment-sponsored events until ~~evaluated and determined to be noninfectious by a physician, physician assistant, or registered nurse practitioner~~ the local health agency has determined that the suspect case is unlikely to infect other individuals.
2. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall isolate and institute airborne precautions for a measles case from onset of illness through the fourth calendar day after the rash appears.
3. An administrator of a health care institution, either personally or through a representative, shall exclude a measles:
   a. Case from working at the health care institution from the onset of illness through the fourth calendar day after the rash appears; and
   b. Suspect case from working at the health care institution until the local health agency has determined that the suspect case may return to work.

~~3.~~4. A local health agency shall:

a. Upon receiving a report under R9-6-202 or R9-6-203 of a measles case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;

b. Conduct an epidemiologic investigation of each reported measles case or suspect case;

c. For each measles case, submit to the Department, as specified in ~~Article 2,~~ Table **4** 2.4, the information required under R9-6-206(D); and

d. Ensure that one or more specimens from each measles case or suspect case, as required by the Department, are submitted to the Arizona State Laboratory.

5. An administrator of a correctional facility or shelter, either personally or through a representative, shall comply with the measles control measures recommended by a local health agency or the Department.

B. Contact control measures:

1. When a measles case has been at a school or child care establishment, the administrator of the school or child care establishment, either personally or through a representative, shall:

a. Consult with the local health agency to determine who shall be excluded and how long each individual shall be excluded from the school or child care establishment, and

b. Comply with the local health agency's recommendations for exclusion.

2. A local health agency shall:

a. Determine which measles contacts will be quarantined or excluded, according to R9-6-303, to prevent transmission; and

b. ~~provide~~ Provide or arrange for immunization of each non-immune measles contact within 72 hours after last exposure, if possible.

3. An administrator of a health care institution shall ensure that a paid or volunteer full-time or part-time worker at a health care institution does not participate in the direct care of a measles case or suspect case unless the worker is able to provide evidence of immunity to measles through one of the following:

a. A record of immunization against measles with two doses of live virus vaccine given on or after the first birthday and at least one month apart;

b. A statement signed by a physician, physician assistant, registered nurse practitioner, state health officer, or local health officer affirming serologic evidence of immunity to measles; or

c. Documentary evidence of birth before January 1, 1957.

~~R9-6-351.~~R9-6-356. Melioidosis

Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a melioidosis case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;

~~1.~~2. Conduct an epidemiologic investigation of each reported melioidosis case or suspect case;

~~2.~~3. For each melioidosis case, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D); and

~~3.~~4. Ensure that an isolate or a specimen, as available, from each melioidosis case or suspect case is submitted to the Arizona State Laboratory.

~~R9-6-352.~~R9-6-357. Meningococcal Invasive Disease

A. Case control measures:

1. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall isolate and institute droplet precautions for a meningococcal invasive disease case for 24 hours after the initiation of treatment.

2. A local health agency shall:

a. Upon receiving a report under R9-6-202 or R9-6-203 of a meningococcal invasive disease case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;

b. Conduct an epidemiologic investigation of each reported meningococcal invasive disease case or suspect case;

c. For each meningococcal invasive disease case, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D); and

d. Ensure that an isolate or a specimen, as available, from each meningococcal invasive disease case is submitted to the Arizona State Laboratory.

B. Contact control measures: A local health agency shall evaluate the level of risk of transmission from each contact's exposure to a meningococcal invasive disease case and, if indicated, provide or arrange for each contact to receive prophylaxis.

R9-6-358. Methicillin-resistant *Staphylococcus aureus* (MRSA)

A. Case control measures:

1. A diagnosing health care provider or an administrator of a health care institution transferring a known methicillin-resistant *Staphylococcus aureus* case with active infection to another health care provider or health care institution or to a correctional facility shall, either personally or through a representative, ensure that the receiving health care provider, health care institution, or correctional facility is informed that the patient is a known methicillin-resistant *Staphylococcus aureus* case.
2. If a known methicillin-resistant *Staphylococcus aureus* case with active infection is being transferred from a correctional facility to another correctional facility or to a health care institution, an administrator of the correctional facility, either personally or through a representative, shall ensure that the receiving correctional facility or health care institution is informed that the individual is a known methicillin-resistant *Staphylococcus aureus* case.

B. Outbreak control measures:

1. A local health agency, in consultation with the Department, shall:
   a. Conduct an epidemiologic investigation of each reported outbreak of methicillin-resistant *Staphylococcus aureus* in a health care institution or correctional facility; and
   b. For each outbreak of methicillin-resistant *Staphylococcus aureus* in a health care institution or correctional facility, submit to the Department the information required under R9-6-206(E).
2. When an outbreak of methicillin-resistant *Staphylococcus aureus* occurs in a health care institution or correctional facility, the administrator of the health care institution or correctional facility, either personally or through a representative, shall comply with the control measures recommended by a local health agency or the Department.

~~R9-6-353.~~R9-6-359. Mumps

A. Case control measures:

1. An administrator of a school or child care establishment, either personally or through a representative, shall:
   a. Exclude a mumps case from the school or child care establishment for five calendar days after the onset of glandular swelling; and
   b. Exclude a mumps suspect case from the school or child care establishment and from school- or child-care-establishment-sponsored events until evaluated and determined to be noninfectious by a physician, physician assistant, ~~or~~ registered nurse practitioner, or local health agency.

2. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall isolate and institute droplet precautions with a mumps case for five calendar days after the onset of glandular swelling.

3. An administrator of a health care institution, either personally or through a representative, shall exclude a mumps:

   a. Case from working at the health care institution for five calendar days after the onset of glandular swelling; and

   b. Suspect case from working at the health care institution until evaluated and determined to be noninfectious by a physician, physician assistant, registered nurse practitioner, or local health agency.

~~3.~~4. A local health agency shall:

   a. Upon receiving a report under R9-6-202 or R9-6-203 of a mumps case or suspect case, notify the Department within ~~24 hours~~ one working day after receiving the report and provide to the Department the information contained in the report;

   b. Conduct an epidemiologic investigation of each reported mumps case or suspect case;

   c. For each mumps case, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D); and

   d. Ensure that one or more specimens from each mumps case or suspect case, as required by the Department, are submitted to the Arizona State Laboratory.

5. An administrator of a correctional facility or shelter, either personally or through a representative, shall comply with the mumps control measures recommended by a local health agency or the Department.

B. Contact control measures:

1. When a mumps case has been at a school or child care establishment, the administrator of the school or child care establishment, either personally or through a representative, shall:

   a. Consult with the local health agency to determine who shall be excluded and how long each individual shall be excluded from the school or child care establishment, and

   b. Comply with the local health agency's recommendations for exclusion.

2. An administrator of a health care institution shall ensure that a paid or volunteer full-time or part-time worker at a health care institution does not participate in the direct care of a mumps case or suspect case unless the worker is able to provide evidence of immunity to mumps through one of the following:

a. A record of immunization against mumps with two doses of live virus vaccine given on or after the first birthday and at least one month apart; or

b. A statement signed by a physician, physician assistant, registered nurse practitioner, state health officer, or local health officer affirming serologic evidence of immunity to mumps.

3. A local health agency shall determine which mumps contacts will be:

a. ~~Excluded from a school or child care establishment~~ Quarantined or excluded, according to R9-6-303, to prevent transmission; and

b. Advised to obtain an immunization against mumps.

~~R9-6-354.~~R9-6-360. Norovirus

A. Outbreak control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported norovirus outbreak; ~~and~~

2. Submit to the Department~~, as specified in Article 2, Table 4,~~ the information required under ~~R9-6-206(F)~~ R9-6-206(E); and

3. Exclude each case that is part of a norovirus outbreak from working as a food handler, caring for patients or residents in a health care institution, or caring for children in or attending a child care establishment until:

a. Diarrhea has resolved, or

b. The local health agency has determined that the case or suspect case is unlikely to infect other individuals.

B. Environmental control measures: A local health agency shall conduct a sanitary inspection or ensure that a sanitary inspection is conducted of each ~~water, sewage, or food preparation~~ facility or location regulated under 9 A.A.C. 8 that is associated with a norovirus outbreak.

R9-6-361. Novel Coronavirus (e.g., SARS or MERS)

A. Case control measures:

1. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall isolate and institute both airborne precautions and contact precautions for a novel coronavirus case or suspect case, including a case or suspect case of severe acute respiratory syndrome or Middle East respiratory syndrome, until evaluated and determined to be noninfectious by a physician, physician assistant, or registered nurse practitioner.

2. A local health agency shall:

a. Upon receiving a report under R9-6-202 of a novel coronavirus case or suspect case, notify the Department within 24 hours after receiving the report and

provide to the Department the information contained in the report;

b. In consultation with the Department, ensure that isolation and both airborne precautions and contact precautions have been instituted for a novel coronavirus case or suspect case to prevent transmission;

c. Conduct an epidemiologic investigation of each reported novel coronavirus case or suspect case; and

d. For each novel coronavirus case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

B. Contact control measures: A local health agency, in consultation with the Department, shall determine which novel coronavirus contacts will be quarantined or excluded, according to R9-6-303, to prevent transmission.

~~R9-6-355.~~R9-6-362. Pediculosis (Lice Infestation)

A. Case control measures:

1. An administrator of a school or child care establishment, either personally or through a representative, shall exclude a pediculosis case from the school or child care establishment until the case is treated with a pediculocide.
2. An administrator of a shelter shall ensure that a pediculosis case is treated with a pediculocide and that the case's clothing and personal articles are disinfested.

B. Contact control measures: An administrator of a school or child care establishment that excludes a pediculosis case from the school or child care establishment, either personally or through a representative, shall ensure that a parent or guardian of a child who is a contact is notified that a pediculosis case was identified at the school or child care establishment.

~~R9-6-363. Expired~~

~~R9-6-356.~~R9-6-363. Pertussis (Whooping Cough)

A. Case control measures:

1. An administrator of a school or child care establishment, either personally or through a representative, shall:

a. Exclude a pertussis case from the school or child care establishment for 21 calendar days after the date of onset of cough or for five calendar days after the date of initiation of antibiotic treatment for pertussis; and

b. Exclude a pertussis suspect case from the school or child care establishment until evaluated and determined to be noninfectious by a physician, physician assistant, ~~or~~ registered nurse practitioner, or local health agency.

2. An administrator of a health care institution, either personally or through a representative, shall:

   a. Exclude a pertussis case from working at the health care institution for 21 calendar days after the date of onset of cough or for five calendar days after the date of initiation of antibiotic treatment for pertussis; and

   b. Exclude a pertussis suspect case from working at the health care institution until evaluated and determined to be noninfectious by a physician, physician assistant, ~~or~~ registered nurse practitioner, or local health agency.

3. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall isolate and initiate droplet precautions for a pertussis case for five calendar days after the date of initiation of antibiotic treatment for pertussis.

4. A local health agency shall:

   a. Upon receiving a report under R9-6-202 or R9-6-203 of a pertussis case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;

   ~~a.~~b. Conduct an epidemiologic investigation of each reported pertussis case or suspect case; and

   ~~b.~~c. For each pertussis case, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D).

5. An administrator of a correctional facility or shelter, either personally or through a representative, shall comply with the pertussis control measures recommended by a local health agency or the Department.

B. Contact control measures:

1. When a pertussis case has been at a school or child care establishment, the administrator of the school or child care establishment, either personally or through a representative, shall:

   a. Consult with the local health agency to determine who shall be excluded and how long each individual shall be excluded from the school or child care establishment, and

   b. Comply with the local health agency's recommendations for exclusion.

2. A local health agency shall identify contacts of a pertussis case and~~, if indicated,~~ shall:

   a. Determine which pertussis contacts will be quarantined or excluded, according to R9-6-303, to prevent transmission; and

b. If indicated, provide or arrange for a pertussis contact to receive antibiotic prophylaxis.

~~**R9-6-364. Rocky Mountain Spotted Fever**~~

~~Case control measures: A local health agency shall:~~

~~1. Conduct an epidemiologic investigation of each reported Rocky Mountain spotted fever case or suspect case; and~~

~~2. For each Rocky Mountain spotted fever case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D).~~

~~**R9-6-357.**~~**R9-6-364. Plague**

A. Case control measures:

1. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall isolate and institute droplet precautions for a pneumonic plague case or suspect case until 72 hours of antibiotic therapy have been completed with favorable clinical response.
2. An individual handling the body of a deceased plague case shall use droplet precautions.
3. A local health agency shall:
   a. Upon receiving a report under R9-6-202 of a plague case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;
   b. Conduct an epidemiologic investigation of each reported plague case or suspect case;
   c. For each plague case, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D); and
   d. Ensure that an isolate or a specimen, as available, from each plague case or suspect case is submitted to the Arizona State Laboratory.

B. Contact control measures: A local health agency shall provide follow-up to pneumonic plague contacts for seven calendar days after last exposure to a pneumonic plague case.

~~**R9-6-358.**~~**R9-6-365. Poliomyelitis (Paralytic or Non-paralytic)**

Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a poliomyelitis case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;
2. Conduct an epidemiologic investigation of each reported poliomyelitis case or suspect case;

3. For each poliomyelitis case, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D); and

4. Ensure that one or more specimens from each poliomyelitis case or suspect case, as required by the Department, are submitted to the Arizona State Laboratory.

~~R9-6-359.~~R9-6-366. Psittacosis (Ornithosis)

A. Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported psittacosis case or suspect case; and

2. For each psittacosis case, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D).

B. Environmental control measures: A local health agency shall:

1. If a bird infected with *Chlamydia psittaci* or *Chlamydophila psittaci* is located in a private residence:

   a. Provide health education for the bird's owner about psittacosis and the risks of becoming infected with psittacosis, and

   b. Advise the bird's owner to obtain treatment for the bird; and

2. If a bird infected with *Chlamydia psittaci* or *Chlamydophila psittaci* is located in a setting other than a private residence:

   a. Provide health education for the bird's owner about psittacosis and the risks of becoming infected with psittacosis,

   b. Ensure that the bird is treated or destroyed and any contaminated structures are disinfected, and

   c. Require the bird's owner to isolate the bird from contact with members of the public and from other birds until treatment of the bird is completed or the bird is destroyed.

~~R9-6-360.~~R9-6-367. Q Fever

Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a Q fever case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;

2. Conduct an epidemiologic investigation of each reported Q fever case or suspect case; and

3. For each Q fever case, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D).

~~R9-6-361.~~R9-6-368. **Rabies in a Human**

A. Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a human rabies case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;
2. Conduct an epidemiologic investigation of each reported human rabies case or suspect case; ~~and~~
3. For each human rabies case, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D); and
4. Ensure that a specimen from each human rabies case or suspect case, as required by the Department, is submitted to the Arizona State Laboratory.

B. Contact control measures: A local health agency shall evaluate the level of risk of transmission from each contact's exposure to a human rabies case and, if indicated, provide or arrange for each contact to receive prophylaxis.

~~**R9-6-369.** **Severe Acute Respiratory Syndrome**~~

~~**A.** Case control measures. A local health agency shall:~~

~~1. Upon receiving a report under R9-6-202 of a severe acute respiratory syndrome case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;~~

~~2. In consultation with the Department, ensure the isolation of and the institution of both airborne precautions and contact precautions for a severe acute respiratory syndrome case or suspect case to prevent transmission;~~

~~3. Conduct an epidemiologic investigation of each reported severe acute respiratory syndrome case or suspect case; and~~

~~4. For each severe acute respiratory syndrome case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D).~~

~~**B.** Contact control measures: A local health agency, in consultation with the Department, shall quarantine a severe acute respiratory syndrome contact as necessary to prevent transmission.~~

~~R9-6-362.~~R9-6-369. **Relapsing Fever (Borreliosis)**

Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a borreliosis case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;

~~1.~~2. Conduct an epidemiologic investigation of each reported borreliosis case or suspect case; and

~~2.~~3. For each borreliosis case, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D).

R9-6-370. Respiratory Disease in a Health Care Institution or Correctional Facility

Outbreak control measures:

1. A local health agency shall:
   a. Conduct an epidemiologic investigation of each reported outbreak of respiratory disease in a health care institution or correctional facility; and
   b. For each outbreak of respiratory disease in a health care institution or correctional facility, submit to the Department the information required under R9-6-206(E).
2. When an outbreak of respiratory disease occurs in a health care institution or correctional facility, the administrator of the health care institution or correctional facility, either personally or through a representative, shall comply with the control measures recommended by a local health agency.

~~R9-6-365.~~R9-6-371. Rubella (German Measles)

A. Case control measures:

1. An administrator of a school or child care establishment, either personally or through a representative, shall:
   a. Exclude a rubella case from the school or child care establishment and from school- or child-care-establishment-sponsored events from the onset of illness through the seventh calendar day after the rash appears; and
   b. Exclude a rubella suspect case from the school or child care establishment and from school- or child-care-establishment-sponsored events until evaluated and determined to be noninfectious by a physician, physician assistant, ~~or~~ registered nurse practitioner, or local health agency.
2. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative~~,~~ and in consultation with the local health agency, shall isolate and institute droplet precautions for a rubella case through the seventh calendar day after the rash appears.
3. An administrator of a health care institution, either personally or through a representative, shall exclude a rubella:

a. Case from working at the health care institution from the onset of illness through the seventh calendar day after the rash appears; and

b. Suspect case from working at the health care institution until evaluated and determined to be noninfectious by a physician, physician assistant, registered nurse practitioner, or local health agency.

~~3.~~4. A local health agency shall:

a. Upon receiving a report under R9-6-202 or R9-6-203 of a rubella case or suspect case, notify the Department within ~~24 hours~~ one working day after receiving the report and provide to the Department the information contained in the report;

b. Conduct an epidemiologic investigation of each reported rubella case or suspect case;

c. For each rubella case, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D); and

d. Ensure that one or more specimens from each rubella case or suspect case, as required by the Department, are submitted to the Arizona State Laboratory.

5. An administrator of a correctional facility or shelter, either personally or through a representative, shall comply with the rubella control measures recommended by a local health agency or the Department.

B. Contact control measures:

1. An administrator of a health care institution shall ensure that a paid or volunteer full-time or part-time worker at a health care institution does not participate in the direct care of a rubella case or suspect case or of a patient who is or may be pregnant unless the worker first provides evidence of immunity to rubella consisting of:

a. A record of immunization against rubella given on or after the first birthday~~,~~; or

b. A statement signed by a physician, physician assistant, registered nurse practitioner, state health officer, or local health officer affirming serologic evidence of immunity to rubella.

2. When a rubella case has been at a school or child care establishment, the administrator of the school or child care establishment, either personally or through a representative, shall:

a. Consult with the local health agency to determine who shall be excluded and how long each individual shall be excluded from the school or child care establishment, and

b. Comply with the local health agency's recommendations for exclusion.

3. A local health agency shall:

a. Determine which rubella contacts will be quarantined or excluded, according to R9-6-303, to prevent transmission; and

b. ~~provide~~ Provide or arrange for immunization of each non-immune rubella contact within 72 hours after last exposure, if possible.

~~R9-6-366.~~R9-6-372. Rubella Syndrome, Congenital

A. Case control measures:

1. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall isolate and implement contact precautions for an infant congenital rubella syndrome case until:

   a. The infant congenital rubella syndrome case reaches one year of age~~,~~; or

   b. Two successive negative virus cultures, from specimens collected at least one month apart, are obtained from the infant congenital rubella syndrome case after the infant congenital rubella syndrome case reaches three months of age.

2. A local health agency shall:

   a. Upon receiving a report under R9-6-202 of a congenital rubella syndrome case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;

   b. Conduct an epidemiologic investigation of each reported congenital rubella syndrome case or suspect case;

   c. For each congenital rubella syndrome case, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D); and

   d. Ensure that one or more specimens from each congenital rubella syndrome case or suspect case, as required by the Department, are submitted to the Arizona State Laboratory.

B. Contact control measures: An administrator of a health care institution shall ensure that a paid or volunteer full-time or part-time worker at a health care institution who is known to be pregnant does not participate in the direct care of a congenital rubella syndrome case or suspect case unless the worker first provides evidence of immunity to rubella that complies with ~~R9-6-365(B)(1)~~ R9-6-371(B)(1).

~~R9-6-367.~~R9-6-373. Salmonellosis

A. Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 or R9-6-203 of a salmonellosis case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;

~~1.~~2. Exclude a salmonellosis case or suspect case with diarrhea from:

a. ~~working~~ Working as a food handler, caring for children in or attending a child care establishment, or caring for patients or residents in a health care institution until ~~either of the following occurs~~:

i. Diarrhea has resolved,

~~a.~~ii. ~~Two successive cultures~~ A stool specimen negative for *Salmonella* spp. ~~are~~ is obtained from the salmonellosis case or suspect case ~~stool specimens collected at least 24 hours apart~~, or

iii. The local health agency has determined that the case or suspect case is unlikely to infect other individuals; and

~~b. Diarrhea has resolved;~~

b. Using an aquatic venue until diarrhea has resolved;

~~2.~~3. Conduct an epidemiologic investigation of each reported salmonellosis case or suspect case; and

~~3.~~4. For each salmonellosis case, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D).

~~**B.** Contact control measures: A local health agency shall exclude a salmonellosis contact with diarrhea of unknown cause from working as a food handler, caring for patients or residents in a health care institution, or caring for children in or attending a child care establishment until either of the following occurs:~~

~~1. Two successive cultures negative for *Salmonella* spp. are obtained from stool specimens collected at least 24 hours apart, or~~

~~2. Diarrhea has resolved.~~

~~**C.**~~**B.** Environmental control measures: A local health agency shall:

1. If an animal infected with *Salmonella* spp. is located in a private residence, provide health education for the animal's owner about salmonellosis and the risks of becoming infected with *Salmonella* spp.; and

2. If an animal infected with *Salmonella* spp. is located in a setting other than a private residence:

a. Provide health education for the animal's owner about salmonellosis and the risks of becoming infected with *Salmonella* spp., and

b. Require the animal's owner to provide information to individuals with whom the animal may come into contact about salmonellosis and methods to reduce the risk of transmission.

~~R9-6-368.~~R9-6-374. **Scabies**

A. Case control measures:

1. An administrator of a school or child care establishment, either personally or through a representative, shall exclude a scabies case from the school or child care establishment until treatment for scabies is completed.
2. An administrator of a health care institution or shelter, either personally or through a representative, shall exclude a scabies case from participating in the direct care of a patient or resident until treatment for scabies is completed.
3. An administrator of a shelter, either personally or through a representative, shall ensure that a scabies case receives treatment for scabies and that the case's clothing and personal articles are disinfested.
4. An administrator of a correctional facility, either personally or through a representative, shall ensure that a scabies case receives treatment for scabies and that the case's clothing and personal articles are disinfested.

B. Contact control measures: An administrator of a school, child care establishment, health care institution, or shelter, either personally or through a representative, shall advise a scabies contact with symptoms of scabies to obtain examination and, if necessary, treatment.

C. Outbreak control measures: A local health agency shall:

~~1. Conduct an epidemiologic investigation of each reported scabies outbreak;~~

~~2.~~1. Provide health education regarding prevention, control, and treatment of scabies to individuals affected by ~~the~~ a scabies outbreak;

~~3.~~2. When a scabies outbreak occurs in a health care institution, notify the licensing agency of the outbreak; and

~~4.~~3. For each scabies outbreak, submit to the Department~~, as specified in Article 2, Table 4,~~ the information required under ~~R9-6-202(E)~~ R9-6-202(D).

~~R9-6-370.~~R9-6-375. **Shigellosis**

~~A.~~ Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 or R9-6-203 of a shigellosis case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;

~~1.~~2. Exclude a shigellosis case or suspect case with diarrhea from:

a. ~~working~~ Working as a food handler, caring for children in or attending a child care establishment, or caring for patients or residents in a health care institution until ~~either of the following occurs~~:

i. Diarrhea has resolved,

~~a.~~ii. ~~Two successive cultures~~ A stool specimen negative for *Shigella* spp. ~~are~~ is obtained from the shigellosis case or suspect case ~~stool specimens collected at least 24 hours apart and at least 48 hours after discontinuing antibiotics~~, or

iii. The local health agency has determined that the case or suspect case is unlikely to infect other individuals; and

~~b. Treatment is maintained for 24 hours and diarrhea has resolved;~~

b. Using an aquatic venue for one week after diarrhea has resolved;

~~2.~~3. Conduct an epidemiologic investigation of each reported shigellosis case or suspect case; and

~~3.~~4. For each shigellosis case, submit to the Department, as specified in ~~Article 2,~~ Table **4** 2.4, the information required under R9-6-206(D).

~~**B.** Contact control measures: A local health agency shall exclude a shigellosis contact with diarrhea of unknown cause from working as a food handler, caring for children in or attending a child care establishment, or caring for patients or residents in a health care institution until:~~

~~1. Two successive cultures negative for *Shigella* spp. are obtained from stool specimens collected at least 24 hours apart, or~~

~~2. Treatment has been maintained for 24 hours and diarrhea has resolved.~~

~~R9-6-371.~~R9-6-376. Smallpox

A. Case control measures:

1. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall isolate and institute both airborne precautions and contact precautions for a smallpox case or suspect case, until evaluated and determined to be noninfectious by a physician, physician assistant, or registered nurse practitioner.

2. A local health agency shall:

~~1.~~a. Upon receiving a report under R9-6-202 of a smallpox case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;

~~2.~~b. In consultation with the Department:

~~a.~~i. Ensure ~~the~~ that isolation ~~of~~ and ~~the institution of~~ both airborne precautions and contact precautions have been instituted for a smallpox case or suspect case to prevent transmission~~;~~, and

~~b.~~ii. Conduct an epidemiologic investigation of each reported smallpox case or suspect case; ~~and~~

~~3.~~c. For each smallpox case, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D)~~.~~; and

d. Ensure that a specimen from each smallpox case or suspect case, as required by the Department, is submitted to the Arizona State Laboratory.

B. Contact control measures: A local health agency, in consultation with the Department, shall:

1. Quarantine or exclude a smallpox contact as necessary, according to R9-6-303, to prevent transmission; and
2. Monitor the contact for smallpox symptoms, including fever, each day for 21 calendar days after last exposure.

R9-6-377. Spotted Fever Rickettsiosis (e.g., Rocky Mountain Spotted Fever)

A. Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a spotted fever rickettsiosis case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
2. Ensure that a spotted fever rickettsiosis case or, if the case is a child or incapacitated adult, the parent or guardian of the case receives health education about reducing the risks of becoming reinfected with or of having others become infected with spotted fever rickettsiosis;
3. Conduct an epidemiologic investigation of each reported spotted fever rickettsiosis case or suspect case; and
4. For each spotted fever rickettsiosis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

B. Environmental control measures: In cooperation with the Department, a local health agency or another local agency responsible for vector control within a jurisdiction shall conduct an assessment of the environment surrounding each spotted fever rickettsiosis case or suspect case and implement vector control measures as necessary.

~~R9-6-372.~~R9-6-378. Streptococcal Group A Infection

A. ~~Non-invasive streptococcal~~ Streptococcal group A infection, invasive or non-invasive:

Case control measures: An administrator of a school, child care establishment, or health care institution or a person in charge of a food establishment, either personally or through a representative, shall exclude a streptococcal group A infection case with streptococcal lesions or streptococcal sore throat from working as a food handler, attending or working in a school, caring

for children in or attending a child care establishment, or caring for patients or residents in a health care institution for 24 hours after the initiation of treatment for streptococcal group A infection.

B. Invasive streptococcal group A infection:

Outbreak control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported outbreak of streptococcal group A invasive infection;
2. For each streptococcal group A invasive infection case involved in an outbreak, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D); and
3. For each outbreak of streptococcal group A invasive infection, submit to the Department~~, as specified in Article 2, Table 4,~~ the information required under ~~R9-6-206(F)~~ R9-6-206(E).

~~R9-6-373.~~R9-6-379. Streptococcal Group B Invasive Infection in an Infant Younger Than 90 Days of Age

Case control measures: A local health agency shall:

1. Confirm the diagnosis of streptococcal group B invasive infection for each reported case or suspect case of streptococcal group B invasive infection in an infant younger than 90 days of age; and
2. For each case of streptococcal group B infection in an infant younger than 90 days of age, submit to the Department~~, as specified in Article 2, Table 4,~~ the information required under ~~R9-6-206(C)~~ R9-6-202(C).

~~R9-6-374.~~R9-6-380. *Streptococcus pneumoniae* Invasive Infection

~~Case control measures: A local health agency shall:~~

~~1. If a reported *Streptococcus pneumoniae* infection case or suspect case is five or more years of age:~~

~~a. Confirm the diagnosis of *Streptococcus pneumoniae* infection for each reported *Streptococcus pneumoniae* infection case or suspect case who is five or more years of age; and~~

~~b. For each *Streptococcus pneumoniae* infection case who is five or more years of age, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(C); and~~

~~2. If a reported *Streptococcus pneumoniae* infection case or suspect case is under five years of age:~~

~~a. Conduct an epidemiologic investigation for each reported *Streptococcus pneumoniae* infection case or suspect case who is under five years of age; and~~

~~b. For each *Streptococcus pneumoniae* infection case who is under five years of age, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D).~~

Outbreak control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported outbreak of *Streptococcus pneumoniae* invasive infection; and
2. For each outbreak of *Streptococcus pneumoniae* invasive infection, submit to the Department the information required under R9-6-206(E).

~~R9-6-375.~~R9-6-381. Syphilis

A. Case control measures:

1. A syphilis case shall obtain serologic testing for syphilis three months, six months, and one year after initiating treatment, unless more frequent or longer testing is recommended by a local health agency.
2. A health care provider for a pregnant syphilis case shall order serologic testing for syphilis at 28 to 32 weeks gestation and at delivery.

~~2.~~3. A local health agency shall:

a. Conduct an epidemiologic investigation, including a review of medical records, of each reported syphilis case or suspect case, confirming the stage of the disease;

b. For each syphilis case, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D);

c. If the syphilis case is pregnant, ensure that the syphilis case obtains the serologic testing for syphilis required in subsection (A)(1) and (A)(2); and

d. Comply with the requirements specified in R9-6-1103 concerning treatment and health education for a syphilis case.

~~3.~~4. The operator of a blood bank, blood center, or plasma center shall notify a donor of a test result with significant evidence suggestive of syphilis, as required under A.R.S. § 32-1483 and 21 CFR 630.6.

B. Contact control measures: When a syphilis case has named a contact, a local health agency shall comply with the requirements specified in R9-6-1103 concerning notification, testing, treatment, and health education for the contact.

C. Outbreak control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported syphilis outbreak; and
2. For each syphilis outbreak, submit to the Department~~, as specified in Article 2, Table 4,~~ the information required under ~~R9-6-206(F)~~ R9-6-206(E).

~~R9-6-376.~~R9-6-382. Taeniasis

Case control measures: A local health agency shall:

1. Exclude a taeniasis case with *Taenia* spp. from working as a food handler, caring for children in or attending a child care establishment, or caring for patients or residents in a health care institution until free of infestation;
2. Conduct an epidemiologic investigation of each reported taeniasis case; and
3. For each taeniasis case, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D).

~~R9-6-377.~~R9-6-383. Tetanus

Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported tetanus case or suspect case; and
2. For each tetanus case, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D).

~~R9-6-384. Expired~~

~~R9-6-378.~~R9-6-384. Toxic Shock Syndrome

Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported toxic shock syndrome case or suspect case; and
2. For each toxic shock syndrome case, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D).

~~R9-6-379.~~R9-6-385. Trichinosis

Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a trichinosis case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;

~~1.~~2. Conduct an epidemiologic investigation of each reported trichinosis case or suspect case; and

~~2.~~3. For each trichinosis case, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D).

~~R9-6-380.~~R9-6-386. Tuberculosis

A. Case control measures:

1. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall isolate and institute airborne precautions for: ~~an individual with infectious active tuberculosis or a suspect case until:~~

   a. An individual with infectious active tuberculosis until:

      i. At least three successive sputum smears collected at least eight hours apart, at least one of which is taken first thing in the morning as soon as possible after the individual awakens from sleep, are negative for acid-fast bacilli;

      ~~b.~~ii. Anti-tuberculosis treatment is initiated with multiple antibiotics; and

      ~~c.~~iii. Clinical signs and symptoms of active tuberculosis are improved;

   b. A suspect case of infectious active tuberculosis until:

      i. At least two successive tests for tuberculosis, using a product and methodology approved by the U.S. Food and Drug Administration for use when making decisions whether to discontinue isolation and airborne precautions, for the suspect case are negative; or

      ii. At least three successive sputum smears collected from the suspect case as specified in subsection (A)(1)(a)(i) are negative for acid-fast bacilli, anti-tuberculosis treatment of the suspect case is initiated with multiple antibiotics, and clinical signs and symptoms of active tuberculosis are improved; and

   ~~d.~~c. ~~For a~~ A case or suspect case of multi-drug resistant active tuberculosis~~,~~ until a tuberculosis control officer has approved the release of the case or suspect case.

2. An administrator of a health care institution, either personally or through a representative, shall notify a local health agency at least one working day before discharging a tuberculosis case or suspect case.

3. A local health agency shall:

   a. Upon receiving a report under R9-6-202 of a tuberculosis case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;

   ~~a.~~b. Exclude an individual with infectious active tuberculosis or a suspect case from working, unless the individual's work setting has been approved by a tuberculosis control officer, until the individual with infectious active tuberculosis or suspect case is released from airborne precautions according to the applicable criteria in subsection (A)(1)~~:~~;

~~i.~~ ~~At least three successive sputum smears collected at least eight hours apart, at least one of which is taken first thing in the morning as soon as possible after the individual awakens from sleep, are negative for acid-fast bacilli;~~

~~ii.~~ ~~Anti-tuberculosis treatment is initiated with multiple antibiotics;~~

~~iii.~~ ~~Clinical signs and symptoms of active tuberculosis are improved; and~~

~~iv.~~ ~~For a case of multi-drug resistant active tuberculosis, a tuberculosis control officer has approved the release of the case from airborne precautions;~~

~~b.~~c. Conduct an epidemiologic investigation of each reported tuberculosis case, ~~or~~ suspect case, or latent infection in a child five years of age or younger;

~~c.~~d. For each tuberculosis case or suspect case, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D);

~~d.~~e. Ensure that an isolate or a specimen, as available, from each tuberculosis case is submitted to the Arizona State Laboratory; and

~~e.~~f. Comply with the requirements specified in R9-6-1202.

B. Contact control measures:

1. A contact of an individual with infectious active tuberculosis shall allow a local health agency to evaluate the contact's tuberculosis status.
2. A local health agency shall comply with the tuberculosis contact control measures specified in R9-6-1202.

C. An individual is not a tuberculosis case if the individual has a positive result from an approved test for tuberculosis but does not have clinical signs or symptoms of disease.

~~**R9-6-387.**~~ ~~**Vancomycin-Resistant *Staphylococcus epidermidis***~~

~~Case control measures:~~

~~1.~~ ~~A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall isolate and implement contact precautions for a case or suspect case of vancomycin-resistant *Staphylococcus epidermidis*.~~

~~2.~~ ~~A local health agency shall:~~

~~a.~~ ~~Upon receiving a report under R9-6-202 of a case or suspect case of vancomycin-resistant *Staphylococcus epidermidis*, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;~~

~~b. Conduct an epidemiologic investigation of each reported case or suspect case of vancomycin-resistant *Staphylococcus epidermidis*;~~

~~c. For each case of vancomycin-resistant *Staphylococcus epidermidis*, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D); and~~

~~d. Ensure that an isolate from each case of vancomycin-resistant *Staphylococcus epidermidis* is submitted to the Arizona State Laboratory.~~

~~R9-6-381.~~R9-6-387. Tularemia

Case control measures:

1. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall isolate a pneumonic tularemia case until 72 hours of antibiotic therapy have been completed with favorable clinical response.
2. A local health agency shall:
   a. Upon receiving a report under R9-6-202 of a tularemia case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;
   b. Conduct an epidemiologic investigation of each reported tularemia case or suspect case;
   c. For each tularemia case, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D); and
   d. Ensure that an isolate or a specimen, as available, from each tularemia case or suspect case is submitted to the Arizona State Laboratory.

~~R9-6-382.~~R9-6-388. Typhoid Fever

A. Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a typhoid fever case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;

~~1.~~2. Conduct an epidemiologic investigation of each reported typhoid fever case or suspect case;

~~2.~~3. For each typhoid fever case, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D);

~~3.~~4. Exclude a typhoid fever case or suspect case from working as a food handler, caring for children in or attending a child care establishment, or caring for patients or residents in a health care institution until:

a. At least one month after the date of onset of illness~~,~~; and

b. After ~~three~~ two successive ~~cultures~~ stool specimens, collected from the typhoid fever case at least 24 hours apart and at least 48 hours after cessation of antibiotic therapy, are negative for *Salmonella typhi* ~~have been obtained from stool specimens collected at least 24 hours apart and at least 48 hours after cessation of antibiotic therapy~~;

~~4.~~5. If a ~~culture~~ stool specimen from a typhoid fever case who has received antibiotic therapy is positive for *Salmonella typhi*, enforce the exclusions specified in subsection ~~(A)(3)~~ (A)(4) until ~~three~~ two successive ~~cultures~~ stool specimens, collected from the typhoid fever case at least one month apart and 12 or fewer months after the date of onset of illness, are negative for *Salmonella typhi* ~~are obtained from stool specimens collected at least one month apart and 12 or fewer months after the date of onset of illness~~;

~~5.~~6. If a positive ~~culture is obtained on a~~ stool specimen, collected at least 12 months after onset of illness, is obtained from a typhoid fever case who has received antibiotic therapy, redesignate the case as a carrier; and

~~6.~~7. Exclude a typhoid fever carrier from working as a food handler, caring for children in or attending a child care establishment, or caring for patients or residents in a health care institution until three successive ~~cultures~~ stool specimens, collected from the typhoid fever carrier at least one month apart, are negative for *Salmonella typhi* ~~have been obtained from stool specimens collected at least one month apart, at least one by purging~~.

B. Contact control measures: A local health agency shall exclude a typhoid fever contact from working as a food handler, caring for children in or attending a child care establishment, or caring for patients or residents in a health care institution until two successive ~~cultures~~ stool specimens, collected from the typhoid fever contact at least 24 hours apart, are negative for *Salmonella typhi* ~~are obtained from stool specimens collected at least 24 hours apart~~.

~~R9-6-383.~~R9-6-389. Typhus Fever

Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a typhus fever case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;

~~1.~~2. Conduct an epidemiologic investigation of each reported typhus fever case or suspect case; and

~~2.~~3. For each typhus fever case, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D).

~~R9-6-385.~~R9-6-390. Vaccinia-related Adverse Event

Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a case or suspect case of a vaccinia-related adverse event, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;

~~1.~~2. Conduct an epidemiologic investigation of each reported case or suspect case of a vaccinia-related adverse event; and

~~2.~~3. For each case of a vaccinia-related adverse event, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D).

~~R9-6-386.~~R9-6-391. Vancomycin-Resistant or Vancomycin-Intermediate *Staphylococcus aureus*

Case control measures:

1. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall isolate and implement contact precautions for a case or suspect case of vancomycin-resistant or vancomycin-intermediate *Staphylococcus aureus*.

2. A diagnosing health care provider or an administrator of a health care institution transferring a known case with active infection or a known carrier of vancomycin-resistant or vancomycin-intermediate *Staphylococcus aureus* to another health care provider or health care institution shall, either personally or through a representative, comply with R9-6-305.

~~2.~~3. A local health agency, in consultation with the Department, shall:

   a. Upon receiving a report under R9-6-202 of a case or suspect case of vancomycin-resistant or vancomycin-intermediate *Staphylococcus aureus*, notify the Department within ~~24 hours~~ one working day after receiving the report and provide to the Department the information contained in the report;

   b. ~~Isolate~~ Ensure that a case or suspect case of vancomycin-resistant or vancomycin-intermediate *Staphylococcus aureus* is isolated as necessary to prevent transmission;

   c. Conduct an epidemiologic investigation of each reported case or suspect case of vancomycin-resistant or vancomycin-intermediate *Staphylococcus aureus*;

   d. For each case of vancomycin-resistant or vancomycin-intermediate *Staphylococcus aureus*, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D); and

e. Ensure that an isolate or a specimen, as available, from each case of vancomycin-resistant or vancomycin-intermediate *Staphylococcus aureus* is submitted to the Arizona State Laboratory.

~~R9-6-388.~~R9-6-392. Varicella (Chickenpox)

A. Case control measures:

1. An administrator of a school or child care establishment, either personally or through a representative, shall exclude a varicella case from the school or child care establishment and from school- or child-care-establishment-sponsored events until lesions are dry and crusted.
2. An administrator of a health care institution, either personally or through a representative, shall isolate and implement airborne precautions for a varicella case until the case is no longer infectious.
3. A local health agency shall:
   a. Conduct an epidemiologic investigation of each reported case of death due to primary varicella infection; and
   b. For each reported case of death due to varicella infection, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D).

B. Contact control measures:

1. When a varicella case has been at a school or child care establishment, the administrator of the school or child care establishment, either personally or through a representative, shall:
   a. Consult with the local health agency to determine who shall be excluded and how long each individual shall be excluded from the school or child care establishment, and
   b. Comply with the local health agency's recommendations for exclusion.
2. A local health agency shall determine which contacts of a varicella case will be:
   a. Excluded from a school or child care establishment, and
   b. Advised to obtain an immunization against varicella.

~~R9-6-389.~~R9-6-393. *Vibrio* Infection

Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a *Vibrio* infection case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;

~~1.~~2. Exclude a *Vibrio* infection case or suspect case with diarrhea from:

a. ~~working~~ Working as a food handler, caring for patients or residents in a health care institution, or caring for children in or attending a child care establishment until ~~either of the following occurs~~:

~~a. Two successive cultures negative for *Vibrio* spp. are obtained from stool specimens collected at least 24 hours apart, or~~

~~b.~~i. Diarrhea has resolved~~;~~, or

ii. The local health agency has determined that the case or suspect case is unlikely to infect other individuals; and

b. Using an aquatic venue until diarrhea has resolved;

~~2.~~3. Conduct an epidemiologic investigation of each reported *Vibrio* infection case or suspect case; and

~~3.~~4. For each *Vibrio* infection case, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D).

~~**R9-6-394. Expired**~~

~~**R9-6-390.**~~**R9-6-394. Viral Hemorrhagic Fever**

A. Case control measures:

1. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall isolate and implement both droplet precautions and contact precautions for a viral hemorrhagic fever case or suspect case for the duration of the illness.

2. A local health agency shall:

a. Upon receiving a report under R9-6-202 of a viral hemorrhagic fever case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;

b. Conduct an epidemiologic investigation of each reported viral hemorrhagic fever case or suspect case;

c. For each viral hemorrhagic fever case, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D); and

d. Ensure that one or more specimens from each viral hemorrhagic fever case or suspect case are submitted to the Arizona State Laboratory.

B. Contact control measures: A local health agency, in consultation with the Department, shall quarantine a viral hemorrhagic fever contact as necessary to prevent transmission.

~~**R9-6-391.**~~**R9-6-395. West Nile ~~Virus-related Syndromes~~ Virus Infection**

A. Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported West Nile ~~virus-related syndrome~~ virus infection case or suspect case; ~~and~~
2. For each case of West Nile ~~virus-related syndrome~~ virus infection, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D); and
3. Ensure that each West Nile virus infection case is provided with health education that includes measures to:
   a. Avoid mosquito bites, and
   b. Reduce mosquito breeding sites.

B. Environmental control measures: In cooperation with the Department, a local health agency or another local agency responsible for vector control within a jurisdiction shall conduct an assessment of the environment surrounding each West Nile virus infection case or suspect case and implement vector control measures as necessary.

~~R9-6-392.~~R9-6-396. Yellow Fever

A. Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a yellow fever case or suspect case, notify the Department within ~~one working day~~ 24 hours after receiving the report and provide to the Department the information contained in the report;
2. Conduct an epidemiologic investigation of each reported yellow fever case or suspect case; ~~and~~
3. For each yellow fever case, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D);
4. Ensure that each yellow fever case is provided with health education that includes measures to:
   a. Avoid mosquito bites, and
   b. Reduce mosquito breeding sites; and
5. Ensure that an isolate or a specimen, as available, from each yellow fever case or suspect case is submitted to the Arizona State Laboratory.

B. Environmental control measures: In cooperation with the Department, a local health agency or another local agency responsible for vector control within a jurisdiction shall conduct an assessment of the environment surrounding each yellow fever case or suspect case and implement vector control measures as necessary.

~~R9-6-393.~~R9-6-397. Yersiniosis (Enteropathogenic *Yersinia*)

Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a yersiniosis case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;

~~1.~~2. Exclude a yersiniosis case or suspect case with diarrhea from:

a. ~~working~~ Working as a food handler, caring for patients or residents in a health care institution, or caring for children in or attending a child care establishment until ~~either of the following occurs~~:

i. Diarrhea has resolved,

~~a.~~ii. ~~Two successive cultures~~ A stool specimen negative for enteropathogenic *Yersinia* ~~are~~ is obtained from ~~stool specimens collected~~ the case or suspect case ~~at least 24 hours apart and at least 48 hours after discontinuing antibiotics~~, or

iii. The local health agency has determined that the case or suspect case is unlikely to infect other individuals; and

~~b. Diarrhea has resolved;~~

b. Using an aquatic venue for two weeks after diarrhea has resolved;

~~2. Upon receiving a report under R9-6-202 of a yersiniosis case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;~~

3. Conduct an epidemiologic investigation of each reported yersiniosis case or suspect case;

4. For each yersiniosis case, submit to the Department, as specified in ~~Article 2,~~ Table ~~4~~ 2.4, the information required under R9-6-206(D); and

5. Ensure that an isolate or a specimen, as available, from each yersiniosis case is submitted to the Arizona State Laboratory.

R9-6-398. Zika Virus Infection

A. Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a Zika virus infection case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;

2. Conduct an epidemiologic investigation of each reported Zika virus infection case or suspect case;

3. For each Zika virus infection case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D);

4. Ensure that one or more specimens from each Zika virus infection case or suspect case, as required by the Department, are submitted to the Arizona State Laboratory; and

5. Provide to the Zika virus infection case or ensure that another person provides to the Zika virus infection case health education that includes measures to:

   a. Avoid mosquito bites,

   b. Reduce mosquito breeding sites, and

   c. Reduce the risk of sexual or congenital transmission of Zika virus.

B. Environmental control measures: In cooperation with the Department, a local health agency or another local agency responsible for vector control within a jurisdiction shall conduct an assessment of the environment surrounding each Zika virus infection case or suspect case and implement vector control measures as necessary.

ARTICLE 10. HIV-RELATED TESTING AND NOTIFICATION

R9-6-1002. Local Health Agency Requirements

For each HIV-infected individual or suspect case, a local health agency shall comply with the requirements in ~~R9-6-341~~ R9-6-347.

ARTICLE 11. STD-RELATED TESTING AND NOTIFICATION

R9-6-1102. Health Care Provider Requirements

When a laboratory report for a test ordered by a health care provider for a subject indicates that the subject is infected with an STD, the ordering health care provider or the ordering health care provider's designee shall:

1. Describe the test results to the subject;
2. Provide or arrange for the subject to receive the following information about the STD for which the subject was tested:
   a. A description of the disease or syndrome caused by the STD, including its symptoms;
   b. Treatment options for the STD and where treatment may be obtained;
   c. A description of how the STD is transmitted to others;
   d. A description of measures to reduce the likelihood of transmitting the STD to others and that it is necessary to continue the measures until the infection is eliminated;
   e. That it is necessary for the subject to notify individuals who may have been infected by the subject that the individuals need to be tested for the STD;
   f. The availability of assistance from local health agencies or other resources; and
   g. The confidential nature of the subject's test results;
3. Report the information required in R9-6-202 to a local health agency; and
4. If the subject is pregnant and is a syphilis case, inform the subject of the requirement ~~in R9-6-375~~ that the subject obtain serologic testing for syphilis ~~three months, six months, and one year after initiating treatment for syphilis~~ according to R9-6-381.

R9-6-1103. Local Health Agency Requirements

A. For each STD case, a local health agency shall:

1. Comply with the requirements in:
   a. ~~R9-6-313(A)(1) and (2)~~ R9-6-317(A)(1) and (2) for each chancroid case reported to the local health agency, and
   b. ~~R9-6-375(A)(2)(a) through (c)~~ R9-6-381(A)(3)(a) through (c) for each syphilis case reported to the local health agency;
2. Offer or arrange for treatment for each STD case that seeks treatment from the local health agency for symptoms of:
   a. Chancroid,

b. Chlamydia infection,

c. Gonorrhea, or

d. Syphilis;

3. Provide information about the following to each STD case that seeks treatment from the local health agency:

a. A description of the disease or syndrome caused by the applicable STD, including its symptoms;

b. Treatment options for the applicable STD;

c. A description of measures to reduce the likelihood of transmitting the STD to others and that it is necessary to continue the measures until the infection is eliminated; and

d. The confidential nature of the STD case's test results; and

4. Inform the STD case that:

a. A chlamydia or gonorrhea case must notify each individual, with whom the chlamydia or gonorrhea case has had sexual contact within 60 days preceding the onset of chlamydia or gonorrhea symptoms up to the date the chlamydia or gonorrhea case began treatment for chlamydia or gonorrhea infection, of the need for the individual to be tested for chlamydia or gonorrhea; and

b. The Department or local health agency will notify, as specified in subsection (B), each contact named by a chancroid or syphilis case.

B. For each contact named by a chancroid or syphilis case, the Department or a local health agency shall:

1. Notify the contact named by a chancroid or syphilis case of the contact's exposure to chancroid or syphilis and of the need for the contact to be tested for:

a. Chancroid, if the chancroid case has had sexual contact with the contact within 10 days preceding the onset of chancroid symptoms up to the date the chancroid case began treatment for chancroid infection; or

b. Syphilis, if the syphilis case has had sexual contact with the contact within:

i. 90 days preceding the onset of symptoms of primary syphilis up to the date the syphilis case began treatment for primary syphilis infection;

ii. Six months preceding the onset of symptoms of secondary syphilis up to the date the syphilis case began treatment for secondary syphilis infection; or

iii. 12 months preceding the date the syphilis case was diagnosed with syphilis if the syphilis case cannot identify when symptoms of primary or secondary syphilis began;

2. Offer or arrange for each contact named by a chancroid or syphilis case to receive testing and, if appropriate, treatment for chancroid or syphilis; and

3. Provide information to each contact named by a chancroid or syphilis case about:

   a. The characteristics of the applicable STD,

   b. The syndrome caused by the applicable STD,

   c. Measures to reduce the likelihood of transmitting the applicable STD, and

   d. The confidential nature of the contact's test results.

C. For each contact of a chlamydia or gonorrhea case who seeks treatment from a local health agency for symptoms of chlamydia or gonorrhea, the local health agency shall:

1. Offer or arrange for treatment for chlamydia or gonorrhea;

2. Provide information to each contact of a chlamydia or gonorrhea case about:

   a. The characteristics of the applicable STD,

   b. The syndrome caused by the applicable STD,

   c. Measures to reduce the likelihood of transmitting the applicable STD, and

   d. The confidential nature of the contact's test results.

ARTICLE 12. TUBERCULOSIS CONTROL

R9-6-1202. Local Health Agency Reporting Requirements

A. Within 30 days after receiving information, a local health agency shall report to the Department regarding:

1. Each individual in its jurisdiction who has been diagnosed with active tuberculosis,
2. Each individual in its jurisdiction who is suspected of having active tuberculosis, and
3. Each individual in its jurisdiction who is believed to have been exposed to an individual with infectious active tuberculosis.

B. Each report made under subsection (A) shall consist of completed Centers for Disease Control and Prevention, U.S. Department of Health and Human Services, Form CDC 72.9A and B, "Report of Verified Case of Tuberculosis" (January 2003), which is incorporated by reference ~~in R9-6-373~~, or a completed electronic equivalent to Form CDC 72.9A and B provided by the Department.

TITLE 9. HEALTH SERVICES

CHAPTER 6. COMMUNICABLE DISEASES AND INFESTATIONS

ARTICLE 1. GENERAL

ARTICLE 2. COMMUNICABLE DISEASE AND INFESTATION REPORTING

ARTICLE 3. CONTROL MEASURES FOR COMMUNICABLE DISEASES AND INFESTATIONS

ARTICLE 10. HIV-RELATED TESTING AND NOTIFICATION

ARTICLE 11. STD-RELATED TESTING AND NOTIFICATION

ARTICLE 12. TUBERCULOSIS CONTROL

ECONOMIC, SMALL BUSINESS, AND CONSUMER IMPACT STATEMENT

ECONOMIC, SMALL BUSINESS, AND CONSUMER IMPACT STATEMENT

TITLE 9. HEALTH SERVICES

CHAPTER 6. COMMUNICABLE DISEASES AND INFESTATIONS

ARTICLE 1. GENERAL

ARTICLE 2. COMMUNICABLE DISEASE AND INFESTATION REPORTING

ARTICLE 3. CONTROL MEASURES FOR COMMUNICABLE DISEASES AND INFESTATIONS

ARTICLE 10. HIV-RELATED TESTING AND NOTIFICATION

ARTICLE 11. STD-RELATED TESTING AND NOTIFICATION

ARTICLE 12. TUBERCULOSIS CONTROL

1. An identification of the rulemaking

Arizona Revised Statutes (A.R.S.) § 36-136(H)(1) requires the Arizona Department of Health Services (Department) to make rules defining and prescribing "reasonably necessary measures for detecting, reporting, preventing, and controlling communicable and preventable diseases." The Department has adopted rules to implement this statute in Arizona Administrative Code (A.A.C.) Title 9, Chapter 6. The rules specifying reporting requirements for communicable diseases are in 9 A.A.C. 6, Article 2. The rules covering control measures for communicable diseases are in 9 A.A.C. 6, Article 3. The rules in 9 A.A.C. 6, Articles 2 and 3 contain requirements for the reporting of several conditions that no longer need to be included as reportable conditions and do not contain reporting requirements for other conditions that should be reportable to protect public health. The rules need to be revised to update reportable conditions and their control measures, ensure more accurate tracking and better reporting, and improve the effectiveness of the rules in preventing a significant threat to public health. The Department is revising the rules to address these concerns, account for changes in laboratory methodologies, allow for electronic reporting, and reduce the regulatory burden of the rules. The Department is also correcting cross-references in other Articles in the Chapter that were made incorrect by changes made as part of the rulemaking. Without the rule changes, Arizona would continue to have outdated rules that impose an undue burden on those entities required to report communicable diseases and infestations, do not address other conditions that should be reportable to protect public health, and are less effective in protecting the citizens of Arizona than they should be.

2. Identification of the persons who will be directly affected by, bear the costs of, or directly benefit from the rules

- The Department
- Local health agencies
- Local agencies responsible for vector control
- Health care providers
- Health care institutions
- Correctional facilities, including both public and private
- Schools and child care establishments
- Shelters
- Clinical laboratories
- Businesses employing individuals infected with a communicable disease, including owners or operators of restaurants or other food establishments
- Owners or operators of aquatic venues
- Pharmacists and pharmacies
- Arizona Health Care Cost Containment System (AHCCCS)
- Third-party insurers
- Cases or suspect cases of a communicable disease
- Contacts of individuals infected with a communicable disease
- Other patients or residents in a health care institution
- Other prisoners or detainees in a correctional facility
- General public

3. Cost/Benefit Analysis

This analysis covers costs and benefits associated with the rule changes and does not describe effects imposed by any changes made by a local health agency that are not required in the rules. No new FTEs will be required due to this rulemaking. Annual cost/revenue changes are designated as minimal when more than $0 and $5,000 or less, moderate when between $5,000 and $30,000, and substantial when $30,000 or greater in additional costs or revenues. A cost is listed as significant when meaningful or important, but not readily subject to quantification.

Description of Affected Groups	Description of Effect	Increased Cost/ Decreased Revenue	Decreased Cost/ Increased Revenue
A. State and Local Government Agencies			
Department	Having rules to follow that are clearer and easier to understand	None	Significant
	Receiving reports in a Department-provided format, which may include electronic reporting	None	Significant
	Receiving information from clinical laboratories about additional cases and suspect cases of communicable diseases	Minimal	Significant
	Receiving more complete information from clinical laboratories about HIV-related tests	Minimal	None-to-substantial
	Changing requirements for submission by clinical laboratories of specimens or isolates from cases and suspect cases of communicable diseases	Minimal	Significant/Moderate
	Receiving more timely information from clinical laboratories about reported cases and suspect cases of communicable diseases	None	Significant
	Changing reporting requirements from local health agencies and requirements for epidemiologic investigations	None	Significant
	Clarifying the Department's role in the control of communicable diseases	None	Significant
	Changing requirements for syphilis testing	None	Significant
Local health agencies	Clarifying requirements related to communicable disease reporting or control measures	None-to-minimal	Significant
	Adding the reporting of some diseases and removing others	Minimal-to-moderate	Minimal-to-substantial
	Changing the time in which a local health agency is required to report to the Department	Minimal-to-moderate	Minimal-to-moderate/ Significant
	Eliminating requirements for epidemiological investigations for removed diseases	None	Minimal-to-moderate
	Changing requirements for the epidemiological investigation of some diseases	None-to-moderate	Minimal-to-moderate

Description of Affected Groups	Description of Effect	Increased Cost/ Decreased Revenue	Decreased Cost/ Increased Revenue
	Changing the time for conducting an epidemiologic investigation	Minimal-to-moderate	Minimal-to-substantial/ Significant
	Changing requirements for ensuring submission of specimens or isolates	None-to-minimal	None
	Allowing for additional control measures to be ordered by local health agencies	None	Significant
	Adding requirements for "suspect cases," including ensuring specimen/isolate submission	None-to-minimal	Moderate
	Allowing local health agencies more discretion in removing from exclusion	None	Significant
	Removing control requirements for local health agencies or making these requirements more flexible	None	Minimal-to-moderate
	Changing requirements for: - Control measures for certain diseases - Outbreak or environmental control measures for certain diseases	Minimal-to-substantial	Significant
	Providing health education or diphtheria prophylaxis	Minimal	None
Local agencies responsible for vector control	Conducting an assessment of the environment surrounding each case or suspect case of specified communicable diseases	None-to-substantial	Significant
Public correctional facilities	Clarifying reporting requirements and correcting cross references	None	Significant
	Adding requirements for information to be reported and removing a requirement for other information	None-to-minimal	None-to-minimal
	Reporting outbreaks of respiratory disease	None-to-minimal	Minimal-to-moderate
	Adding reporting of some diseases and removing others	None-to-minimal	Minimal-to-moderate
	Adding control measures applicable to the administrator of a correctional facility or shelter for certain diseases	Minimal-to-moderate	Minimal-to-substantial
	Requiring notification upon transferring individuals infected with drug-resistant organisms	Minimal	Minimal-to-substantial
	Changing reporting and control measures for tuberculosis	Minimal	Minimal-to-substantial

Description of Affected Groups	Description of Effect	Increased Cost/ Decreased Revenue	Decreased Cost/ Increased Revenue
Public schools	Clarifying reporting requirements and correcting cross references	None	Significant
	Adds a requirement for the name and contact information for a parent or guardian of a child with a disease, infestation, or symptoms	Minimal	Significant
AHCCCS	Requiring notification upon transferring patients infected with drug-resistant organisms	None	None-to-substantial
	Adding requirements for syphilis testing of pregnant women to reduce congenital syphilis	None-to-substantial	None-to-substantial
B. Privately Owned Businesses			
Health care providers	Clarifying reporting requirements and correcting cross references	None	Significant
	Reporting newly listed communicable diseases	Minimal	None
	Removing some communicable disease reporting requirements	None	Minimal-to-moderate
	Requiring notification upon transferring patients infected with drug-resistant organisms	Minimal-to-moderate	Minimal-to-substantial
	Adding case control requirements for health care providers	Minimal-to-moderate	Significant
	Changing exclusion criteria for health care providers	Moderate-to-substantial	Significant
	Changing reporting and control measures for tuberculosis	Minimal	Significant
Health care institutions	Clarifying reporting requirements and correcting cross references	None	Significant
	Reporting newly listed communicable diseases	Minimal-to-moderate	None
	Reporting outbreaks of respiratory disease	Minimal	Significant
	Removing some communicable disease reporting requirements	None	Minimal-to-substantial
	Instituting additional isolation precautions	Minimal-to-moderate	Minimal-to-substantial
	Requiring notification upon transferring patients infected with drug-resistant organisms	Minimal-to-moderate	Minimal-to-substantial
	Changing reporting and control	Minimal	Significant

Description of Affected Groups	Description of Effect	Increased Cost/ Decreased Revenue	Decreased Cost/ Increased Revenue
	measures for tuberculosis		
Private correctional facilities	See “Public correctional facilities” above		
Schools or child care establishments	See “Public schools” above		
Shelters	Clarifying reporting requirements and correcting cross references	None	Significant
	Adds a requirement for the name and contact information for a parent or guardian of a child with a disease, infestation, or symptoms	Minimal	Significant
	Adds control measures applicable to the administrator of shelter for certain diseases	Minimal-to-moderate	Significant
Clinical laboratories	Clarifying reporting requirements and correcting cross references	None	Significant
	Adding the reporting of some diseases and removing others	None-to-moderate	None
	Changing requirements for reporting viral loads and CD4 counts related to HIV testing	None-to-moderate	Significant
	Changing the time in which a clinical laboratory is required to report to the Department	None-to-moderate	Significant
	Changing isolate/specimen submission requirements	None-to-minimal	Significant
	Reporting the drug sensitivity pattern for *Neisseria gonorrhoeae* if a drug sensitivity pattern was determined	None-to-moderate	None
Businesses employing individuals infected with a communicable disease, including owners or operators of restaurants or other food establishments	Changing exclusion criteria for cases of certain diseases who are working in a sensitive occupation - Making requirements more stringent for certain diseases - Making requirements less stringent for certain diseases - Removing exclusion requirements for certain diseases - Adding exclusion requirements for certain diseases	Minimal-to-moderate	Minimal-to-moderate
	Adding environmental control and health education requirements	None	Significant

Description of Affected Groups	Description of Effect	Increased Cost/ Decreased Revenue	Decreased Cost/ Increased Revenue
Owners or operators of aquatic venues	Adds an exclusion from an individual using an aquatic venue for specific periods after diarrhea has resolved for certain diseases	Minimal	None-to-substantial
Pharmacists and pharmacies	Clarifies that reports are submitted in a Department-provided format	None	Significant
Third-party insurers	Requiring notification upon transferring patients infected with drug-resistant organisms	None	None-to-substantial
	Adding requirements for syphilis testing of pregnant women to reduce congenital syphilis	None-to-substantial	None-to-substantial
C. Consumers			
Cases or suspect cases of a communicable disease	Clarifying reporting and control requirements	None	Significant
	Decreasing time to report for some diseases	None	Significant
	Requiring notification upon transferring individuals infected with drug-resistant organisms	None	Significant
	Adding environmental control and health education requirements	None	Significant
	Allowing for additional control measures to be ordered by local health agencies	Significant	Significant
	Changing exclusion criteria for cases of certain diseases who are working in a sensitive occupation	Significant	Significant
	Adding requirements for syphilis testing	None-to-minimal	Significant
Contacts of individuals infected with a communicable disease	Removing contact control measures for some diseases	None	Significant
	Making some exclusion control measures for local health agencies more flexible	None	Significant
	Requiring notification of the parent of a contact of a pediculosis case	None	Significant
	Adding requirements for syphilis testing	None	Significant
	Adding alternative control measures to quarantine or exclusion	None	Significant

Description of Affected Groups	Description of Effect	Increased Cost/ Decreased Revenue	Decreased Cost/ Increased Revenue
	Adding environmental control and health education requirements Requiring notification upon transferring individuals infected with drug-resistant organisms	None None	Significant Significant
Other patients or residents in a health care institution or other prisoners or detainees in a correctional facility to which a case is transferred	Requiring notification upon transferring individuals infected with drug-resistant organisms	None	Significant
General public	Clarifying reporting and control requirements Reducing the incidence of communicable diseases through improved reporting and control measures	None None	Significant Significant

- **The Department**

The Department receives over 174,000 communicable disease case reports annually from local health agencies, clinical laboratories, health care institutions, correctional facilities, schools and shelters, pharmacists, and health care providers required to report. Many of these case reports may be generated from multiple disease reports from different sources that relate to the same individual with the same disease. Of these over 174,000 case reports, more than 96,000 are considered to be new cases of communicable diseases. A summary of selected reportable communicable disease cases for 2016, broken out by month of report, is shown in Appendix 1. In Appendix 2, the number of cases of selected reportable communicable diseases, including sexually transmitted diseases, during the periods January to December 2015 and January to December 2016 is shown, as well as the five-year (2011 to 2015) median number of cases for the selected reportable communicable diseases. Confirmed and probable cases of selected non-sexually transmitted communicable diseases reported in January through December 2016, broken out by county, are shown in Appendix 3. The numbers of cases of chlamydia and gonorrhea in Arizona from 2007 to 2016 are provided in Appendix 4, which shows the steady increase in the number of cases in recent years. Appendix 5 shows the numbers of cases of primary or secondary syphilis in Arizona from 2007 to 2016, including the large increase in the number of cases in 2014 through 2016.

Due to the number of reports received by the Department, the number and variety of persons making reports, and the amount of time the Department spends following up on incomplete or inadequate reports or answering questions about the communicable disease rules, the Department believes that having rules that are clearer and easier to understand may provide a significant benefit to the Department since staff could then spend less time on these activities and more time analyzing the data received. This benefit extends to the correction of cross-references in Articles 10, 11, and 12, made necessary due to the renumbering in Article 3, which also contributes to clearer, more understandable rules.

In the almost 10 years since the rules in Articles 2 and 3 were last revised, more and more communicable disease reporting by health care providers, health care institutions, correctional facilities, and clinical laboratories has been through electronic means, rather than on a paper form submitted to the Department or a local health agency. Electronic reporting, especially by clinical laboratories, allows most of these reports to be submitted within one working day, regardless of the reporting time period required in the current rules. Electronic reporting not only means that reports are submitted more quickly to the Department, it also means the information is in the system and available for faster dissemination to local health agencies. This allows the information to get to the right people quickly, without a lag time while the report is waiting to be entered. This benefit also extends to the non-electronic reports as well, since increased numbers of electronic reports means that that the Department can enter and disseminate the information in a smaller number of non-electronic reports more quickly. Currently, all 15 local health agencies, four tribal public health organizations, 10 clinical laboratories, one correctional facility, two childcare establishments, and 176 health care institutions report through MEDSIS, a state-wide electronic reporting system for communicable disease. Another 14 clinical laboratories have begun reporting through "electronic laboratory reporting" or ELR, in which test results from the clinical laboratory's data system are electronically transferred to the Department and into MEDSIS, without the need for duplicate entry. More laboratories are in various stages of validation or are in the planning stages for ELR. As more facilities use electronic health records (EHR) and learn the benefits of reporting electronically, both from the standpoint of ease of reporting and because of federal "Meaningful Use" goals as part of the Medicare and Medicaid EHR Incentive Programs, more health care providers, non-hospital health care institutions, other larger correctional facilities, and large childcare establishments may voluntarily report electronically in the future. No schools, shelters, or pharmacies currently report electronically, and they are unlikely to be required to report electronically in the future.

To acknowledge this change and incorporate it into 9 A.A.C. 6, the new rules specify that reports are required to be submitted in a Department-provided format, wording consistent with other

Department rules. This allows for the Department to have the flexibility to tailor reporting requirements to best accommodate the needs of both the Department and reporting entities, allowing electronic submission of communicable disease information through MEDSIS or ELR and the retention of non-electronic means of reporting for other reporting entities. Having communicable diseases reported in a more consistent and, in many cases, electronic format will result in better data quality through fewer transcription errors, more timely reporting, and reduced staff time to enter cases, and allow for better analysis of submitted data and improved public health. The Department anticipates receiving a significant benefit from this change.

Several changes are being made to the list of laboratory reportable diseases in Table 2.3. Unlike the reporting of communicable diseases from other persons that report to the applicable local health agency, communicable disease reporting from clinical laboratories is submitted directly to the Department, and the Department informs the applicable local health agency about which cases need follow-up by the local health agency. The Department receives almost 500,000 disease reports annually from clinical laboratories, approximately 67% electronically. These range from a few hundred reports annually from small clinical laboratories to over 100,000 reports annually from large clinical laboratories. The new rules require laboratory reporting of additional communicable diseases, including *Anaplasma* spp., *Ehrlichia* spp., *Rickettsia* spp., leptospirosis, lymphocytic choriomeningitis, and yellow fever virus that are currently reported to local health agencies by health care providers, health care institutions, and correctional facilities. Leptospirosis, lymphocytic choriomeningitis, and yellow fever virus should already be reported by clinical laboratories as "emerging or exotic disease" agents, and *Rickettsia* spp. results are now being reported by many clinical laboratories, even though this reporting is not required in the current rules. Adding these communicable diseases will make reporting more uniform across reporting entities and may detect additional cases as well. In the past two years (2015-2016), the Department has received 1,835 disease reports about the added communicable diseases (*Anaplasma* spp./ *Ehrlichia* spp. – 8, *Rickettsia* spp. – 1,820, leptospirosis 5, lymphocytic choriomeningitis – 2, and yellow fever virus – 0) with 98% reported electronically, and does not believe that reviewing the additional reports and taking required action based on the reports will impose more than a minimal burden on the Department and may provide a significant benefit.

Currently, clinical laboratories are required to report only positive test results for HIV, except for infants, for whom all test results are reportable. During a recent grant site visit from a representative of the Centers for Disease Control and Prevention (CDC), a recommendation was made to expand the existing reporting requirements for HIV to include the viral load and CD4 count values for all HIV-related tests as a mechanism to improve case identification, allow classification of

the stage of the disease at diagnosis, and better monitor disease progression. Clinical laboratories already report virtually all viral load and CD4 count values (over 155,000 per year) because this information is required to be reported in all other states. Because they report negative results for individuals not already known to be HIV cases, the vast majority of these reports do not count towards the number of case reports. Of those that do, approximately 90% are tests associated with individuals already known to be HIV cases. Because all other states require this information to be reported, eligibility for some CDC grant funding is based on a state requiring the reporting of all viral load and CD4 count values. Since the current rules do not require all test results, even though the Department receives the information, Arizona is ineligible for this supplemental grant funding, which amounts to $988,000, and the CDC does not use Arizona data in some national aggregates for the same reason. To address these issues, another change being made to Table 2.3 is to require the results of all CD4-T-lymphocyte counts, not just the results if the count is fewer than 200 per microliter of whole blood or the CD4-T-lymphocyte percentage of total lymphocytes is less than 14%, and the results of all HIV-related tests except negative screening tests. The Department anticipates that these changes may provide up to a substantial benefit to the Department by providing better information about individuals infected with HIV, which the Department may use to develop better public health responses, and making the Department eligible for the CDC grant funding, while causing at most minimal additional costs to review additional reports.

The Arizona State Laboratory is a component of the Department that performs serological, microbiological, entomological, and chemical analyses on specimens and isolates submitted to the Arizona State Laboratory for testing. The current rules require clinical laboratories to submit isolates or specimens of specific agents to the Arizona State Laboratory. The Arizona State Laboratory receives approximately 10,000 isolates and specimens each year from clinical laboratories for identification and confirmation of disease status, as well as to establish relationships between cases of the disease, determine the drugs that may be used to treat an individual infected with the agent, and identify trends in the agent's surface antigen content that may affect vaccine effectiveness or public health control measures. Testing methodologies in clinical laboratories have changed since the current rules were adopted, with many tests not requiring a clinical laboratory to obtain an isolate from a specimen as part of the confirmation of a communicable disease. Because of this change, for most agents for which an isolate or a specimen is required, the new rules specify that a clinical laboratory is required to submit to the Arizona State Laboratory an isolate of the organism for each positive culture, if one is available, or a specimen for each positive test result. In the past three years, the Department has received approximately 250 case reports per year with culture-independent tests for communicable diseases for which an isolate is required under the current rules. Additional

specimens are already submitted for communicable diseases for which the requirement for submission is being newly added. If a specimen is submitted, the Arizona State Laboratory may obtain an isolate from the specimen if necessary to link cases to detect an outbreak or link other cases to an outbreak. According to the Arizona State Laboratory, the cost to the Department for the number of specimens currently submitted for which an isolate is derived is less than $400, although this cost could go up as more laboratories begin using tests that do not require an isolate. Therefore, this change to require an isolate, if available, or a specimen to be submitted may cause the Department a minimal increase in costs and provide a significant public health benefit.

For some diseases, the Department does not need an isolate or a specimen from every case for public health purposes, but does need one in some instances. To reduce the burden on the Arizona State Laboratory for receiving, cataloging, and storing unnecessary isolates or specimens, as well as on clinical laboratories for sending them, the new rules are being changed to make the submission of isolates or specimens for five communicable diseases required by request only, rather than for every positive result. For an additional 10 communicable disease, submission of isolates or specimens is newly being required by request only. The Department anticipates that this may result in 1,200 to 1,800 fewer isolates or specimens being received by the Department. The Department believes that these changes may provide a moderate benefit to the Department.

The new rules also require health care provider/health care institution/correctional facility and laboratory reporting in a shorter time period, one day rather than five days after a positive test result, for several other communicable diseases including dengue, hepatitis A, and Legionnaires' disease. Receiving more timely information from these persons about reported cases and suspect cases of communicable diseases is possible due to working closely with these reporting entities, electronic reporting, and improved testing methodologies, allowing the Department to initiate a more timely and effective response. For the communicable diseases for which the time period for reporting is being decreased from five days to one working day, over 66% of reports are already being received within one working day. By shortening the required time period for reporting, the Department anticipates that the percentage of reports received within one working day will increase. The Department believes that these changes may provide a significant benefit to the Department by allowing the Department to respond to individual cases more quickly to reduce the chance of an outbreak, as well as to detect outbreaks more quickly to reduce the number of new cases.

After a local health agency receives a report of a communicable disease, the local health agency submits a report to the Department. In the new rules, the time period for local health agency reporting of many communicable diseases is being changed, for the most part to be consistent with the shorter time periods for reporting in Table 2.1. Local health agency reporting of communicable

diseases is also being changed to include the new communicable diseases required to be reported to a local health agency under R9-6-202 and Table 2.1, such as arboviral infections. Arboviral infections are already reportable to the Department by clinical laboratories under the current rules and would, therefore, be reported by the Department to the applicable local health agency for follow-up. The category "arboviral infections" may include both communicable diseases specifically listed, such as malaria or yellow fever and the newly listed chikungunya and Zika virus infection, and those not already reportable under other listed diseases. The latter two arboviral infections could already have been reported under R9-6-202 and Table 2.1 as "emerging or exotic disease" but are being broken out to establish routine surveillance. This redundancy in reporting categories helps ensure that all cases of these types of infections are reported.

For most communicable diseases, local health agencies are also required to conduct an epidemiologic investigation to determine the source of infection and mitigate the spread of the communicable disease, and an epidemiologic investigation is also being required for the newly added diseases. The time period for submission of an epidemiologic investigation is also being shortened from 60 days to 30 days for four communicable diseases for consistency as well. The new rules also change the time period for reporting an outbreak to the Department from "one working day" to "24 hours" after receiving the report or reports. The Department anticipates that receiving more timely information from local health agencies about reported cases and suspect cases of communicable diseases, including the information gathered as part of an epidemiologic investigation, may provide a significant benefit to the Department and improve public health.

The new rules also clarify the Department's role in the control of communicable diseases. Added to R9-6-303 is information that the Department may isolate or quarantine an individual or group of individuals or require additional control measures under A.R.S. § 36-136(G). The new rules also clarify that the Department may order the exclusion of a food handler from working according to the requirements in the Article. A requirement for the Department to review each case report of *Chlamydia trachomatis* infection or gonorrhea for completeness, accuracy, and need for follow-up is also being removed. With approximately 33,725 chlamydia cases and 9,300 gonorrhea cases reported annually, and increasing each year, the Department does not have the time and resources (personnel) to review every case. However, the Department uses statistical analysis tools to review the database of gonorrhea and chlamydia reports for quality, completeness, and the need for public health action. For example, the Department has used the data submitted to determine populations at high risk for or with a high-prevalence of gonorrhea and chlamydia. Based on this analysis, the Department is paying for gonorrhea and chlamydia testing through a federal grant for females 24 years of age and younger in targeted local health agency clinics, clinics serving women at high risk for infection/transmission,

juvenile correction facilities, and some county jails. In identifying gonorrhea and chlamydia in these high-risk, high-prevalence populations and allowing for the cases to receive treatment, the Department hopes to prevent further disease transmission and potential life-threatening complications due to untreated infections and decrease the rise in incidence rates for these diseases. Thus, this rule change will allow the Department the flexibility to focus resources on a population health basis. The Department believes that these clarifications of the Department's role will provide a significant benefit to the Department. The Department also believes that the changes in the new rules will provide a significant benefit to public health in Arizona.

The new rules also add requirements related to syphilis. From 2009 to 2016, the annual number of syphilis cases in Arizona more than tripled, with the rate of syphilis in Arizona doubling from 4.4 cases per 100,000 to 8.6 cases per 100,000 people from 2013 to 2014. The new rules allow a local health agency to recommend more frequent or longer duration of serologic testing for a syphilis case to detect treatment failure or re-infection, which is especially prevalent in high-risk populations and potentially lethal for the fetus of a pregnant woman. This change may provide a significant benefit to public health in helping to reduce the risk of syphilis transmission in Arizona.

In 2015, Arizona ranked seventh in the country in rates of congenital syphilis, with 14 cases and a rate of 16.4 per 100,000 live births compared with the national rate of 12.4 per 100,000 live births. The 2015 figures are an improvement, though, from 2007 when Arizona ranked second in the country in the number of congenital syphilis cases. Congenital syphilis is caused by transmission of the agent causing syphilis from a pregnant woman to the fetus or newborn, thereby causing stillbirth, premature birth, and potential deformities in the newborn. For those babies with congenital syphilis that survive, the cost of care for a single case of congenital syphilis may be almost $2 million dollars over a lifetime. The Department estimates that adding a requirement for a health care provider for a pregnant syphilis case to order serologic testing for syphilis at 28 to 32 weeks gestation and at delivery may further reduce the rate of congenital syphilis in Arizona and provide a significant public health benefit to the Department and the state.

- **Local health agencies**

Local health agencies are responsible for carrying out most of the control measures for cases or suspect cases within their jurisdictions. As required by the rules, the employees of local health agencies receive the reports of cases or suspect cases of reportable communicable diseases that are submitted by health care providers required to report and the administrators of health care institutions, correctional facilities, schools, child care establishments, and shelters. These employees also receive reports from the Department of cases or suspect cases submitted to the Department by clinical laboratories. Local health agencies may conduct epidemiologic investigations based on these reports.

Each year local health agencies in Arizona receive more than 48,000 reports of communicable disease cases or suspect cases under R9-6-202 and R9-6-203, which are entered into the Department's communicable disease data systems and are viewable, when appropriate, by other local health agencies and the Department, avoiding the need for a local health agency to maintain a separate database system with duplicate entry. The Department anticipates that local health agencies may receive a significant benefit from the clarified requirements related to communicable disease reporting or control measures and from the more consistent reporting requirements in Tables 2.1, 2.3, and 2.4, since local health agencies may receive more complete and accurate reports and be able to complete epidemiologic investigations more efficiently. A similar benefit may be derived from the new rules including that reports submitted to a local health agency or the Department are in a Department-provided format and that local health agencies are required to inform health care providers required to report and administrators of health care institutions, correctional facilities, schools, child care establishments, and shelters of the format to use when making a report, rather than just supplying forms. The Department anticipates that a local health agency could incur up to a minimal cost to explain new requirements.

As mentioned above, the new rules add the reporting of some highly significant communicable diseases, two of which (chikungunya and Zika virus infection) would previously have been included as arboviral infections in laboratory reporting and as "emerging or exotic disease" under Table 1 and Table 4. Cases of both of these infections have emerged in the Americas within the last five years, prior to which cases were virtually unheard of in this part of the world. These diseases pose a threat to Arizona travelers who visit locales where the diseases are endemic, and pose a risk for becoming local to Arizona due to the presence in parts of the state of the mosquito that transmits these diseases. Significant resources are already involved in responding to both, and the Department wants to ensure that it is clear that they are reportable and that responsibilities are clearly spelled out as reports and investigations become more routine. Because the Department expects a very small number of cases of the other added communicable diseases, the Department anticipates that local health agencies may receive a few additional reports about the communicable diseases added to Table 2.1 and, therefore, submit a few additional reports to the Department under R9-6-206 and Table 2.4. Since arboviral infections are currently reportable by clinical laboratories, the Department already reports these cases or suspect cases to the applicable local health agencies for follow-up and estimates that listing arboviral infections separately would result in only a few additional reports per year, unless a new arboviral disease emerges, similar to chikungunya or Zika virus infections. However, this emergence would be independent of whether the rules were changed and does not factor into this assessment. Therefore, while local health agencies may receive a few more reports due to the addition of

communicable diseases in Table 2.1, local health agencies may not be performing a proportionate increase in epidemiologic investigations and other associated activities due to their addition. In addition, while hepatitis C (approximately 12,000 cases annually) is reportable under Table 2.1, local health agencies no longer are required to report cases and suspect cases of hepatitis C to the Department or complete an epidemiologic investigation for each report, only for outbreaks, because resources do not exist to follow up on each case, making it ineffective to keep the requirement. As shown in Appendix 3, there is a wide variation in the number of cases of communicable diseases reported across Arizona's counties, with some counties reporting few cases and others a large number. The Department anticipates that a local health agency may incur a minimal-to-moderate burden from the addition of new reportable communicable diseases, depending on the county and the number of cases in the county.

As mentioned in the 2014 five-year-review report for Article 2, the new rules also remove the reporting under R9-6-202 of other communicable diseases, such as aseptic meningitis, enterotoxigenic *Escherichia coli*, Kawasaki syndrome, Reye syndrome, unexpected death with a history of fever, and vancomycin-resistant *Staphylococcus epidermidis*. Aseptic meningitis (approximately 450 cases per year) is a relatively common and rarely serious condition, with no relevant control measures, and enterotoxigenic *Escherichia coli* (approximately 30 cases per year) is a cause of travelers' diarrhea, for which there is no useful testing method for surveillance. Reye syndrome (no cases in the past year) and Kawasaki syndrome (approximately 35 cases per year) are being removed because they are not technically communicable diseases and the control measures for these conditions are no longer contained in 9 A.A.C. 6, Article 3. Reye syndrome may develop in a child who is given aspirin to treat the symptoms of a viral infection. There is no known infectious agent that causes Kawasaki syndrome, which is diagnosed in an individual based on the symptoms displayed by the individual. The condition, unexplained death with a history of fever, was originally added to assist with detecting severe cases of unknown etiology that would be revealed, after investigating and identifying the cause, to be infectious diseases needing urgent follow-up and the implementation of control measures. After several years of collecting these reports through surveillance and epidemiologic investigations, the Department determined that the condition is nebulous and cases reported under this condition are most often not a significant health risk. Therefore, as part of the last five-year-review of 9 A.A.C. 6, Article 3, the Department allowed the Section containing the control measures for the condition to expire. Those unexplained deaths with a history of fever that are significant could be reported under another reportable condition, such as emerging or exotic diseases. The Department is unaware of any communicable disease cases that were detected in the last five years as a result of a report of unexpected deaths with a history of fever

for which additional control measures should have been implemented. On the other hand, local health agencies have received less than 300 reports annually for cases of genital herpes infections, of the CDC-estimated over 500,000 cases in Arizona. Because of the lack of reporting and public health follow-up needed, the reporting requirement for genital herpes infections is also being removed from R9-6-202. The Department believes that a local health agency may receive a minimal-to-substantial benefit from the removal of these reportable communicable diseases from the new rules, depending on the number that had previously been received and acted upon.

The new rules decrease the time allowed for a local health agency to report some communicable diseases from five days to one working day, as mentioned above. For these communicable diseases, approximately 83% of reports are entered/submitted within one working day. Only 9% are reported during the one-to-five day period affected by the rule change and would need to be reported sooner to be in compliance with the new rules requirements. The time to report is increased from within "24 hours" to within "one working day" for three communicable diseases, mumps, rubella, and vancomycin-resistant or vancomycin-intermediate *Staphylococcus aureus*. For the first two, this time period is consistent with the time periods for reporting currently in Table 1 and unchanged in Table 2.1. For vancomycin-resistant or vancomycin-intermediate *Staphylococcus aureus*, the time period for reporting under Table 1 (and unchanged in Table 2.1) remains at "24 hours" because it is more critical for a report to get to a local health agency as soon as possible, so the local health agency can begin public health activities associated with the case. This change would be expected to affect fewer than 35 reports per year. The Department anticipates that a local health agency may incur a minimal-to-moderate burden from the decrease in time to report to the Department and may receive a minimal-to moderate benefit from changes increasing the reporting time, with smaller local health agencies with fewer staff perhaps receiving a significant benefit from the increased time since reports about these communicable diseases would no longer need to be reported over weekends or holidays, thereby reducing overtime costs. Local health agencies may also receive a significant benefit from the clarification under communicable disease control measures in Article 3 of when a local health agency is required to notify the Department and from additional information being required in reports submitted under R9-6-202 and R9-6-203. These latter changes could result in less time being spent collecting this information from the reporting person after the local health agency received the report.

Some requirements for epidemiologic investigations are also changed in the new rules. While an epidemiologic investigation within 30 days is required for the newly added communicable diseases, the approximately 100 epidemiologic investigations that would be required per year are already being done because the cases would already have been reported to local health agencies

through clinical laboratory reporting to the Department or under "emerging or exotic disease." An epidemiologic investigation is no longer required under the new rules for the communicable diseases being removed, which may result in approximately 450 fewer epidemiologic investigations per year. The Department believes that conducting epidemiological investigations for these diseases may have cost a local health agency between $100 and $10,000 per year, depending on the number of cases and the disease. Therefore, a local health agency with any of these diseases reported within its jurisdiction may receive a minimal-to-moderate benefit from their removal as reportable communicable diseases.

The requirements for epidemiologic investigations are also being removed for the approximately 9 scabies outbreaks per year, 60 streptococcal group B invasive infections per year in an infant younger than 90 days of age**,** and 67 *Streptococcus pneumoniae* cases or suspect cases under five years of age per year. Because the latter is a vaccine-preventable disease but some agents have developed antibiotic resistance, an epidemiologic investigation would be required only in the rare event of an outbreak. Due to the large number of cases and suspect cases of hepatitis C (12,000 per year), and the long incubation period between exposure to the virus and when symptoms appear, an epidemiologic investigation of each hepatitis C case or suspect case is of limited value and will no longer be required under the new rules, except if an outbreak is suspected. The Department estimates that a local health agency may receive a minimal-to-moderate benefit from not conducting epidemiological investigations for these diseases, depending on the number of cases. Conversely, an epidemiologic investigation is now required under the new rules for each case or suspect case of giardiasis (approximately 170 per year), rather than just in an outbreak, to enable the local health agency to determine if the reported individual meets the definition of a case and whether the case works in a sensitive occupation and should be excluded from working to prevent an outbreak. Since a local health agency is already conducting an epidemiological investigation for a giardiasis outbreak, which would include determining the cases that are part of the outbreak and contacting the cases to determine the possible sources of the outbreak, the Department believes that investigating each case would add at most a moderate cost to a local health agency.

The time period for completion of an epidemiologic investigation is also shortened from 60 days to 30 days under the new rules for basdiobolomycosis (approximately one per year), Creutzfeldt-Jakob disease (approximately 40 per year), cysticercosis (approximately three per year), and Hansen's disease (approximately one per year) to simplify the requirements for conducting these epidemiologic investigations by making them consistent with the time periods for epidemiologic investigations for other communicable diseases. As mentioned above, the new rules also change the time period for reporting an outbreak to the Department from "one working day" to "24 hours" after receiving the report or reports (approximately 200 per year) to enable the Department to respond more quickly to

the outbreak. Because the number of cases for which an epidemiologic investigation will be newly required is expected to be low, while the number of cases for which an epidemiologic investigation will no longer be required is much higher, the total number of epidemiologic investigations conducted by a local health agency may be reduced under the new rules. The Department believes that changes that add requirements for epidemiologic investigations may impose a minimal-to-moderate burden on a local health agency and that a local health agency may receive a minimal-to-substantial benefit from the removal of requirements for epidemiologic investigations for other communicable diseases. The new rules also clarify that a local health agency may conduct an epidemiologic or other investigation, even if not specifically required by this Chapter, in cooperation with the Department. The Department believes this clarification may provide a significant benefit to a local health agency.

As mentioned above, the new rules change requirements for clinical laboratories to submit isolates/specimens to the Arizona State Laboratory. The new rules make corresponding changes to the requirements for local health agencies to ensure the submission of isolates or specimens to the Arizona State Laboratory, with an isolate/specimen being newly required for seven communicable diseases. These represent high priority communicable diseases for which the submission of an isolate or a specimen is vitally important for public health purposes. Except for Zika virus infections, for which over 700 specimens were received in 2016 as part of investigations of suspect cases, fewer than 10 cases or suspect cases of the diseases are reported each year. However, for many communicable diseases, the submission of an isolate/ specimen is only required upon the request of the Department. Local health agencies are not required to ensure the submission of isolates/specimens for the communicable diseases for which submission is required by request only, so a burden is not being imposed on a local health agency due to this change in submission requirements. Based on the estimates of the numbers of cases or suspect cases for which a local health agency may now be required to ensure submission compared with the number for which a local health agency is already ensuring submission or the estimated number for which a local health agency will no longer be required to ensure submission, the Department anticipates that these changes may cause at most a minimal additional cost to a local health agency.

As part of a local health agency's responsibilities under A.R.S. § 36-624, the local health agency may adopt quarantine and sanitary measures consistent with Department rules. In R9-6-303, the Department specifies rules for isolation and quarantine. To ensure public health and safety and avoid the need for isolation or quarantine in some instances, the new rules provide additional control measures that a local health agency may use to reduce the threat of the spread of a communicable disease. These include exclusion from working in a sensitive occupation/location; avoiding other locations, such as a mall or entertainment venue, where an affected individual may pose a health risk

to other individuals; and receiving prophylaxis or an immunization as an alternative to or to reduce the length of exclusion. Local health agencies are already employing these additional control measures in many situations for the approximately 5-10% of cases in sensitive occupations, but their addition to the rules in R9-6-303 and for specific communicable diseases in other Sections may make it easier for a local health authority to ensure compliance, address unanticipated situations, and avoid taking stronger control measures. Changes to the laboratory-testing-based criteria for removal from exclusion may also allow a local health agency to remove a case or suspect case from exclusion with less follow-up. The Department anticipates that these changes may provide a significant benefit to a local health agency.

The new rules also add requirements for "suspect cases" to case control measures for certain diseases. Because it may be the Department that determines whether a suspect case is a case, after laboratory testing by the Arizona State Laboratory, the new rules add that a local health agency shall ensure that isolates (or specimens) from not only cases but also suspect cases are submitted to the Arizona State Laboratory for anthrax, botulism, glanders, measles, melioidosis, mumps, plague, poliomyelitis, rubella, tularemia, viral hemorrhagic fever, yellow fever, Zika virus infection. The Department believes that specimens for most, if not all, of the approximately 1,000 suspect cases per year of these communicable diseases are already submitted to the Arizona State Laboratory. Therefore, the change may be more of a clarification of what is already occurring than an additional responsibility. The Department anticipates that this change may result in the submission of any specimens not already being submitted and enable the Arizona State Laboratory to identify cases faster so local health agencies can take actions to reduce the spread of the disease to others, thereby reducing the number of individuals requiring epidemiologic investigations. Thus, the change may impose up to a minimal additional burden on a local health agency for ensuring the submission of more specimens/isolates, but also provide up to a moderate benefit in reducing the number of additional cases reported, which would save the local health agency the expense of investigating them.

Since local health agencies carry out most of the control measures for cases or suspect cases within their jurisdictions, the new rules give local health agencies more authority in determining whether a case or suspect case of communicable diseases such as amebiasis, campylobacteriosis, giardiasis, norovirus, salmonellosis, or shigellosis, in a sensitive occupation is unlikely to infect other individuals and may return to work. Under the new rules, a local health agency may also determine whether a suspect case of mumps, pertussis, or rubella is unlikely to be infectious. In addition, local health agencies, rather than physicians, physician assistants, or registered nurse practitioners, may determine that a suspect case of measles may return to a school or child care establishment. For

giardiasis, the option of removal of the exclusion from working for sensitive occupations with negative stool specimens is being taken out of the new rules, which now require a case or suspect case to be cleared by a local health agency. These changes permit the staff of a local health agency to use their judgment to tailor a response to a situation, rather than fit the situation to a rule requirement, allowing for a more flexible and logical application of the rules. The Department anticipates that these changes may provide a significant benefit to a local health agency in protecting public health.

Under the new rules, local health agencies will not be required to determine if treatment of a botulism case is required. Contact control measures that had been required of local health agencies are being removed for Shiga-toxin producing *Escherichia coli*, giardiasis, salmonellosis, and shigellosis, largely to reduce ambiguity because a contact with diarrhea would be considered a suspect case and would be covered under "case control measures." Because of the large number of cases of hepatitis C reported each year and the limited resources to follow up on communicable disease cases, case control measures are being removed and replaced with outbreak control measures. These include a requirement for evaluating a health care provider identified as the source of hepatitis C virus transmission in the work place, in the rare instance that this situation would occur, and, if indicated, ensuring reassignment of the health care provider to a position where the occupational risk of continuing transmission is eliminated. In addition, the new rules require consultation by a diagnosing health care provider or an administrator of a health care institution with the local health agency in the infrequent circumstance when isolating and instituting droplet precautions for a rubella case. Because of the more than 159% increase in the number of syphilis cases in Arizona from 2006 to 2015, the new rules allow a local health agency to recommend more frequent or longer duration of serologic testing for a syphilis case than the requirements currently in rule, thereby reducing the risk of further transmission. The Department estimates that these changes may provide a minimal-to-moderate benefit to a local health agency due to the net decrease in the number of instances in which a local health agency is required to take action, compared with the number under the current rules, mainly due to the removal of the requirement for hepatitis C case follow-up.

The new rules also add some responsibilities for local health agencies. Sections containing control measures for the newly reportable communicable diseases have been added to Article 3. These include local health agency requirements for case control measures for arboviral infections, babesiosis, chikungunya, glanders, novel coronavirus, and Zika virus infections. As mentioned above, cases of arboviral infections, babesiosis, glanders, and novel coronavirus are very rare. For cases of chikungunya or Zika virus infection, the Department estimates control measures are already occurring for more than 90% of cases. Environmental control measures have been added in the new rules for dengue, malaria, West Nile virus infection, and yellow fever to reduce the risk of a mosquito

in Arizona biting an infected individual and transmitting the disease to another individual the next time the mosquito bites. Environmental control measures are also being added for arboviral infections, chikungunya, and Zika virus infections, and are already occurring for the majority of cases and suspect cases for these conditions. Outbreak control measures are being added for carbapenem-resistant enterobacteriaceae, methicillin-resistant *Staphylococcus aureus*, and respiratory disease in a health care institution or correctional facility. During 2015 and 2016, local health agencies assisted in the investigation of one outbreak of methicillin-resistant *Staphylococcus aureus*, and 16 outbreaks of respiratory disease in health care institutions. Since local health agencies are already performing many of the activities being newly required in the rules, the Department believes that additional costs would arise through a higher number of cases/suspect cases being reported, rather than any change in the activities being conducted by local health agencies. The Department estimates that these changes may cause a minimal-to-substantial increase in cost to a local health agency, depending on the number of cases or outbreaks, but provide a significant public health benefit to a local health agency.

A local health agency is required under the current R9-6-302 to provide health education to a disease case or contact to reduce the risk of transmission of the respective disease. The new rules clarify that for certain communicable disease spread by mosquitos, such as chikungunya, West Nile virus, and Zika virus infections, health education is required to include measures to avoid mosquito bites and reduce mosquito breeding sites. The new rules also require a local health agency to offer prophylaxis to a diphtheria contact, in the rare instance that is necessary. The Department believes that these changes may cause a minimal cost to a local health agency, depending on the number of cases or contacts.

- **Local agencies responsible for vector control**

The environmental control measures for arboviral infections, chikungunya, dengue, malaria, West Nile virus infection, yellow fever, and Zika virus infections mentioned above are necessary because these diseases are spread through the bite of an infected mosquito, which is known as the vector for the disease. The *Aedes* mosquito responsible for the spread of chikungunya and Zika virus, as well as dengue and yellow fever, are found in Arizona, are closely associated with humans and their dwellings, and do not travel far. The mosquitos responsible for the spread of malaria and West Nile virus infections have also been found in Arizona. Therefore, if these mosquitos are found near an individual who has one of these communicable diseases, the mosquito could bite the individual, pick up the organism causing the communicable disease, and spread it to a new individual through another bite. For other communicable diseases, another type of vector, such as a tick, may be responsible for transmission. To prevent such transmission, the environment around an individual who may be infected with one of these communicable diseases needs to be assessed so measures can be taken to

reduce the number of vectors and their breeding places. In some counties, this assessment is performed by the local health agency. In other counties, a local agency responsible for vector control, such as the Yuma County Pest Abatement District or Bullhead City Pest Abatement District, performs the assessment. This assessment is routinely performed in some counties or for some communicable disease, but not others. The Department anticipates that an environmental assessment would be performed for all cases of chikungunya, dengue, yellow fever, and Zika virus infections, for some cases of spotted fever rickettsiosis, and occasionally for cases of malaria and West Nile virus infections. If a local agency responsible for vector control in a jurisdiction is the entity that normally performs such assessments in the jurisdiction, the Department believes that the new requirements for assessments to be performed may cause a local agency responsible for vector control in the jurisdiction to incur a minimal-to-moderate burden for performing additional assessments if the local agency responsible for vector control were not already performing them. The new requirements are also expected to provide a significant public health benefit.

- **Health care providers**

The Department receives approximately 78,000 disease reports per year from health care providers and health care institutions. Because a report from a health care institution may come from a health care provider required to report or the health care institution's infection control program staff, it is not possible to determine the number of individual health care providers reporting. A health care provider may receive a significant benefit from the clarification of the rules. As mentioned above, new communicable diseases are being added to the list in Table 2.1 for health care providers required to report and the administrators of health care institutions and correctional facilities. Almost all of these added communicable diseases should already have been reported under "emerging or exotic disease," so listing them specifically should clarify that they need to be reported, rather than add to the burden of reporting. In addition, the Department anticipates that the incidence of cases will also be very low, including for arboviral infections not covered by explicitly listed diseases. However, if a health care provider required to report under R9-6-202 and Table 2.1 had not reported cases or suspect cases of these communicable diseases under the current rules, the Department expects that the health care provider required to report may incur up to a minimal burden for reporting them, because of the low incidence of these communicable diseases. A health care provider required to report might also incur minimal additional costs due to the added information being required in a report and from the reduced time to report certain communicable diseases.

These costs for reporting are more than offset by other changes to reporting requirements in the rules. As indicated in the 2014 five-year-review report, the requirement for reporting cases or suspect cases of herpes genitalis is being removed in the new rules. Currently, between 250 and 300 cases are

reported annually 1,500 by health care providers required to report. Since the disease is so prevalent and not reported in most instances, the usefulness of the information for public heath purposes does not outweigh the burden to health care providers required to report. For reasons described above, requirements for reporting of aseptic meningitis, enterotoxigenic *Escherichia coli*, Reye syndrome, Kawasaki syndrome, and unexplained death with a history of fever are also being removed. The Department estimates that these changes may provide a minimal-to-moderate benefit to a health care provider required to report, depending on the number of cases the health care provider encounters. Changing the names used for certain reportable conditions to be more descriptive, such as separating anaplasmosis from ehrlichiosis, or to use more updated terminology, such as replacing enterohemorrhagic *Escherichia coli* with Shiga toxin-producing *Escherichia coli*, may also provide a significant benefit to a health care provider.

Antibiotics have been used to treat patients with infectious diseases for over 70 years. In that time, some of the agents causing these diseases have developed mechanisms to protect themselves from the effects of an antibiotic, and they have become resistant to the antibiotic. Because of this resistance, an infection caused by these agents is hard to treat and, according to the CDC, at least 23,000 people die each year in the United States as a result of these infections. To reduce the spread of resistant agents, the new rules require a diagnosing health care provider or an administrator of a health care institution or correctional facility transferring an individual known to be infected with certain of these resistant agents to notify the entity to which the individual is being transferred about the resistant infection. In that way, the receiving entity can take precautions to reduce the chance the infection may be spread. For health care providers, this notification is required for multi-drug-resistant organisms under R9-6-305; for carbapenem-resistant enterobacteriaceae and *Clostridium difficile*, considered by the CDC to be "Urgent Threats" to public health due to resistance; and for methicillin-resistant *Staphylococcus aureus* (MRSA) and vancomycin-resistant or vancomycin-intermediate *Staphylococcus aureus*, also considered by the CDC to be threats to public health. The Department believes that this notification is already being provided by most health care providers as standard of care. If a health care provider were not making this notification, requiring notification may cause a minimal-to-moderate cost to a health care provider, depending on the number of cases for which notification would need to be made, but provide an offsetting minimal-to-substantial benefit to the receiving health care provider by reducing the chance the infection would spread.

Case control measures for some communicable diseases require a diagnosing health care provider to institute isolation precautions to reduce the spread of the communicable disease. While isolation precautions should already have been occurring as a standard of care, these requirements have been added in the new rules for carbapenem-resistant enterobacteriaceae, novel coronavirus, and

smallpox to clarify the need for these precautions. The Department anticipates that the new rules may impose a minimal-to-moderate cost on a health care provider who diagnoses one of these diseases and has not been instituting isolation precautions as a standard of care and provide a significant benefit in reducing the threat of disease transmission.

The new rules also require a health care provider for a pregnant syphilis case to order serologic testing for syphilis at 28 to 32 weeks gestation and at delivery to reduce the risk of the baby being born with congenital syphilis. This requirement is consistent with a 2007 Board Order issued by Maricopa County, requesting a third trimester blood test for syphilis in all pregnant women and a blood test for newborns or their mothers at the time of delivery. The Board Order also requires a blood test for syphilis on the mother or umbilical cord of a stillborn infant. This requirement has been shown to be effective in reducing the number of babies with congenital syphilis. In 2007, there were 28 cases of congenital syphilis in Arizona, with 20 occurring in Maricopa County. By 2009, the number of congenital syphilis cases in Maricopa County had dropped to 13, while the total number of congenital syphilis cases in Arizona had risen to 30. Through efforts of the Department and community partners, the number of congenital syphilis cases in Arizona fell to 17 in 2010 and to 14 in 2016. Most of these cases were born to women who had not had prenatal care and were first tested at the time of delivery. The Department anticipates that the new rules may impose a minimal-to-moderate cost on a health care provider who is treating a pregnant syphilis case has not already been ordering these tests and provide a significant benefit in reducing the threat of congenital syphilis.

The new rules in R9-6-355, R9-6-359, and R9-6-371 for measles, mumps, and rubella, respectively, contain a requirement for an administrator of a health care institution to exclude a measles case or suspect case from working at the health care institution until specified events occur. If a health care provider is a case or suspect case of one of these diseases, the exclusion would apply to the health care provider. Although not excluded from working, a health care provider identified as the source of hepatitis C virus transmission in the work place could be reassigned under the new rules to a position where the occupational risk of transmission is eliminated. Therefore, the Department believes that, in the unlikely event that a health care provider was a case or suspect case of measles, mumps, or rubella or the source of hepatitis C transmission, the health care provider could incur a moderate-to-substantial cost due to the rule change, but could receive a significant benefit from not infecting others.

The new rules include in a report required in R9-6-202 a requirement for a health care provider required to report to state whether the diagnosis of tuberculosis was confirmed by a laboratory and, if so, the name, address, and phone number of the laboratory. The Department believes that a health care provider may incur a minimal increased cost from providing this additional information. In R9-

6-386, the new rules contain separate methods and criteria by which tuberculosis cases and suspect cases could be removed from isolation precautions. The clarification of the separate criteria and that a suspect case of multi-drug resistant tuberculosis can only be released from isolation precautions by a tuberculosis control officer may provide a significant benefit to a health care provider by making requirements clearer and consistent with standards of care.

- **Health care institutions**

As mentioned above, the Department receives approximately 78,000 reports per year from more than 600 health care institutions, with 176 reporting through MEDSIS, and a range of one to 1,600 reports per year from a reporting entity. Many of the requirements for health care providers are also applicable to the administrators of health care institutions. Therefore, many of the changes made in the new rules would affect both health care providers and health care institutions in a similar manner. A health care institution may also receive a significant benefit from the clarification of the rules. As mentioned above, new communicable diseases are being added to the list in Table 2.1. If an administrator of a health care institution had been reporting these communicable diseases under "Emerging or exotic disease," listing them specifically should clarify that they need to be reported, rather than add to the burden of reporting. Since the incidences of these cases are expected to be very low, an administrator of a health care institution that had not reported cases or suspect cases of these communicable diseases under the current rules may be expected to incur a minimal-to-moderate burden for reporting them. An administrator of a health care institution might also incur minimal additional costs due to the added information being required in a report and from the reduced time to report certain communicable diseases, with some of this cost mitigated through electronic reporting, especially for larger facilities.

Some outbreaks of respiratory disease in a health care institution are already being reported, so the impact of additional reporting is likely to be low. The Department believes that long term care facilities, such as nursing care institutions and assisted living facilities, and other types of residential health care institutions are probably where most of the outbreaks will occur, with hospitals and other acute care settings probably being less impacted. The Department anticipates that reporting outbreaks of respiratory disease in a health care institution may impose a minimal burden on an administrator of a health care institution and may result in significant cost savings if earlier reporting and institution of appropriate precautions and other responses results in less transmission and fewer cases. Again, these costs for reporting would be expected to be more than offset by removing the requirements for reporting cases or suspect cases of herpes genitalis, aseptic meningitis, enterotoxigenic *Escherichia coli*, Reye syndrome, Kawasaki syndrome, and unexplained death with a history of fever. The Department estimates that removing these reporting requirements may provide a minimal-to-

substantial benefit to a health care institution, depending on the number of cases the health care institution encounters.

Case control measures for some communicable diseases also require an administrator of a health care institution to ensure that isolation precautions are instituted to reduce the spread of the communicable disease, and, as mentioned above, these requirements have been added in the new rules for carbapenem-resistant enterobacteriaceae, novel coronavirus, and smallpox. While isolation precautions should already have been occurring as a standard of care, these requirements have been added in the new rules to clarify the need for these precautions. Institution of isolation precautions may provide cost savings by reducing the chance of transmission to other patients/residents and to staff, especially in more residential care settings. Following infection-control guidelines may also reduce the chances that health care institution staff would need to provide prophylactic treatment to patients or residents who were exposed to one of these diseases. Therefore, the Department anticipates that a health care institution may incur minimal-to-moderate costs to institute control measures for these added communicable diseases, but receive minimal-to-substantial benefits from having the control measures in place.

Since Medicare is no longer paying hospitals for the cost of care associated with nosocomial infections, the administrators of hospitals have an additional financial incentive to reduce the spread of health-care-associated infections by complying with contact precautions, exclusion requirements, and notification requirements. The Department believes that the notification required of an administrator of a health care institution transferring an individual known to be infected with resistant agents, specified in the new rules, is already being provided as standard of care and to comply with requirements for transfer in 9 A.A.C. 10. Since patients/residents are frequently transferred both from and into a health care institution, this requirement may affect a health care institution, both as a sending and as a receiving facility, to a greater extent than a health care provider would be affected. As a sending facility, the health care institution could be expected to incur the minimal-to-moderate additional costs for notification, but, as a receiving facility, the health care institution may gain as much as a substantial benefit in knowing immediately what precautions to take with the patient and what treatments may be appropriate. This information is likely to be in the patient's chart but might not be seen until after there had already been contact with a number of staff during the receiving/admitting process. Thus, the timeliness of knowing a patient is infected contributes greatly to the benefit so appropriate precautions can be implemented to reduce the potential for spread of infection.

The Department believes that the requirement for an administrator of a health care institution to report whether the diagnosis of tuberculosis was confirmed by a laboratory and, if so, the name,

address, and phone number of the laboratory may cause the health care institution to incur a minimal increased cost from providing this additional information. The addition in R9-6-386 of separate methods and criteria by which cases and suspect cases of tuberculosis could be removed from isolation precautions and the clarification that a suspect case of multi-drug resistant tuberculosis can only be released from isolation precautions by a tuberculosis control officer may provide a significant benefit to a health care institution by making requirements clearer and consistent with standards of care, but could cause a health care institution to incur moderate additional costs if approval of release from isolation and airborne precautions of a tuberculosis suspect case takes longer than before.

- **Correctional facilities, both public and private**

Many of the changes made in the new rules that affect health care providers and health care institutions also affect correctional facilities in a similar manner. The Department receives approximately 2,900 reports of communicable diseases each year from correctional facilities. A correctional facility may receive a significant benefit from the clarification of the rules. As mentioned above, new communicable diseases are being added to the list in Table 2.1. Although an administrator of a correctional facility may have been reporting these communicable diseases under "Emerging or exotic disease," it is more likely that a prisoner or detainee with one of these diseases would be transferred to a hospital, in which the disease would be diagnosed and from which the case would be reported. Therefore, listing them specifically clarifies that they need to be reported, but is not expected to add to the burden of reporting, especially since the incidences of these cases are expected to be very low. An administrator of a correctional facility may incur up to minimal additional costs due to the added information being required in a report, from the reduced time to report certain communicable diseases, and from the addition of reporting requirements for certain diseases, with some of this cost possibly mitigated through electronic reporting for larger correctional facilities and from no longer having to report cases of "unexplained death with a history of fever." The Department also anticipates that the number of reports of outbreaks of respiratory disease in a correctional facility would be low and impose at most a minimal burden on an administrator of a correctional facility. A correctional facility may also receive a minimal-to-moderate benefit from the earlier detection of cases and the institution of isolation precautions to reduce the number of new cases. As for health care providers required to report and administrators of health care institutions, these costs for reporting are expected to be more than offset by removing the requirements for reporting cases or suspect cases of other diseases. The Department estimates that these changes may provide a minimal-to-moderate benefit to a correctional facility, depending on the number of cases the correctional facility encounters.

An administrator of a correctional facility is required under the new rules to ensure that control measures recommended by a local health agency or the Department are instituted for some communicable diseases to reduce the spread of the communicable disease both within the correctional facility and to the outside. Following infection-control guidelines may also reduce the chances that correctional facility staff and prisoners or detainees would need to receive prophylactic treatment if exposed to one of these diseases. The recent outbreak of measles in a correctional facility illustrated the importance of these control measures since the correctional facility, local health agencies, and the Department spent over $400,000 to control the outbreak. Requirements have been added in the new rules for an administrator of a correctional facility to institute these recommended control measures for measles, mumps, pertussis, and rubella, since these may be easily transmitted in a residential setting with shared common spaces, as well as for outbreaks of respiratory disease or methicillin-resistant *Staphylococcus aureus*. An administrator of a correctional facility is also required to institute isolation precautions for a carbapenem-resistant enterobacteriaceae case or carrier and to ensure that a scabies case receives treatment for scabies and that the case's clothing and personal articles are disinfested. Therefore, the Department anticipates that a correctional facility may incur minimal-to-moderate costs to institute control measures for these added communicable diseases, but receive minimal-to-substantial benefits from having the control measures in place and reducing the chance of an outbreak occurring.

As mentioned above, a diagnosing health care provider or an administrator of a health care institution transferring a patient known to be infected with resistant agents, specified in the new rules, is required to notify the facility to which the patient is being transferred of the resistant organism so the receiving facility would know what precautions to take to reduce the chance of transmission, as well as how to provide treatment to the patient. An individual is more likely to be diagnosed with a multi-drug resistant organism, carbapenem-resistant enterobacteriaceae, *Clostridium difficile*, or methicillin-resistant *Staphylococcus aureus* at a health care institution than in a correctional facility. Therefore, a correctional facility may receive a moderate-to-substantial benefit from notification by a health care provider or health care institution of a prisoner's or detainee's diagnosis with one of these conditions so precautions can be taken to prevent transmission. An administrator of a correctional facility is also required to notify a facility to which a prisoner or detainee known to be infected with a resistant agent is being transferred. Therefore, a correctional facility may also incur minimal costs for providing this notification.

According to the CDC, incarcerated individuals are at greater risk for becoming infected with tuberculosis than the general population since they live in closer proximity to other individuals than the general public and between 4 and 6% of tuberculosis cases are incarcerated at the time of

diagnosis. In Arizona, due to the close coordination between the Department and correctional facilities, approximately 25% of tuberculosis cases in Arizona in 2016 were diagnosed while the case was incarcerated. The Department believes that the changes in the reporting requirements and requirements related to removal from isolation precautions for tuberculosis may cause a correctional facility to incur a minimal increased cost from providing the additional information and to receive a minimal-to-substantial benefit from the changes related to removal from isolation precautions.

- **Public and private schools, child care establishments, and shelters**

The Department receives approximately 100 reports of communicable diseases each year under R9-6-203 and Table 2.2 through local health agencies from reporting entities identified as schools, child care establishments, and shelters. The Department believes this is an underestimate, though, and estimates that there are more than 300 school reports per year. The new rules clarify reporting requirements for schools, child care establishments, and shelters to make them easier to understand. The new rules also clarify that reports are submitted in a Department-provided format; correct cross references; add a requirement for the name and contact information for a parent or guardian of a child with a disease, infestation, or symptoms; and add that an e-mail address may be reported, as well as a telephone number, for the individual making the report. The Department believes that these changes may cause a school, child care establishment, or shelter to incur minimal additional costs for the added information and provide a significant benefit from clarity and the reduced time spent finding and giving the additional information to a local health agency once it is requested separately from the report.

The new rules contain additional case control measures for shelters. As for correctional facilities, requirements have been added in the new rules for an administrator of a shelter to comply with control measures recommended by a local health agency or the Department for measles, mumps, pertussis, and rubella. These control measures are intended to prevent or control the spread of an outbreak of these highly contagious diseases in settings that may be at higher risk due to shared living spaces, inadequate immunization rates, or transient residents. The Department anticipates that a shelter could incur minimal-to-moderate costs for implementing these recommendations but receive a significant benefit from not having a case of one of these communicable diseases infect other individuals on the premises.

- **Clinical laboratories (laboratories)**

Communicable disease reporting from clinical laboratories is submitted directly to the Department. The new rules clarify reporting requirements, including the information required for a specimen for which an immediate report is required and for reference ranges, corrects cross references, and add that an e-mail address may be reported. A clinical laboratory may receive a

significant benefit from the clarification of the rules. As mentioned above, 10 communicable diseases are being added as laboratory reportable, which may not affect the number of tests performed (since the tests are generally performed based on a health care provider's order, independent on whether the result is reportable or not), but may result in over 800 more required reports. However, at least two of the largest clinical laboratories have already voluntarily reported carbapenem-resistant enterobacteriaceae and *Rickettsia* spp., the organisms causing the majority of reports, so the Department anticipates a minimal increase in the number of reports due to the addition of these communicable diseases. Animal rabies is also already being reported and specimens sent to the Arizona State Laboratory, which is the only facility in Arizona that can test for rabies following a possible exposure of a human or pet. The reporting of positive test results of vancomycin-resistant *Staphylococcus epidermidis* will no longer be required under the new rules, but may not result in a benefit since no positive results have been received since reporting was required. The Department believes that, because the communicable diseases being added are already being reported or are rare, these changes will result in at most a moderate cost to a clinical laboratory.

Currently, only positive test results for HIV are required to be reported, except for infants, for whom all test results are reportable. The new rules expand the existing reporting requirements for HIV to include the viral load and CD4 count values for all HIV-related tests, except negative screening tests. Because clinical laboratories already report virtually all viral load and CD4 count values (over 155,000 per year), to conform to reporting requirements in other states, few, if any, additional reports are expected to be submitted. The vast majority of these test results are "negative" (undetectable) for HIV and would, therefore, not be counted as HIV case reports. Therefore, the Department believes that these changes will result in a significant benefit to a clinical laboratory through more consistent reporting requirements, and may result in at most a moderate cost to a clinical laboratory that had not been reporting viral load and CD4 count values for all HIV-related tests.

The time periods for reporting several communicable diseases are being changed in the new rules. For nine, the five-day time period for reporting is too long to allow for a timely public health response and is being decreased to one day after a positive test result. For four others, the time period is being increased from 24 hours after a positive test result to one working day, which is sufficient for a public health response. Currently, approximately 76% of reports by clinical laboratories occur within one working day, regardless of the time allowed for reporting, with an overall average of 1.7 days from result to report. Shorter reporting times are largely due to the use of electronic reporting, which was not in place in 2008 when the current rules were adopted. Electronic reports are received on average within one day of results while non-electronic reports are received on average 1.7 days

after results for communicable diseases with a 24 hour/one-day report time period and 3.1 days for communicable diseases with a five-day report time period. For clinical laboratories already reporting according to the time periods in the new rules, the Department anticipates there will be no effect from the rules changes. For clinical laboratories not reporting according to the time periods in the new rules, the Department believes a clinical laboratory may incur up to moderate costs to send the report out more quickly, depending on the number of reports, and may receive a significant benefit if the new rules encourage electronic reporting.

Because many testing methodologies in clinical laboratories no longer require a clinical laboratory to obtain an isolate from a specimen as part of the confirmation of a communicable disease, the new rules specify that, for the agents for which an isolate or a specimen is required, a clinical laboratory is required to submit to the Arizona State Laboratory an isolate of the organism for each positive culture, if available, or a specimen for each positive test result. This change reflects current practice since a clinical laboratory is unlikely to produce an isolate specifically for submission to the Department when the diagnostic testing method used did not require an isolate. The Department anticipates another cost savings to clinical laboratories from a change making the submission of an isolate or specimen to be by request only for five communicable diseases for which an isolate or specimen was required under the current rules. The Department anticipates that more than 1,200 fewer isolates/specimens may be submitted because of this rules change. To enable the Department to characterize an agent and establish relationships between cases of a disease, while not placing an undue burden on clinical laboratories, a clinical laboratory will only be required to submit an isolate or specimen if requested by the Department for 10 other communicable diseases for which neither an isolate or a specimen was required under the current rules. The Department anticipates that more than 500 fewer isolates/specimens may be submitted because of this rules change. For some rare diseases, clinical laboratories do not have the ability to confirm a diagnosis. Therefore, it is critical for the Department to be able to assist in diagnosis for these communicable diseases, which include rabies in a human, smallpox, viral hemorrhagic fever, yellow fever virus infection, and Zika virus infection. An isolate or a specimen is being required for each positive test result for these diseases; fewer than five cases other than Zika virus infections are expected to be reported, and the Department is already receiving specimens for Zika virus infections. The Department believes that these changes may result in a significant benefit to a clinical laboratory from sending fewer specimens/isolates and may cause the clinical laboratory to incur at most minimal additional costs from sending specimens for other communicable diseases, which may be further reduced by the clinical laboratory using the courier service provided by the Arizona State Laboratory since 2014.

One of the agents for which an isolate or a specimen may be requested is *Neisseria*

gonorrhoeae, the agent causing gonorrhea. This agent has been characterized by the CDC as an "Urgent Threat" to public health due to emerging multi-drug resistance that makes the disease difficult to treat. To determine the best course of treatment for a patient, a health care provider may request a clinical laboratory to determine the drug sensitivity pattern of the agent for a specimen testing positive for gonorrhea. The new rules require a clinical laboratory to report the drug sensitivity pattern for any specimen of *Neisseria gonorrhoeae* for which a drug sensitivity pattern was determined to enable the Department to monitor drug resistance in Arizona. The Department expects this change to cause at most a moderate cost increase to clinical laboratories, depending on the number of reports including a drug sensitivity pattern.

- **Businesses employing individuals infected with a communicable disease, including owners or operators of restaurants or other food establishments**

To reduce disease transmission and the risk of an outbreak of a communicable disease, especially in vulnerable populations, cases or suspect cases of certain communicable diseases who work in sensitive occupations are excluded from working until specific criteria are met. The most common of these sensitive occupations include working as a food handler, caring for patients or residents in a health care institution, or caring for children in or attending a school or child care establishment, and are included in the rules. Owners or operators of businesses employing individuals with a communicable disease may be affected by the rule changes related to exclusion. During 2014 to 2016, the average number of cases or suspect cases, 18 years of age or older, of a communicable disease with exclusion as a possible control measure was 2, 443. The Department estimates that approximately 5% (122) of these individuals worked in a sensitive occupation and were subject to exclusion.

The new rules clarify that for amebiasis, campylobacteriosis, giardiasis, *Vibrio* infection, and yersiniosis, only a case or suspect case with diarrhea is required to be excluded from working as a food handler, caring for patients or residents in a health care institution, or caring for children in or attending a child care establishment, rather than all cases or suspect cases, making the exclusion criteria less stringent. Exclusion criteria are added for a case or suspect case of hepatitis E, as well as a case that is part of a norovirus outbreak or an outbreak of diarrhea, nausea, or vomiting. Exclusion criteria are also added for a case or suspect case of measles, mumps, or rubella working in a health care institution and for suspect cases of salmonellosis, shigellosis, or typhoid. Exclusion criteria are removed for a case or suspect case of hemolytic uremic syndrome, as well as for contacts of individuals infected with Shiga-toxin producing *Escherichia coli*, giardiasis, salmonellosis, or shigellosis. The new R9-6-304 clarifies that the Department may order exclusion of an individual

working as a food handler. The length of exclusion may be as little as one day or as long as several months, depending on the communicable disease.

Since local health agencies play a major role in determining who will be excluded and for how long, the decisions made by local health agencies may affect the businesses employing an excluded individual. The new rules allow a local health agency to determine that a case or suspect case with certain diseases in a sensitive occupation may return to work and do not allow the option of removal of the exclusion from working in sensitive occupations for a giardiasis case with negative stool specimens until cleared by a local health agency. These changes may allow an infected individual to be removed from isolation or exclusion earlier than otherwise or be excluded longer to protect public health. The new rules also provide additional control measures that a local health agency may use to reduce the threat of the spread of a communicable disease.

The Department anticipates that changes related to exclusion criteria may result in a minimal-to-moderate cost on an owner or operator of a business that employs a case, suspect case, or contact of one of these diseases due to more stringent exclusion criteria for the disease and may provide a minimal-to-moderate benefit by making the exclusion criteria for other diseases less stringent and from the potential reduction in the number of new cases or an outbreak arising from an infected worker employed at the business. The new criteria may also reduce the likelihood of the business incurring direct or indirect costs as a result of being identified as the source, or continued source, of an outbreak. The environmental control and health education requirements added in the new rules may also provide a significant benefit to a business employing an individual infected with a communicable disease if an environmental assessment includes the business as a possible source of infection and any issues are identified so the owner or operator of the business can take steps to resolve the issues.

- **Owners or operators of aquatic venues**

Since the current rules were adopted, new types of aquatic venues, such as splash pads, have begun operating, and the number of recreational water-related outbreaks of communicable diseases has increased. Although all types of aquatic venues are susceptible to contamination and to the spread of water-borne diseases, splash pads are especially vulnerable because the water may be less heavily treated with antimicrobial agents, and there is less water to wash away contaminated material. In the past few years, there have been fewer than 5 instances per year in Arizona where an aquatic venue was shut down due to contamination with a communicable disease until the threat to public health was resolved. The new rules add an exclusion from an individual using an aquatic venue for specific periods after diarrhea has resolved for certain water-borne diseases, including amebiasis, cholera, cryptosporidiosis, giardiasis, salmonellosis, shigellosis, and yersiniosis. The Department believes that

an owner or operator of an aquatic venue may incur minimal decreased revenue from fewer individuals with one of these diseases using the aquatic venue during the time period specified in rule for exclusion and may receive up to a substantial benefit from not having the aquatic venue contaminated, needing to take measures to disinfect the venue, and having to shut down operations until the area is no longer contaminated.

- **Pharmacists and pharmacies**

In 2016, the Department received over 10,600 reports from pharmacists or administrators of pharmacies under R9-6-205 to assist in the detection of cases of tuberculosis. The Department reviews these reports to determine which relate to the same individual and whether the individual is already identified as a tuberculosis case. The new rules clarify reporting requirements for pharmacists and administrators of pharmacies to make them easier to understand. The new rules also clarify that reports are submitted in a Department-provided format. The Department believes that a pharmacist or administrator of a pharmacy may receive a significant benefit from the new rules.

- **Health insurance companies and health plans, including AHCCCS**

As mentioned above, the new rules require a sending facility (health care institution or correctional facility) or health care provider to notify a receiving facility or health care provider before transferring an individual infected with one of certain communicable diseases, as specified in rule. This notification is required for multi-drug-resistant organisms under R9-6-305, as well as carbapenem-resistant enterobacteriaceae, *Clostridium difficile*, methicillin-resistant *Staphylococcus aureus* (MRSA), and vancomycin-resistant or vancomycin-intermediate *Staphylococcus aureus*. These diseases are considered by the CDC to be threats to public health because their resistance to antibiotics makes them difficult to treat. An individual infected with one of these agents may need to be hospitalized for an extended period and receive very expensive medication regimens to try to clear the infection. Based on 2012 data from several Arizona hospitals for carbapenem-resistant enterobacteriaceae only, each hospital had approximately six cases in a year. The median hospitalization charges for each case were almost $75,000, with 50% of cases admitted to the intensive care unit and 19% resulting in death.

If a health care provider, health care institution, or correctional facility is made aware that an individual is infected with one of these agents, the health care provider, health care institution, or correctional facility not only knows how to provide treatment for the individual and what precautions the health care provider, health care institution, or correctional facility can take to reduce the spread of the agent to other individuals, but can also take those steps in a more timely manner before the patient has contact with more staff and other patients. The Department anticipates that a health insurance company or health plan, including AHCCCS or Medicare, may receive up to a substantial

benefit from the rule change requiring notification through the reduction in the number of new cases for which the health insurance company or health plan would be required to pay for care.

The transmission of syphilis across the placenta can occur at any time during a pregnancy, leading to congenital syphilis in the fetus or newborn. As mentioned above the cost for care for one case of congenital syphilis may approach $2 million dollars over the lifetime of a child. Although not all of these costs would be covered under health insurance, the Department believes that a proportion would be. Therefore, changes being made to the new rules may reduce the number of cases of congenital syphilis and the resulting costs to a health insurance company or health plan. While a health insurance company or health plan may incur up to substantial costs for the additional tests for pregnant women covered by the health insurance company or health plan, their cost savings could be substantial if even one case of congenital syphilis were avoided.

- **Cases or suspect cases of a communicable disease**

The Department expects individuals infected with a communicable disease to receive a significant benefit from the clarification of reporting requirements and control measures for communicable diseases. The new rules should make it easier for health care providers and other reporting entities to report and for entities responsible for control activities to comply with control measures for communicable diseases. Since many of the reportable communicable diseases are rare, the sooner a disease is reported by a reporting entity to a local health agency or the Department, the faster individuals with expertise in the disease will be able to provide assistance to the individual or the individual's health care provider, if appropriate. Therefore, the reduced time to report for some of the reportable communicable diseases should provide a significant benefit to a case or suspect case.

The new rules also add requirements for notification when an individual infected with certain diseases is transferred. This change may provide a significant benefit to an individual infected with one of these diseases since the receiving health care provider, health care institution, or correctional facility may be able to provide better care to the individual. The environmental control and health education requirements added in the new rules may provide a significant indirect benefit to a case or suspect case by helping to protect the family members of the case or suspect case from becoming infected.

In R9-6-303, the new rules provide additional control measures that a local health agency may use to reduce the threat of the spread of a communicable disease. These include measures that may reduce the time of or avoid the need for isolation or exclusion in some instances, providing a significant benefit to an individual who would otherwise have been isolated or excluded. The new rules also allow local health agencies to determine when a case or suspect case may be removed from exclusion. This change may provide a significant benefit to an infected individual who may be

removed from isolation or exclusion earlier and may impose a significant cost on an individual who is excluded longer to protect public health.

The new rules also provide for testing methods other than culture to demonstrate that an individual is not infectious and allow local health agencies to remove an individual from exclusion if the local agency believes the individual is not likely to spread the disease. The new rules also require a suspect case of multi-drug resistant tuberculosis to be approved for release from isolation and air-borne precautions by a tuberculosis control officer, as well as for exclusion from working for a suspect case of salmonellosis or shigellosis. The new rules also require a case or suspect case of measles, mumps, or rubella to be excluded from working in a health care institution until certain criteria are met. The Department anticipates that these changes may provide a significant benefit to a case or suspect case who is removed from isolation earlier than the individual would have been under the current rules, and a significant cost if a case or suspect case were not removed from isolation or exclusion as quickly as under the current rules.

If not adequately treated, a syphilis infection may remain in the body for years without causing symptoms and may travel to the brain or optic nerve, causing irreversible neural damage including blindness or dementia. A syphilis case who is pregnant may transmit the disease to the fetus, leading to congenital syphilis. The Department anticipates that allowing a local health agency to recommend more frequent testing for syphilis, or testing for a longer time period, may reduce the chance that a syphilis case would continue to be infected and may detect reinfection. Because of the severe consequences of undetected or untreated/inadequately treated syphilis, the Department believes this rule change could provide a significant benefit to a syphilis case. A syphilis case may incur up to a minimal additional cost for more frequent testing for syphilis or testing for a longer time period.

- **Contacts of individuals infected with a communicable disease**

The new rules make several changes that affect contacts. The new rules remove contact control measures for Shiga-toxin producing *Escherichia coli*, giardiasis, salmonellosis, and shigellosis because a contact with symptoms would be a suspect case. The new rules also allow a local health agency to determine which contacts of a measles, mumps, novel coronavirus, pertussis, or rubella case to quarantine or exclude, providing more flexibility in determining risk. Finally, the new rules require the administrator of a school or child care establishment that excludes a pediculosis case from the school or child care establishment to ensure that a parent or guardian of a child who is a contact is notified that a pediculosis case was identified at the school or child care establishment. The Department anticipates that these changes may provide a significant benefit to a contact of an individual infected with a communicable disease.

The Department believes that allowing a local health agency to recommend more frequent testing for syphilis, or testing for a longer time period, may reduce the number of infectious cases of syphilis than would otherwise occur, either through continued infection or reinfection, and may reduce the chance of a syphilis case transmitting the disease to a contact. In addition, since approximately 90% of syphilis cases are male, reducing the number of syphilis cases may reduce the chance that a female sexual partner of a case would be exposed, contract the disease, and transmit the disease to an unborn child. Therefore, the Department anticipates that these changes may provide a significant benefit to a contact of syphilis case.

To ensure public health and safety, contacts of a case or suspect case of a communicable disease are sometimes quarantined or excluded until the contact is known not to be infected. The new rules in R9-6-303, described above, may have a larger impact on a contact of an infected individual since they provide additional control measures that a local health agency may use to reduce the threat of the spread of a communicable disease other than quarantine, and may provide a significant benefit to a contact who would otherwise have been quarantined or excluded. Requirements for environmental control measures and health education may also provide a significant benefit to the household or neighborhood contacts of an infected individual by identifying potential sources of infection and thereby reducing the risk of infection to the contacts. Notification before transfer of an individual infected with one of certain communicable diseases may also provide a significant benefit to staff of a receiving health care provider, health care institution, or correctional facility who assist in admitting or providing services to a case, because a staff member would have timely information that precautions should be taken to protect the staff member from exposure and, thus, becoming a contact. Other patients or residents in a health care institution and other prisoners or detainees in a correctional facility to which a case is transferred may or may not be considered contacts and are discussed below.

- **Other patients or residents in a health care institution or other prisoners or detainees in a correctional facility to which a case is transferred**

As mentioned above, the requirement for a diagnosing health care provider or an administrator of a health care institution or correctional facility to notify a receiving facility or health care provider before transferring an individual infected with one of certain communicable diseases may allow the receiving facility or health care provider to institute precautions to reduce the risk of spreading the disease. A patient or resident in a health care institution or prisoner or detainee in a correctional facility to which a case with one of these communicable diseases is transferred may receive a significant benefit from the rule change requiring notification through the reduction in the risk of becoming a contact or new case.

- **General public**

The general public may receive a significant benefit from the clarity of the new rules and the ease with which they may be followed. The improved clarity of the rules and educational activities by the Department about the new rules may increase the awareness of health care providers (and in turn their patients) about communicable diseases and methods to avoid becoming infected. Changes to the reporting requirements and control measures may improve the health of individuals and their families. If fewer individuals become infected with one of these diseases, they and their families will lose fewer days of work or school due to illness or exclusion. The Department also anticipates lower costs to the public related to the results of untreated disease. In a more global sense, earlier detection of cases or outbreaks made possible by the new rules should lead to quicker response times and less disease transmission, as will changes to control measures, such as education, vector control, environmental measures, exclusions, and isolation, established to prevent additional cases. Reduced transmission leads to less risk to others, which may provide a significant benefit to society in general.

4. A general description of the probable impact on private and public employment in businesses, agencies, and political subdivisions of this state directly affected by the rulemaking

Public and private employment in the State of Arizona is not expected to be affected due to the changes required in the rule.

5. A statement of the probable impact of the rules on small business

a. Identification of the small businesses subject to the rules

Small businesses subject to the rules may include the practices of health care providers, small health care institutions, small clinical laboratories, pharmacies, schools, shelters, and child care establishments.

b. The administrative and other costs required for compliance with the rules

Anticipated costs for complying with the rules are described under paragraph 3.

c. A description of the methods that the agency may use to reduce the impact on small businesses

The methods that the Department uses to reduce the impact on small businesses are described under paragraph 3 and include improving the clarity of the rules to reduce confusion, tailoring the reporting method to the type of reporting entity and the volume of reports, requiring the submission by a clinical laboratory of an isolate or specimen by request only for certain diseases, and providing more flexibility in removal from exclusion from working.

d. The probable costs and benefits to private persons and consumers who are directly affected by the rules

The costs to private persons and consumers from the rules changes are described in paragraph 3.

6. A statement of the probable effect on state revenues

The Department does not anticipate any effect on state revenue on the basis of this rulemaking.

7. A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed rulemaking

There are no less intrusive or less costly alternatives for achieving the purpose of the rule.

8. A description of any data on which the rule is based with a detailed explanation of how the data was obtained and why the data is acceptable data

Not applicable

TITLE 9. HEALTH SERVICES

CHAPTER 6. DEPARTMENT OF HEALTH SERVICES COMMUNICABLE DISEASES AND INFESTATIONS

ARTICLE 1. GENERAL

Section
R9-6-101. Definitions
R9-6-102. Release of Information
R9-6-103. Disclosure of Communicable Disease-Related Information to a Good Samaritan
R9-6-104. Repealed
R9-6-105. Renumbered
R9-6-106. Renumbered
Exhibit I-A. Repealed
R9-6-107. Repealed
R9-6-108. Renumbered
R9-6-109. Reserved
R9-6-110. Reserved
R9-6-111. Repealed
R9-6-112. Renumbered
R9-6-113. Repealed
R9-6-114. Repealed

ARTICLE 2. COMMUNICABLE DISEASE AND INFESTATION REPORTING

Article 2, consisting of Section R9-6-201 and R9-6-202, renumbered from Article 6, Sections R9-6-601 and R9-6-602 effective October 19, 1993 (Supp. 93-4).

Article 2, consisting of Sections R9-6-201 through R9-6-203, renumbered to Article 5, Sections R9-6-501 through R9-6-503 effective October 19, 1993 (Supp. 93-4).

Section
R9-6-201. Definitions
R9-6-202. Reporting Requirements for a Health Care Provider Required to Report or an Administrator of a Health Care Institution or Correctional Facility
Table 1. Reporting Requirements for a Health Care Provider Required to Report or an Administrator of a Health Care Institution or Correctional Facility
R9-6-203. Reporting Requirements for an Administrator of a School, Child Care Establishment, or Shelter
Table 2. Reporting Requirements for an Administrator of a School, Child Care Establishment, or Shelter
R9-6-204. Clinical Laboratory Director Reporting Requirements
Table 3. Clinical Laboratory Director Reporting Requirements
R9-6-205. Reporting Requirements for a Pharmacist or an Administrator of a Pharmacy
R9-6-206. Local Health Agency Responsibilities Regarding Communicable Disease Reports
Table 4. Local Health Agency Reporting Requirements
R9-6-207. Federal or Tribal Entity Reporting
R9-6-208. Reserved
R9-6-209. Reserved
R9-6-210. Reserved
R9-6-211. Renumbered
R9-6-212. Renumbered
R9-6-213. Renumbered
R9-6-214. Renumbered

ARTICLE 3. CONTROL MEASURES FOR COMMUNICABLE DISEASES AND INFESTATIONS

Article 3, consisting of Sections R9-6-302 through R9-6-307, R9-6-309 through R9-6-311, R9-6-313, R9-6-315 through R9-6-317, R9-6-319 through R9-6-325, R9-6-327, R9-6-328, R9-6-330 through R9-6-356, and R9-6-358 through R9-6-366, renumbered from Article 7, Sections R9-6-701 through R9-6-746 and R9-6-748 through R9-6-759 effective October 19, 1993 (Supp. 93-4).

Article 3, consisting of Section R9-6-311, repealed (Supp. 91-2).

Section
R9-6-301. Definitions
R9-6-302. Local Health Agency Control Measures
R9-6-303. Isolation and Quarantine
R9-6-304. Food Establishment Control Measures
R9-6-305. Amebiasis
R9-6-306. Anthrax
R9-6-307. Aseptic Meningitis
R9-6-308. Basidiobolomycosis
R9-6-309. Botulism
R9-6-310. Brucellosis
R9-6-311. Campylobacteriosis
R9-6-312. Chagas Infection and Related Disease (American Trypanosomiasis)
R9-6-313. Chancroid (*Haemophilus ducreyi*)
R9-6-314. Chlamydia Infection, Sexually Transmitted
R9-6-315. Cholera
R9-6-316. Coccidioidomycosis (Valley Fever)
R9-6-317. Colorado Tick Fever
R9-6-318. Conjunctivitis: Acute
R9-6-319. Creutzfeldt-Jakob Disease
R9-6-320. Cryptosporidiosis
R9-6-321. *Cyclospora* Infection
R9-6-322. Cysticercosis
R9-6-323. Dengue
R9-6-324. Diarrhea, Nausea, or Vomiting
R9-6-325. Diphtheria
R9-6-326. Ehrlichioses (Ehrlichiosis and Anaplasmosis)
R9-6-327. Emerging or Exotic Disease
R9-6-328. Encephalitis: Viral or Parasitic
R9-6-329. Enterohemorrhagic *Escherichia coli*
R9-6-330. Expired
R9-6-331. Giardiasis
R9-6-332. Gonorrhea
R9-6-333. *Haemophilus influenzae*: Invasive Disease
R9-6-334. Hansen's Disease (Leprosy)
R9-6-335. Hantavirus Infection
R9-6-336. Hemolytic Uremic Syndrome
R9-6-337. Hepatitis A
R9-6-338. Hepatitis B and Hepatitis D
R9-6-339. Hepatitis C
R9-6-340. Hepatitis E
R9-6-341. Human Immunodeficiency Virus (HIV) Infection and Related Disease
R9-6-342. Influenza-Associated Mortality in a Child
R9-6-343. Expired
R9-6-344. Legionellosis (Legionnaires' Disease)
R9-6-345. Leptospirosis
R9-6-346. Listeriosis
R9-6-347. Lyme Disease
R9-6-348. Lymphocytic Choriomeningitis
R9-6-349. Malaria
R9-6-350. Measles (Rubeola)
R9-6-351. Melioidosis
R9-6-352. Meningococcal Invasive Disease
R9-6-353. Mumps

R9-6-354. Norovirus
R9-6-355. Pediculosis (Lice Infestation)
R9-6-356. Pertussis (Whooping Cough)
R9-6-357. Plague
R9-6-358. Poliomyelitis
R9-6-359. Psittacosis (Ornithosis)
R9-6-360. Q Fever
R9-6-361. Rabies in a Human
R9-6-362. Relapsing Fever (Borreliosis)
R9-6-363. Expired
R9-6-364. Rocky Mountain Spotted Fever
R9-6-365. Rubella (German Measles)
R9-6-366. Rubella Syndrome, Congenital
R9-6-367. Salmonellosis
R9-6-368. Scabies
R9-6-369. Severe Acute Respiratory Syndrome
R9-6-370. Shigellosis
R9-6-371. Smallpox
R9-6-372. Streptococcal Group A Infection
R9-6-373. Streptococcal Group B Infection in an Infant Younger Than 90 Days of Age
R9-6-374. *Streptococcus pneumoniae* Infection
R9-6-375. Syphilis
R9-6-376. Taeniasis
R9-6-377. Tetanus
R9-6-378. Toxic Shock Syndrome
R9-6-379. Trichinosis
R9-6-380. Tuberculosis
R9-6-381. Tularemia
R9-6-382. Typhoid Fever
R9-6-383. Typhus Fever
R9-6-384. Expired
R9-6-385. Vaccinia-related Adverse Event
R9-6-386. Vancomycin-Resistant or Vancomycin-Intermediate *Staphylococcus aureus*
R9-6-387. Vancomycin-Resistant *Staphylococcus epidermidis*
R9-6-388. Varicella (Chickenpox)
R9-6-389. *Vibrio* Infection
R9-6-390. Viral Hemorrhagic Fever
R9-6-391. West Nile Virus-related Syndromes
R9-6-392. Yellow Fever
R9-6-393. Yersiniosis (Enteropathogenic *Yersinia*)
R9-6-394. Expired
Exhibit III-A. Repealed
Exhibit III-B. Repealed
Exhibit III-C. Repealed
Exhibit III-D. Repealed
Exhibit III-E. Repealed
Exhibit III-F. Repealed
Exhibit III-G. Repealed
Exhibit III-H. Repealed
Exhibit III-I. Repealed
Exhibit III-J. Repealed
Exhibit III-K. Repealed
Exhibit III-L. Repealed
Exhibit III-M. Repealed
Exhibit III-N. Repealed

ARTICLE 4. AIDS DRUG ASSISTANCE PROGRAM (ADAP)

Article 4, consisting of Sections R9-6-401 through R9-6-408, renumbered from Article 8, Sections R9-6-801 through R9-6-808 effective October 19, 1993 (Supp. 93-4).

Article 4, consisting of Sections R9-6-411 through R9-6-419 and R9-6-431 through R9-6-433, repealed effective October 19, 1993 (Supp. 93-4).

Section

R9-6-401. Definitions
R9-6-402. Limitations and Termination of Program
R9-6-403. Eligibility Requirements
R9-6-404. Initial Application Process
R9-6-405. Enrollment Process; Provisional Enrollment
R9-6-406. Notification Requirements
R9-6-407. Continuing Enrollment
R9-6-408. Termination from ADAP Services
R9-6-409. Drug Prescription and Distribution Requirements
Exhibit A. Renumbered
Exhibit B. Renumbered
R9-6-410. Confidentiality
R9-6-411. Repealed
R9-6-412. Repealed
R9-6-413. Repealed
R9-6-414. Repealed
R9-6-415. Repealed
R9-6-416. Repealed
R9-6-417. Repealed
R9-6-418. Repealed
R9-6-419. Repealed
R9-6-420. Reserved
R9-6-421. Reserved
R9-6-422. Reserved
R9-6-423. Reserved
R9-6-424. Reserved
R9-6-425. Reserved
R9-6-426. Reserved
R9-6-427. Reserved
R9-6-428. Reserved
R9-6-429. Reserved
R9-6-430. Reserved
R9-6-431. Repealed
R9-6-432. Repealed
R9-6-433. Repealed

ARTICLE 5. RABIES CONTROL

Article 5, consisting of Sections R9-6-501 through R9-6-503, renumbered from Article 2, Sections R9-6-201 through R9-6-203 effective October 19, 1993 (Supp. 93-4).

Article 5, consisting of Sections R9-6-501 through R9-6-506 and Tables 1 and 2, renumbered to Article 7, Sections R9-6-701 through R9-6-706 and Tables 1 and 2 effective October 19, 1993 (Supp. 93-4).

Article 5, consisting of Sections R9-6-501 through R9-6-506 and Tables 1 and 2, adopted effective January 20, 1992 (Supp. 92-1).

Article 5, consisting of Sections R9-6-501 through R9-6-504, repealed effective January 20, 1992 (Supp. 92-1).

Section

R9-6-501. Definitions
R9-6-502. Management of Exposed Animals
R9-6-503. Suspect Cases
R9-6-504. Animal Control Agency Reporting Requirements
R9-6-505. Renumbered
R9-6-506. Renumbered
Table 1. Renumbered
Table 2. Renumbered

ARTICLE 6. REPORTING POST-EXPOSURE RABIES PROPHYLAXIS

Article 6, consisting of Sections R9-6-601 through R9-6-603, adopted effective October 19, 1993 (Supp. 93-4).

Article 6, Sections R9-6-601 and R9-6-602, renumbered to Article 2, Sections R9-6-201 and R9-6-202, and Article 6, Sections

R9-6-602 through R9-6-605 repealed effective October 19, 1993 (Supp. 93-4).

Section
R9-6-601. Reporting Requirements
R9-6-602. Renumbered
R9-6-603. Renumbered
R9-6-604. Renumbered
R9-6-605. Repealed
R9-6-606. Emergency Expired

ARTICLE 7. REQUIRED IMMUNIZATIONS FOR CHILD CARE OR SCHOOL ENTRY

Article 7, consisting of Sections R9-6-701 through R9-6-706, renumbered from Article 5 effective October 19, 1993 (Supp. 93-4).

Article 7 renumbered to Article 3 effective October 19, 1993 (Please refer to the individual Sections for the appropriate actions and new locations) (Supp. 93-4).

Section
R9-6-701. Definitions
R9-6-702. Required Immunizations for Child Care or School Entry
R9-6-703. Responsibilities of Individuals and Local Health Agencies for Administering Vaccines
R9-6-704. Standards for Documentary Proof of Immunity
R9-6-705. Responsibilities of Schools and Child Care
R9-6-706. Exemptions from Immunizations
Table 1. Renumbered
Table 2. Renumbered
R9-6-707. Reporting Requirements
Table 1. Immunization Requirements for Child Care or School Entry
Table 2. Catch-up Immunization Schedule for Child Care or School Entry
R9-6-708. Release of Immunization Information
R9-6-709. Renumbered
R9-6-710. Renumbered
R9-6-711. Renumbered
R9-6-712. Renumbered
R9-6-713. Renumbered
R9-6-714. Renumbered
R9-6-715. Renumbered
R9-6-716. Renumbered
R9-6-717. Renumbered
R9-6-718. Renumbered
R9-6-719. Renumbered
R9-6-720. Renumbered
R9-6-721. Renumbered
R9-6-722. Renumbered
R9-6-723. Renumbered
R9-6-724. Renumbered
R9-6-725. Renumbered
R9-6-726. Renumbered
R9-6-727. Renumbered
R9-6-728. Renumbered
R9-6-729. Renumbered
R9-6-730. Renumbered
R9-6-731. Renumbered
R9-6-732. Renumbered
R9-6-733. Renumbered
R9-6-734. Renumbered
R9-6-735. Renumbered
R9-6-736. Renumbered
R9-6-737. Renumbered
R9-6-738. Renumbered
R9-6-739. Renumbered
R9-6-740. Renumbered
R9-6-741. Renumbered
R9-6-742. Renumbered
R9-6-743. Renumbered
R9-6-744. Renumbered
R9-6-745. Renumbered
R9-6-746. Renumbered
R9-6-747. Repealed
R9-6-748. Renumbered
R9-6-749. Renumbered
R9-6-750. Renumbered
R9-6-751. Renumbered
R9-6-752. Renumbered
R9-6-753. Renumbered
R9-6-754. Renumbered
R9-6-755. Renumbered
R9-6-756. Renumbered
R9-6-757. Renumbered
R9-6-758. Renumbered
R9-6-759. Renumbered

ARTICLE 8. ASSAULTS ON PUBLIC SAFETY EMPLOYEES AND VOLUNTEERS

New Article 8, consisting of Sections R9-6-801 through R9-6-803, made by final rulemaking at 8 A.A.R. 5214, effective February 1, 2003 (Supp. 02-4).

Article 8, consisting of Sections R9-6-801 through R9-6-808, renumbered to Article 4, Sections R9-6-401 through R9-6-408 (Supp. 93-4).

Article 8 consisting of Sections R9-6-801 through R9-6-808 adopted as permanent rules effective May 22, 1989.

Article 8 consisting of Sections R9-6-801 through R9-6-808 readopted as an emergency effective November 16, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days. Emergency expired.

Article 8 consisting of Sections R9-6-801 through R9-6-808 readopted as an emergency effective August 8, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days. Emergency expired.

Article 8 consisting of Sections R9-6-801 through R9-6-809 readopted as an emergency effective May 9, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days.

Article 8 consisting of Sections R9-6-801 through R9-6-809 adopted as an emergency effective January 12, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days. Emergency expired.

Section
R9-6-801. Definitions
R9-6-802. Notice of Test Results
R9-6-803. Repealed
R9-6-804. Renumbered
R9-6-805. Renumbered
R9-6-806. Renumbered
R9-6-807. Renumbered
R9-6-808. Renumbered

ARTICLE 9. HEALTH PROFESSIONAL EXPOSURES

Article 9, consisting of Sections R9-6-901 through R9-6-903 and Exhibits A and B, recodified to Article 10, Sections R9-6-1001 through R9-6-1003 and Exhibits A and B, at 13 A.A.R. 1745, effective April 27, 2007 (Supp. 07-2).

Article 9, consisting of Sections R9-6-901 through R9-6-903 and Exhibits A and B, made by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2).

Section
R9-6-901. Definitions
R9-6-902. Notice of Test Results

Exhibit A. Recodified
Exhibit B. Recodified
R9-6-903. Recodified

ARTICLE 10. HIV-RELATED TESTING AND NOTIFICATION

Article 10, consisting of Sections R9-6-1001 through R9-6-1003 and Exhibits A and B, recodified from Article 9, Sections R9-6-901 through R9-6-903 and Exhibits A and B, at 13 A.A.R. 1745, effective April 27, 2007 (Supp. 07-2).

Section
R9-6-1001. Definitions
R9-6-1002. Local Health Agency Requirements
R9-6-1003. Expired
Exhibit A. Expired
Exhibit B. Repealed
R9-6-1004. Court-ordered HIV-related Testing
R9-6-1005. Anonymous HIV Testing
R9-6-1006. Notification

ARTICLE 11. STD-RELATED TESTING AND NOTIFICATION

Article 11, consisting of Sections R9-6-1101 through R9-6-1104 made by final rulemaking at 14 A.A.R.1502, effective April 1, 2008 (Supp. 08-2).

Section
R9-6-1101. Definitions
R9-6-1102. Health Care Provider Requirements
R9-6-1103. Local Health Agency Requirements
R9-6-1104. Court-ordered STD-related Testing

ARTICLE 12. TUBERCULOSIS CONTROL

Article 12, consisting of Sections R9-6-1201 through R9-6-1204, renumbered from Article 6, Sections R9-6-601 through R9-6-604, by final rulemaking at 13 A.A.R. 4106, effective January 5, 2008 (Supp. 07-4).

Section
R9-6-1201. Definitions
R9-6-1202. Local Health Agency Reporting Requirements
R9-6-1203. Tuberculosis Control in Correctional Facilities
R9-6-1204. Standards of Medical Care

ARTICLE 13. IMMUNIZATIONS OR VACCINES REQUIRING PRESCRIPTIONS FOR PHARMACIST ADMINISTRATION

Article 13, consisting of new Section R9-6-1301 made by exempt rulemaking at 15 A.A.R. 1793, effective October 5, 2009 (Supp. 09-4).

Section
R9-6-1301. Immunizations or Vaccines Requiring a Prescription Order for Pharmacist Administration

ARTICLE 1. GENERAL

R9-6-101. Definitions

In this Chapter, unless otherwise specified:

1. "Active tuberculosis" means the same as in A.R.S. § 36-711.
2. "Administrator" means the individual who is the senior leader at a child care establishment, health care institution, correctional facility, school, pharmacy, or shelter.
3. "Agency" means any board, commission, department, office, or other administrative unit of the federal government, the state, or a political subdivision of the state.
4. "Agent" means an organism that may cause a disease, either directly or indirectly.
5. "AIDS" means Acquired Immunodeficiency Syndrome.
6. "Airborne precautions" means, in addition to use of standard precautions:
   a. Either:
      i. Placing an individual in a private room with negative air-pressure ventilation, at least six air exchanges per hour, and air either:
         (1) Exhausted directly to the outside of the building containing the room, or
         (2) Recirculated through a HEPA filtration system before being returned to the interior of the building containing the room; or
      ii. If the building in which an individual is located does not have an unoccupied room meeting the specifications in subsection (6)(a)(i):
         (1) Placing the individual in a private room, with the door to the room kept closed when not being used for entering or leaving the room, until the individual is transferred to a health care institution that has a room meeting the specifications in subsection (6)(a)(i) or to the individual's residence, as medically appropriate; and
         (2) Ensuring that the individual is wearing a mask covering the individual's nose and mouth; and
   b. Ensuring the use by other individuals, when entering the room in which the individual is located, of a device that is:
      i. Designed to protect the wearer against inhalation of an atmosphere that may be harmful to the health of the wearer, and
      ii. At least as protective as a National Institute for Occupational Safety and Health-approved N-95 respirator.
7. "Approved test for tuberculosis" means a Mantoux skin test or other test for tuberculosis recommended by the Centers for Disease Control and Prevention or the Tuberculosis Control Officer appointed under A.R.S. § 36-714.
8. "Arizona State Laboratory" means the part of the Department authorized by A.R.S. Title 36, Chapter 2, Article 2, and A.R.S. § 36-132(A)(11) that performs serological, microbiological, entomological, and chemical analyses.
9. "Average window period" means the typical time between exposure to an agent and the ability to detect infection with the agent in human blood.
10. "Barrier" means a mask, gown, glove, face shield, face mask, or other membrane or filter to prevent the transmission of infectious agents and protect an individual from exposure to body fluids.
11. "Body fluid" means semen, vaginal secretion, tissue, cerebrospinal fluid, synovial fluid, pleural fluid, peritoneal fluid, pericardial fluid, amniotic fluid, urine, blood, lymph, or saliva.
12. "Carrier" means an infected individual without symptoms who can spread the infection to a susceptible individual.
13. "Case" means an individual:
   a. With a communicable disease whose condition is documented:
      i. By laboratory results that support the presence of the agent that causes the disease;
      ii. By a health care provider's diagnosis based on clinical observation; or

iii. By epidemiologic associations with the communicable disease, the agent that causes the disease, or toxic products of the agent;
b. Who has experienced diarrhea, nausea, or vomiting as part of an outbreak;
c. Who has died without apparent cause within 48 hours after experiencing a fever; or
d. Who has experienced a vaccinia-related adverse event.

14. "Case definition" means the disease-specific criteria that must be met for an individual to be classified as a case.
15. "Chief medical officer" means the senior health care provider in a correctional facility or that individual's designee who is also a health care provider.
16. "Child" means an individual younger than 18 years of age.
17. "Child care establishment" means:
    a. A "child care facility," as defined in A.R.S. § 36-881;
    b. A "child care group home," as defined in A.R.S. § 36-897;
    c. A child care home registered with the Arizona Department of Education under A.R.S. § 46-321; or
    d. A child care home certified by the Arizona Department of Economic Security under A.R.S. Title 46, Chapter 7, Article 1.
18. "Clinical signs and symptoms" means evidence of disease or injury that can be observed by a health care provider or can be inferred by the heath care provider from a patient's description of subjective complaints.
19. "Cohort room" means a room housing only individuals infected with the same agent and no other agent.
20. "Communicable disease" means an illness caused by an agent or its toxic products that arises through the transmission of that agent or its products to a susceptible host, either directly or indirectly.
21. "Communicable period" means the time during which an agent may be transmitted directly or indirectly:
    a. From an infected individual to another individual;
    b. From an infected animal, arthropod, or vehicle to an individual; or
    c. From an infected individual to an animal.
22. "Confirmatory test" means a laboratory analysis, such as a Western blot analysis, approved by the U.S. Food and Drug Administration to be used after a screening test to diagnose or monitor the progression of HIV infection.
23. "Contact" means an individual who has been exposed to an infectious agent in a manner that may have allowed transmission of the infectious agent to the individual during the communicable period.
24. "Correctional facility" means any place used for the confinement or control of an individual:
    a. Charged with or convicted of an offense,
    b. Held for extradition, or
    c. Pursuant to a court order for law enforcement purposes.
25. "Court-ordered subject" means a subject who is required by a court of competent jurisdiction to provide one or more specimens of blood or other body fluids for testing.
26. "Dentist" means an individual licensed under A.R.S. Title 32, Chapter 11, Article 2.
27. "Department" means the Arizona Department of Health Services.
28. "Designated service area" means the same as in A.A.C. R9-18-101.
29. "Diagnosis" means an identification of a disease by an individual authorized by law to make the identification.
30. "Disease" means a condition or disorder that causes the human body to deviate from its normal or healthy state.
31. "Emerging or exotic disease" means:
    a. A new disease resulting from change in an existing organism;
    b. A known disease not usually found in the geographic area or population in which it is found;
    c. A previously unrecognized disease appearing in an area undergoing ecologic transformation; or
    d. A disease reemerging as a result of a situation such as antimicrobial resistance in a known infectious agent, a breakdown in public health measures, or deliberate release.
32. "Entity" has the same meaning as "person" in A.R.S. § 1-215.
33. "Epidemiologic investigation" means the application of scientific methods to ascertain a diagnosis; identify risk factors for a disease; determine the potential for spreading a disease; institute control measures; and complete forms and reports such as communicable disease, case investigation, and outbreak reports.
34. "Fever" means a temperature of 101° F or higher.
35. "Food establishment" has the same meaning as in the document incorporated by reference in A.A.C. R9-8-107.
36. "Food handler" means:
    a. A paid or volunteer full-time or part-time worker who prepares or serves food or who otherwise touches food in a food establishment; or
    b. An individual who prepares food for or serves food to a group of two or more individuals in a setting other than a food establishment.
37. "Foodborne" means that food serves as a mode of transmission of an infectious agent.
38. "Guardian" means an individual who is invested with the authority and charged with the duty of caring for an individual by a court of competent jurisdiction.
39. "HBsAg" means hepatitis B surface antigen.
40. "Health care institution" has the same meaning as in A.R.S. § 36-401.
41. "Health care provider" means the same as in A.R.S. § 36-661.
42. "Health education" means supplying to an individual or a group of individuals:
    a. Information about a communicable disease or options for treatment of a communicable disease, and
    b. Guidance about methods to reduce the risk that the individual or group of individuals will become infected or infect other individuals.
43. "HIV" means Human Immunodeficiency Virus.
44. "HIV-related test" has the same meaning as in A.R.S. § 36-661.
45. "Infected" or "infection" means when an individual has an agent for a disease in a part of the individual's body where the agent may cause a disease.
46. "Infectious active tuberculosis" means pulmonary or laryngeal active tuberculosis in an individual, which can be transmitted from the infected individual to another individual.
47. "Infectious agent" means an agent that can be transmitted to an individual.
48. "Infant" means a child younger than 12 months of age.
49. "Isolate" means:

a. To separate an infected individual or animal from others to limit the transmission of infectious agents, or
b. A pure strain of an agent obtained from a specimen.

50. "Isolation" means separation, during the communicable period, of an infected individual or animal from others to limit the transmission of infectious agents.
51. "Laboratory report" means a document that:
    a. Is produced by a laboratory that conducts a test or tests on a subject's specimen; and
    b. Shows the outcome of each test, including personal identifying information about the subject.
52. "Local health agency" means a county health department, a public health services district, a tribal health unit, or a U.S. Public Health Service Indian Health Service Unit.
53. "Local health officer" means an individual who has daily control and supervision of a local health agency or the individual's designee.
54. "Medical evaluation" means an assessment of an individual's health by a physician, physician assistant, or registered nurse practitioner.
55. "Medical examiner" means an individual:
    a. Appointed as a county medical examiner by a county board of supervisors under A.R.S. § 11-592, or
    b. Employed by a county board of supervisors under A.R.S. § 11-592 to perform the duties of a county medical examiner.
56. "Multi-drug resistant tuberculosis" means active tuberculosis that is caused by bacteria that are not susceptible to the antibiotics isoniazid and rifampin.
57. "Officer in charge" means the individual in the senior leadership position in a correctional facility or that individual's designee.
58. "Outbreak" means an unexpected increase in incidence of a disease, infestation, or sign or symptom of illness.
59. "Parent" means a biological or adoptive mother or father.
60. "Petition" means a formal written application to a court requesting judicial action on a matter.
61. "Pharmacy" has the same meaning as in A.R.S. § 32-1901.
62. "Physician" means an individual licensed as a doctor of:
    a. Allopathic medicine under A.R.S. Title 32, Chapter 13;
    b. Naturopathic medicine under A.R.S. Title 32, Chapter 14;
    c. Osteopathic medicine under A.R.S. Title 32, Chapter 17; or
    d. Homeopathic medicine under A.R.S. Title 32, Chapter 29.
63. "Physician assistant" has the same meaning as in A.R.S. § 32-2501.
64. "Pupil" means a student attending a school.
65. "Quarantine" means the restriction of activities of an individual or animal that has been exposed to a case or carrier of a communicable disease during the communicable period, to prevent transmission of the disease if infection occurs.
66. "Registered nurse practitioner" has the same meaning as in A.R.S. § 32-1601.
67. "Risk factor" means an activity or circumstance that increases the chances that an individual will become infected with or develop a communicable disease.
68. "School" means:
    a. An "accommodation school," as defined in A.R.S. § 15-101;
    b. A "charter school," as defined in A.R.S. § 15-101;
    c. A "private school," as defined in A.R.S. § 15-101;
    d. A "school," as defined in A.R.S. § 15-101;
    e. A college or university;
    f. An institution that offers a "private vocational program," as defined in A.R.S. § 32-3001; or
    g. An institution that grants a "degree," as defined in A.R.S. § 32-3001, for completion of an educational program of study.
69. "Screening test" means a laboratory analysis approved by the U.S. Food and Drug Administration as an initial test to indicate the possibility that an individual is infected with a communicable disease.
70. "Sexual contact" means vaginal intercourse, anal intercourse, fellatio, or cunnilingus.
71. "Shelter" means:
    a. A facility or home that provides "shelter care," as defined in A.R.S. § 8-201;
    b. A "homeless shelter," as defined in A.R.S. § 16-121; or
    c. A "shelter for victims of domestic violence," as defined in A.R.S. § 36-3001.
72. "Significant exposure" means the same as in A.R.S. § 32-3207.
73. "Standard precautions" means the use of barriers by an individual to prevent parenteral, mucous membrane, and nonintact skin exposure to body fluids and secretions other than sweat.
74. "Subject" means an individual whose blood or other body fluid has been tested or is to be tested.
75. "Submitting entity" means the same as in A.R.S. § 13-1415.
76. "Suspect case" means an individual whose medical history, signs, or symptoms indicate that the individual:
    a. May have or is developing a communicable disease;
    b. May have experienced diarrhea, nausea, or vomiting as part of an outbreak;
    c. May have died without apparent cause within 48 hours after experiencing a fever; or
    d. May have experienced a vaccinia-related adverse event.
77. "Syndrome" means a pattern of signs and symptoms characteristic of a disease.
78. "Test" means an analysis performed on blood or other body fluid to evaluate for the presence or absence of a disease.
79. "Test result" means information about the outcome of a laboratory analysis of a subject's specimen and does not include personal identifying information about the subject.
80. "Treatment" means a procedure or method to cure, improve, or palliate an illness or a disease.
81. "Tuberculosis control officer" means the same as in A.R.S. § 36-711.
82. "Unexplained death with a history of fever" means the demise of an individual who has had a fever within 48 hours before death and whose illness has not been diagnosed at the time of death.
83. "Vaccinia-related adverse event" means a reaction to the administration of a vaccine against smallpox that requires medical evaluation of the reaction.
84. "Victim" means an individual on whom another individual is alleged to have committed a sexual offense, as defined in A.R.S. § 13-1415.
85. "Viral hemorrhagic fever" means disease characterized by fever and hemorrhaging and caused by a virus.

86. "Waterborne" means that water serves as a mode of transmission of an infectious agent.
87. "Working day" means the period from 8:00 a.m. to 5:00 p.m. on a Monday, Tuesday, Wednesday, Thursday, or Friday that is not a state holiday.

Historical Note

Adopted effective January 28, 1987 (Supp. 87-1). Amended effective September 14, 1990 (Supp. 90-3). Amended effective October 19, 1993 (Supp. 93-4). Amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Amended by final rulemaking at 15 A.A.R. 215, effective March 7, 2009 (Supp. 09-1).

R9-6-102. Release of Information

A person shall release information, including protected health information as defined in 45 CFR 160.103, to the Department or a local health agency upon request if the information is:

1. Requested by the Department or the local health agency for the purpose of:
   a. Detecting, preventing, or controlling a communicable disease; or
   b. Preventing injury or disability that may result from a communicable disease; and
2. In the possession of the person.

Historical Note

Adopted effective May 2, 1991 (Supp. 91-2). Former Section R9-6-102 renumbered to R9-6-105, new Section R9-6-102 renumbered from R9-6-106 and amended effective October 19, 1993 (Supp. 93-4). Amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Former R9-6-102 renumbered to R9-6-201; new R9-6-102 made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Amended by final rulemaking at 14 A.A.R. 4522, effective December 2, 2008 (Supp. 08-4).

R9-6-103. Disclosure of Communicable Disease-Related Information to a Good Samaritan

A. In this Section, unless otherwise specified, the following definitions apply:

1. "Affidavit" means a voluntary declaration or statement of facts that is made in writing and under oath or affirmation.
2. "Assisted person" means the individual with whom a Good Samaritan alleges interaction constituting a significant exposure risk.
3. "Available" means in the possession of or accessible by the Designated Officer who is reviewing a disclosure request.
4. "Communicable disease-related information" has the same meaning as in A.R.S. § 36-661.
5. "Designated Officer" means an individual appointed by the Director or a local health officer to:
   a. Review a disclosure request from a Good Samaritan;
   b. Determine whether disclosure of communicable disease-related information is required under A.R.S. § 36-664(E) and this Section; and
   c. Respond to the Good Samaritan.
6. "Director" has the same meaning as in A.R.S. § 36-101.
7. "Disclosure request" means the information submitted by a Good Samaritan according to A.R.S. § 36-664(E) and subsection (C) or (D).
8. "Emergency care or assistance" means actions performed by an individual on or for another individual, which are necessary to prevent death or impairment of the health of the other individual.
9. "Emergency department" has the same meaning as in A.A.C. R9-11-101.
10. "Good Samaritan" has the same meaning as in A.R.S. § 36-661.
11. "In writing" means:
    a. An original document,
    b. A photocopy,
    c. A facsimile, or
    d. An e-mail.
12. "Medical consultation" means discussion between a Good Samaritan and:
    a. A physician or a registered nurse practitioner working in an emergency department or urgent care unit;
    b. An occupational health provider as defined in A.A.C. R9-6-801; or
    c. Any other health care provider knowledgeable in determining circumstances when post-exposure prophylaxis is necessary.
13. "Mucous membrane" means a thin, pliable layer of tissue that lines passageways and cavities in the human body that lead to the outside, such as the mouth, gastrointestinal tract, nose, vagina, and urethra.
14. "Notarized" means signed and dated by a notary.
15. "Notary" means any individual authorized to perform the acts specified under A.R.S. § 41-313.
16. "Post-exposure prophylaxis" means treatment provided to an individual who may have been exposed to a communicable disease, which is intended to prevent infection of the individual.
17. "Significant exposure risk" has the same meaning as in A.R.S. § 36-661.
18. "Under oath or affirmation" means a sworn or affirmed statement made by a Good Samaritan to a notary under the penalty of perjury.
19. "Urgent care unit" has the same meaning as in A.A.C. R9-11-201.

B. A significant exposure risk may occur when a Good Samaritan's interaction with an individual results in:

1. A transfer of blood or body fluids from the individual onto the mucous membranes or into breaks in the skin of the Good Samaritan; or
2. A sharing of airspace between the Good Samaritan and the individual.

C. If a Good Samaritan makes a disclosure request to the Department or a local health agency 72 hours or less after an alleged significant exposure risk, the disclosure request shall include:

1. The Good Samaritan's name;
2. The Good Samaritan's mailing address or e-mail address;
3. The telephone number at which the Good Samaritan may be reached during a working day;
4. A description of the accident, fire, or other life-threatening emergency, in which the Good Samaritan rendered emergency care or assistance;
5. A description of the:
   a. Emergency care or assistance rendered by the Good Samaritan at the accident, fire, or other life-threatening emergency; and
   b. Circumstances that the Good Samaritan believes constitute a significant exposure risk;
6. If known, the name of the assisted person;
7. If known, the date of birth of the assisted person; and

8. Any additional information that may identify the assisted person.

D. If a Good Samaritan makes a disclosure request to the Department or a local health agency more than 72 hours after an alleged significant exposure risk, the disclosure request shall include:
1. A statement in writing that the Good Samaritan is requesting communicable disease-related information for an assisted person as allowed under A.R.S. § 36-664(E);
2. Documentation concerning the accident, fire, or other life-threatening emergency in which the Good Samaritan rendered emergency care or assistance; and
3. A notarized affidavit that contains:
   a. The information specified in subsections (C)(1) through (8);
   b. A statement that the Good Samaritan understands that the Good Samaritan may seek medical consultation to determine whether post-exposure prophylaxis for a communicable disease is needed;
   c. A statement that the Good Samaritan certifies that the declarations contained within the affidavit are truthful to the best of the Good Samaritan's knowledge; and
   d. The Good Samaritan's signature.

E. Within two working days after the Department or a local health agency receives a disclosure request from a Good Samaritan, the Designated Officer shall:
1. If the Designated Officer determines that the information provided as specified in subsection (C) or (D) indicates a significant exposure risk to the Good Samaritan and communicable disease-related information is available for the assisted person:
   a. Attempt to contact the Good Samaritan by telephone and provide the Good Samaritan with the communicable disease-related information:
      i. For the assisted person;
      ii. Pertaining to the specific communicable disease or diseases that may be transmitted through the interaction between the Good Samaritan and the assisted person; and
      iii. Without revealing the assisted person's name;
   b. Attempt to contact the Good Samaritan by telephone and notify the Good Samaritan that disclosure of communicable disease-related information for one communicable disease does not rule out the possibility that the Good Samaritan was exposed to other communicable diseases about which information is not available to the Designated Officer;
   c. Attempt to contact the Good Samaritan by telephone and provide to the Good Samaritan information concerning the agent causing the communicable disease for which the Designated Officer is disclosing communicable disease-related information, including:
      i. A description of the disease or syndrome caused by the agent, including its symptoms;
      ii. A description of how the agent is transmitted to others;
      iii. The average window period for the agent;
      iv. An explanation that exposure to an individual with a communicable disease does not mean that infection has occurred or will occur;
      v. Measures to reduce the likelihood of transmitting the agent to others and that it is necessary to continue the measures until a negative test result is obtained after the average window period has passed or until an infection, if detected, is eliminated;
      vi. That it is necessary to notify others that they may be or may have been exposed to the agent through interaction with the Good Samaritan; and
      vii. The availability of assistance from the Department, local health agencies, or other resources; and
   d. Send to the Good Samaritan in writing:
      i. The information specified in subsection (E)(1)(a);
      ii. The notification specified in subsection (E)(1)(b);
      iii. The information specified in subsection (E)(1)(c); and
      iv. A statement that the confidentiality of the disclosed communicable disease-related information is protected by A.R.S. §§ 36-664(G) and 36-666(A)(2);
2. If the Designated Officer determines that the information provided as specified in subsection (C) or (D) indicates a significant exposure risk to the Good Samaritan, but the Designated Officer is unable to provide communicable disease-related information for the assisted person:
   a. Attempt to contact the Good Samaritan by telephone and notify the Good Samaritan that either:
      i. Communicable disease-related information, pertaining to the specific communicable disease or diseases that may be transmitted through the interaction between the Good Samaritan and the assisted person, is not available to the Designated Officer; or
      ii. The Designated Officer is unable to identify the assisted person from the information provided in the Good Samaritan's disclosure request, as specified in subsection (C) or (D);
   b. Attempt to contact the Good Samaritan by telephone and notify the Good Samaritan that:
      i. The Good Samaritan's interaction with the assisted person may pose a significant exposure risk to the Good Samaritan; and
      ii. The Good Samaritan may seek medical consultation on the need for post-exposure prophylaxis; and
   c. Send to the Good Samaritan in writing the notifications specified in subsections (E)(2)(a) and (b); and
3. If the Designated Officer determines that the information provided as specified in subsection (C) or (D) does not indicate a significant exposure risk to the Good Samaritan:
   a. Attempt to contact the Good Samaritan by telephone and notify the Good Samaritan that the Designated Officer will not disclose any available communicable disease-related information for the assisted person; and
   b. Send to the Good Samaritan in writing:
      i. The notification specified in subsection (E)(3)(a);
      ii. A statement that the Designated Officer's decision not to disclose communicable disease-related information to the Good Samaritan is based on A.R.S. § 36-664(E) and this Section;

iii. The Designated Officer's reasons for not disclosing communicable disease-related information to the Good Samaritan; and
iv. A statement that the Good Samaritan has the right to obtain a hearing as specified in A.R.S. § 41-1092.03(B).

Historical Note
Renumbered from R9-6-107 and amended effective October 19, 1993 (Supp. 93-4). Amended effective April 4, 1997 (Supp. 97-2). Amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Section renumbered to R9-6-301 by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). New Section made by final rulemaking at 14 A.A.R. 4641, effective January 31, 2009 (Supp. 08-4).

R9-6-104. Repealed

Historical Note
Renumbered from R9-6-108 and amended effective October 19, 1993 (Supp. 93-4). Section repealed by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2).

R9-6-105. Renumbered

Historical Note
Adopted effective January 20, 1992 (Supp. 92-1). Former Section R9-6-105 renumbered to R9-6-107, new Section R9-6-105 renumbered from R9-6-102 and amended effective October 19, 1993 (Supp. 93-4). Amended effective April 4, 1997 (Supp. 97-2). Section renumbered to R9-6-501 by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3).

R9-6-106. Renumbered

Historical Note
Amended effective June 4, 1980 (Supp. 80-3). Former Section R9-6-112 renumbered and amended as Section R9-6-106 effective January 28, 1987 (Supp. 87-1). Former Section R9-6-106 renumbered to R9-6-102, new Section R9-6-106 adopted effective October 19, 1993 (Supp. 93-4). Section renumbered to R9-6-601 by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3).

Exhibit I-A. Repealed

Historical Note
New Exhibit I-A made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Exhibit I-A repealed by final rulemaking at 15 A.A.R. 215, effective March 7, 2009 (Supp. 09-1).

R9-6-107. Repealed

Historical Note
Adopted effective September 14, 1990 (Supp. 90-3). Former Section R9-6-107 renumbered to R9-6-103, new Section R9-6-107 renumbered from R9-6-105 and amended effective October 19, 1993 (Supp. 93-4). Amended effective April 4, 1997 (Supp. 97-2). Amended by final rulemaking at 5 A.A.R. 496, effective January 19, 1999 (Supp. 99-1). Section repealed by final rulemaking at 8 A.A.R. 4274, effective September 16, 2002 (Supp. 02-3).

R9-6-108. Renumbered

Historical Note
Adopted as an emergency effective January 12, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Readopted without change as an emergency effective May 9, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-2). Amended and readopted as an emergency effective August 8, 1988 pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired. Readopted as an emergency and Paragraph (9) corrected effective November 16, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Adopted without change as a permanent rule effective May 22, 1989 (Supp. 89-2). Renumbered to R9-6-104 effective October 19, 1993 (Supp. 93-4).

R9-6-109. Reserved

R9-6-110. Reserved

R9-6-111. Repealed

Historical Note
Corrected Departmental reference in subsection (C) (Supp. 76-5). Amended effective June 4, 1980 (Supp. 80-3. Repealed effective January 28, 1987 (Supp. 87-1).

R9-6-112. Renumbered

Historical Note
Amended effective June 4, 1980 (Supp. 80-3). Former Section R9-6-112 renumbered and amended as Section R9-6-106 effective January 28, 1987 (Supp. 87-1).

R9-6-113. Repealed

Historical Note
Former Section R9-6-113 repealed, new Section R9-6-113 adopted effective June 4, 1980 (Supp. 80-3). Amended paragraph 4, effective January 31, 1983 (Supp. 83-1). Repealed effective January 28, 1987 (Supp. 87-1).

R9-6-114. Repealed

Historical Note
Corrected Departmental reference in subsections (B) and (C) (Supp. 76-5). Former Section R9-6-114 repealed, new Section R9-6-114 adopted effective June 4, 1980 (Supp. 80-3). Repealed effective January 28, 1987 (Supp. 87-1).

ARTICLE 2. COMMUNICABLE DISEASE AND INFESTATION REPORTING

R9-6-201. Definitions
In this Article, unless otherwise specified:
1. "Clinical laboratory" has the same meaning as in A.R.S. § 36-451.
2. "Drug" has the same meaning as in A.R.S. § 32-1901.
3. "Epidemiologic curve" means a graphic display of the number of cases over time.
4. "Normally sterile site" means an anatomic location, or tissue or body fluid from an anatomic location, in which microorganisms are not found in the absence of disease and includes:
   a. The lower respiratory tract;
   b. Blood;
   c. Bone marrow;
   d. Cerebrospinal fluid;
   e. Pleural fluid;
   f. Peritoneal fluid;
   g. Synovial fluid;

h. Pericardial fluid;
i. Amniotic fluid;
j. Lymph;
k. A closed abscess; or
l. Another anatomic location other than the skin, mouth, eyes, upper respiratory tract, middle ear, urogenital tract, or gastrointestinal tract.

5. "Health care provider required to report" means a physician, physician assistant, registered nurse practitioner, or dentist who diagnoses, treats, or detects a case or suspect case of a communicable disease listed in Table 1 or detects an occurrence listed in Table 1.
6. "Pharmacist" has the same meaning as in A.R.S. § 32-1901.
7. "Point of contact" means an individual through whom the Department or a local health agency can obtain information upon request.
8. "Whole blood" means human blood from which plasma, erythrocytes, leukocytes, and thrombocytes have not been separated.

Historical Note

Former Section R9-6-211 renumbered and amended and subsection (C) renumbered from R9-6-212 and amended effective May 2, 1991 (Supp. 91-2). Former Section R9-6-201 renumbered to R9-6-501, new Section R9-6-201 renumbered from R9-6-601, repealed, and a new Section R9-6-201 adopted effective October 19, 1993 (Supp. 93-4). Former R9-6-201 repealed; new R9-6-201 renumbered from R9-6-102 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-202. Reporting Requirements for a Health Care Provider Required to Report or an Administrator of a Health Care Institution or Correctional Facility

A. A health care provider required to report shall, either personally or through a representative, submit a report to the local health agency within the time limitation in Table 1 and as specified in subsection (C), (D), or (E).

B. An administrator of a health care institution or correctional facility in which a case or suspect case of a communicable disease listed in Table 1 is diagnosed, treated, or detected or an occurrence listed in Table 1 is detected shall, either personally or through a representative, submit a report to the local health agency within the time limitation in Table 1 and as specified in subsection (C), (D), or (E).

C. Except as described in subsections (D) and (E), for each case, suspect case, or occurrence for which a report on an individual is required by subsection (A) or (B) and Table 1, a health care provider required to report or an administrator of a health care institution or correctional facility shall submit a report that includes:

1. The following information about the case or suspect case:
   a. Name;
   b. Residential and mailing addresses;
   c. County of residence;
   d. If the individual is living on a reservation, the name of the reservation;
   e. Telephone number;
   f. Date of birth;
   g. Race and ethnicity;
   h. Gender;
   i. If known, whether the individual is pregnant;
   j. If known, whether the individual is alive or dead;
   k. If known, the individual's occupation;
   l. If the individual is attending or working in a school or child care establishment or working in a health care institution or food establishment, the name and address of the school, child care establishment, health care institution, or food establishment; and
   m. For a case or suspect case who is a child requiring parental consent for treatment, the name, residential address, and telephone number of the child's parent or guardian, if known;
2. The following information about the disease:
   a. The name of the disease;
   b. The date of onset of symptoms;
   c. The date of diagnosis;
   d. The date of specimen collection;
   e. Each type of specimen collected;
   f. Each type of laboratory test completed;
   g. The date of the result of each laboratory test; and
   h. A description of the laboratory test results, including quantitative values if available;
3. If reporting a case or suspect case of tuberculosis:
   a. The site of infection; and
   b. A description of the treatment prescribed, if any, including:
      i. The name of each drug prescribed,
      ii. The dosage prescribed for each drug, and
      iii. The date of prescription for each drug;
4. If reporting a case or suspect case of chancroid, gonorrhea, genital herpes infection, or genital chlamydia infection:
   a. The gender of the individuals with whom the case or suspect case had sexual contact;
   b. A description of the treatment prescribed, if any, including:
      i. The name of each drug prescribed,
      ii. The dosage prescribed for each drug, and
      iii. The date of prescription for each drug;
   c. The site of infection; and
   d. Whether the diagnosis was confirmed by a laboratory and, if so, the name, address, and phone number of the laboratory;
5. If reporting a case or suspect case of syphilis:
   a. The information required under subsection (C)(4); and
   b. Identification of:
      i. The stage of the disease, or
      ii. Whether the syphilis is congenital;
6. If reporting a case of congenital syphilis in an infant, and in addition to the information required under subsection (C)(5) and A.R.S. § 36-694(A), the following information:
   a. The name and date of birth of the infant's mother;
   b. The residential address, mailing address, and telephone number of the infant's mother;
   c. The date and test results for the infant's mother of the prenatal syphilis test required in A.R.S. § 36-693; and
   d. If the prenatal syphilis test of the infant's mother indicated that the infant's mother was infected with syphilis:
      i. Whether the infant's mother received treatment for syphilis,
      ii. The name and dosage of each drug prescribed to the infant's mother for treatment of syphilis and the date each drug was prescribed, and

iii. The name and phone number of the health care provider required to report who treated the infant's mother for syphilis;

7. The name, address, and telephone number of the individual making the report; and
8. The name and address of the:
   a. Health care provider, if reporting under subsection (A) and different from the individual specified in subsection (C)(7); or
   b. Health care institution or correctional facility, if reporting under subsection (B).

D. For each unexplained death with a history of fever, a health care provider required to report or an administrator of a health care institution or correctional facility shall submit a report that includes:

1. The following information about the deceased individual:
   a. Name;
   b. Residential address;
   c. Date of birth;
   d. Telephone number; and
   e. If known, medical history;
2. A description of the clinical course of the illness that resulted in death;
3. A list of the laboratory tests completed on the deceased individual and, if available, the laboratory test results, including quantitative values;
4. The suspected cause or causes of death;
5. If known, the status of the autopsy;
6. The name, residential address, and telephone number of a family member of the deceased individual who can serve as a point of contact;
7. The name, address, and telephone number of the individual making the report; and
8. The name and address of the:
   a. Health care provider, if reporting under subsection (A) and different from the individual specified in subsection (D)(7); or
   b. Health care institution or correctional facility, if reporting under subsection (B).

E. For each outbreak for which a report is required by subsection (A) or (B) and Table 1, a health care provider required to report or an administrator of a health care institution or correctional facility shall submit a report that includes:

1. A description of the signs and symptoms;
2. If possible, a diagnosis and identification of suspected sources;
3. The number of known cases and suspect cases;
4. A description of the location and setting of the outbreak;
5. The name, address, and telephone number of the individual making the report; and
6. The name and address of the:
   a. Health care provider, if reporting under subsection (A) and different from the individual specified in subsection (E)(5); or
   b. Health care institution or correctional facility, if reporting under subsection (B).

F. When an HIV-related test is ordered for an infant who was perinatally exposed to HIV to determine whether the infant is infected with HIV, the health care provider who orders the HIV-related test or the administrator of the health care institution in which the HIV-related test is ordered shall:

1. Report the results of the infant's HIV-related test to the Department, either personally or through a representative, within five working days after receiving the results of the HIV-related test;
2. Include the following information in the report specified in subsection (F)(1):
   a. The name and date of birth of the infant;
   b. The residential address, mailing address, and telephone number of the infant;
   c. The name and date of birth of the infant's mother;
   d. The date of the last medical evaluation of the infant;
   e. The types of HIV-related tests ordered for the infant;
   f. The dates of the infant's HIV-related tests;
   g. The results of the infant's HIV-related tests; and
   h. The ordering health care provider's name, address, and telephone number; and
3. Include with the report specified in subsection (F)(1) a report for the infant's mother including the following information:
   a. The name and date of birth of the infant's mother;
   b. The residential address, mailing address, and telephone number of the infant's mother;
   c. The date of the last medical evaluation of the infant's mother;
   d. The types of HIV-related tests ordered for the infant's mother;
   e. The dates of the HIV-related tests for the infant's mother;
   f. The results of the HIV-related tests for the infant's mother;
   g. What HIV-related risk factors the infant's mother has;
   h. Whether the infant's mother delivered the infant vaginally or by C-section;
   i. Whether the infant's mother was receiving HIV-related drugs prior to the infant's birth to reduce the risk of perinatal transmission of HIV; and
   j. The name, address, and telephone number of the health care provider who ordered the HIV-related tests for the infant's mother.

G. Except as provided in Table 1, a health care provider required to report or an administrator of a health care institution or correctional facility shall, either personally or through a representative, submit a report required under this Section:

1. By telephone;
2. In a document sent by fax, delivery service, or mail; or
3. Through an electronic reporting system authorized by the Department.

Historical Note

Renumbered from R9-6-213 and amended effective May 2, 1991 (Supp. 91-2). Former Section R9-6-202 renumbered to R9-6-502, new Section R9-6-202 renumbered from R9-6-602 and amended effective October 19, 1993 (Supp. 93-4). Amended effective April 4, 1997 (Supp. 97-2). Amended by final rulemaking at 8 A.A.R. 4467, effective December 1, 2002 (Supp. 02-4). Amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

Table 1. Reporting Requirements for a Health Care Provider Required to Report or an Administrator of a Health Care Institution or Correctional Facility

▤*,O	Amebiasis	▤	Hantavirus infection	◑	Rubella syndrome, congenital
☎	Anthrax	☎	Hemolytic uremic syndrome	▤*,O	Salmonellosis
▤	Aseptic meningitis: viral	▤*,O	Hepatitis A	O	Scabies
▤	Basidiobolomycosis	▤	Hepatitis B and D	☎	Severe acute respiratory syndrome
☎	Botulism	▤	Hepatitis C	▤*,O	Shigellosis
◑	Brucellosis	▤*,O	Hepatitis E	☎	Smallpox
▤*,O	Campylobacteriosis	▤	Herpes genitalis	▤	Streptococcal Group A: Invasive disease
▤	Chagas disease (American trypanosomiasis)	▤	HIV infection and related disease	▤	Streptococcal Group B: Invasive disease in infants younger than 90 days of age
▤	Chancroid	◑	Influenza-associated mortality in a child	▤	*Streptococcus pneumoniae* (pneumococcal invasive disease)
▤	Chlamydia infection, sexually transmitted	▤	Kawasaki syndrome	▤	Syphilis
◑*	Cholera	▤	Legionellosis (Legionnaires' disease)	▤*,O	Taeniasis
▤	Coccidioidomycosis (valley fever)	▤	Leptospirosis	▤	Tetanus
▤	Colorado tick fever	☎	Listeriosis	▤	Toxic shock syndrome
O	Conjunctivitis: acute	▤	Lyme disease	▤	Trichinosis
▤	Creutzfeldt-Jakob disease	▤	Lymphocytic choriomeningitis	◑	Tuberculosis, active disease
▤*,O	Cryptosporidiosis	▤	Malaria	◑	Tuberculosis latent infection in a child 5 years of age or younger (positive screening test result)
▤	*Cyclospora* infection	☎	Measles (rubeola)	☎	Tularemia
▤	Cysticercosis	☎	Meningococcal invasive disease	☎	Typhoid fever
▤	Dengue	◑	Mumps	◑	Typhus fever
O	Diarrhea, nausea, or vomiting	☎	Pertussis (whooping cough)	☎	Unexplained death with a history of fever
☎	Diphtheria	☎	Plague	◑	Vaccinia-related adverse event
▤	Ehrlichiosis and Anaplasmosis	☎	Poliomyelitis		
☎	Emerging or exotic disease	▤	Psittacosis (ornithosis)	☎	Vancomycin-resistant or Vancomycin-intermediate *Staphylococcus aureus*
◑	Encephalitis, viral or parasitic	◑	Q fever	☎	Vancomycin-resistant *Staphylococcus epidermidis*
☎	Enterohemorrhagic *Escherichia coli*	☎	Rabies in a human	▤	Varicella (chickenpox)
☎	Enterotoxigenic *Escherichia coli*	▤	Relapsing fever (borreliosis)	▤*,O	*Vibrio* infection
▤*,O	Giardiasis	▤	Reye syndrome	☎	Viral hemorrhagic fever
▤	Gonorrhea	▤	Rocky Mountain spotted fever	▤	West Nile virus infection
▤	*Haemophilus influenzae*: invasive disease	◑*	Rubella (German measles)	☎	Yellow fever
▤	Hansen's disease (Leprosy)			▤*,O	Yersiniosis

Key:

☎ Submit a report by telephone or through an electronic reporting system authorized by the Department within 24 hours after a case or suspect case is diagnosed, treated, or detected or an occurrence is detected.

* If a case or suspect case is a food handler or works in a child care establishment or a health care institution, instead of reporting within the general reporting deadline, submit a report within 24 hours after the case or suspect case is diagnosed, treated, or detected.

◑ Submit a report within one working day after a case or suspect case is diagnosed, treated, or detected.

▤ Submit a report within five working days after a case or suspect case is diagnosed, treated, or detected.

O Submit a report within 24 hours after detecting an outbreak.

Historical Note
New Table 1 made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Table 1 amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-203. Reporting Requirements for an Administrator of a School, Child Care Establishment, or Shelter

A. An administrator of a school, child care establishment, or shelter shall, either personally or through a representative, report a case, suspect case, or outbreak listed in Table 2 to the local health agency within the time limitation and as specified in Table 2 and subsection (B).

B. An administrator of a school, child care establishment, or shelter shall submit a report by telephone that includes:
1. The name and address of the school, child care establishment, or shelter;
2. The number of individuals with the disease, infestation, or symptoms;
3. The date and time that the disease or infestation was detected or that the symptoms began;
4. The number of rooms, grades, or classes affected and the name of each;
5. The following information about each affected individual:
   a. Name;
   b. Date of birth or age;
   c. Residential address and telephone number; and
   d. Whether the individual is a staff member, a student, a child in care, or a resident;
6. The number of individuals attending or residing at the school, child care establishment, or shelter; and
7. The name, address, and telephone number of the individual making the report.

Historical Note
Renumbered from R9-6-214 and amended effective May 2, 1991 (Supp. 91-2). Former Section R9-6-203 renumbered to R9-6-503, new Section R9-6-202 adopted effective October 19, 1993 (Supp. 93-4). Former R9-6-203 renumbered to R9-6-206; new R9-6-203 made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3).

Table 2. Reporting Requirements for an Administrator of a School, Child Care Establishment, or Shelter

☎	Campylobacteriosis	☎	Mumps
O	Conjunctivitis: acute	☎	Pertussis (whooping cough)
☎	Cryptosporidiosis	☎	Rubella (German measles)
O	Diarrhea, nausea, or vomiting	☎	Salmonellosis
☎	Enterohemorrhagic *Escherichia coli*	O	Scabies
☎	*Haemophilus influenzae*: invasive disease	☎	Shigellosis
☎	Hepatitis A	O	Streptococcal Group A infection
☎	Measles	☎	Varicella (chicken pox)
☎	Meningococcal invasive disease		

Key:
☎ Submit a report within 24 hours after detecting a case or suspect case.
☎ Submit a report within five working days after detecting a case or suspect case.
O Submit a report within 24 hours after detecting an outbreak.

Historical Note
New Table 2 made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3).

R9-6-204. Clinical Laboratory Director Reporting Requirements

A. Except as specified in subsection (D), a director of a clinical laboratory that obtains a test result described in Table 3 or that receives a specimen for detection of an infectious agent or toxin listed in Table 3 shall, either personally or through a representative, submit a report and, if applicable, an isolate or a specimen to the Department within the time limitation and as specified in Table 3 and subsection (B) or (C).

B. Except as provided in Table 3 and as specified in subsection (D), for each test result for a subject for which a report is required by subsection (A) and Table 3, a clinical laboratory director shall ensure the report includes:
1. The name and address of the laboratory;
2. The name and telephone number of the director of the clinical laboratory;
3. The name and, if available, the address and telephone number of the subject;
4. The date of birth of the subject;
5. The gender of the subject;
6. The laboratory identification number;
7. The specimen type;
8. The date of collection of the specimen;
9. The date of the result of the test;
10. The type of test completed on the specimen;
11. The test result, including quantitative values if available; and
12. The ordering health care provider's name, address, and telephone number.

C. For each specimen for which an immediate report is required by subsection (A) and Table 3, a clinical laboratory director shall submit a report that includes:
1. The name and, if available, the address and telephone number of the subject;
2. The date of birth of the subject;
3. The gender of the subject;
4. The laboratory identification number;
5. The specimen type;
6. The date of collection of the specimen;
7. The type of test ordered on the specimen; and
8. The ordering health care provider's name, address, and telephone number.

D. When the Arizona State Laboratory obtains a test result from anonymous HIV testing sent to the Arizona State Laboratory as described in R9-6-1005, the director of the Arizona State Laboratory shall, either personally or through a representative:
1. Submit a report to the Department within five working days after obtaining a positive test result; and
2. Include in the report the following information:
   a. The laboratory identification number of the subject;
   b. The date of birth, gender, race, and ethnicity of the subject;
   c. The date the specimen was collected;
   d. The type of tests completed on the specimen;
   e. The test results, including quantitative values if available; and
   f. The name, address, and telephone number of the person who submitted the specimen to the Arizona State Laboratory.

E. The Department shall supply the director of each clinical laboratory with forms that may be used by the clinical laboratory when making a report required under subsection (A) or (D) and Table 3.

F. A clinical laboratory director shall submit a report by telephone; in a document sent by fax, delivery service, or mail; or through an electronic reporting system authorized by the Department. Except as provided in Table 3, each report shall contain the information required under subsection (B), (C), or (D).

Historical Note

Adopted effective October 19, 1993 (Supp. 93-4). Former R9-6-204 renumbered to R9-6-302; new R9-6-204 made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

Table 3. Clinical Laboratory Director Reporting Requirements

◑	Arboviruses	☰,✱	*Haemophilus influenzae*, other, isolated from a normally sterile site	☰	*Plasmodium* spp.
🔔,☎,✱	*Bacillus anthracis*	☰	Hantavirus	☰	Respiratory syncytial virus
☎,✱	*Bordetella pertussis*	☰[1]	Hepatitis A virus (anti-HAV-IgM serologies)	☎,+	Rubella virus and anti-rubella-IgM serologies
◑,✱	*Brucella* spp.	☰[1]	Hepatitis B virus (anti-Hepatitis B core-IgM serologies, Hepatitis B surface or envelope antigen serologies, or detection of viral nucleic acid)	◑, ✱	*Salmonella* spp.
◑,✱	*Burkholderia mallei* and *B. pseudomallei*	☰[1]	Hepatitis C virus	☎	SARS-associated corona virus
☰	*Campylobacter* spp.	☰[1]	Hepatitis D virus	◑, ✱	*Shigella* spp.
☰	CD_4-T-lymphocyte count of fewer than 200 per microliter of whole blood or CD_4-T-lymphocyte percentage of total lymphocytes of less than 14%	☰[1],+	Hepatitis E virus (anti-HEV-IgM serologies)	☰	*Streptococcus* Group A, isolated from a normally sterile site
☰	*Chlamydia trachomatis*	☰	HIV (by culture, antigen, antibodies to the virus, or detection of viral nucleic acid)	☰	Streptococcus Group B, isolated from a normally sterile site in an infant younger than 90 days of age
🔔, ☎	*Clostridium botulinum* toxin (botulism)	☰	HIV—any test result for an infant (by culture, antigen, antibodies to the virus, or detection of viral nucleic acid)	☰,✱	*Streptococcus pneumoniae* and its drug sensitivity pattern, isolated from a normally sterile site
☰	*Coccidioides* spp., by culture or serologies	☰	Influenza virus	☰	*Treponema pallidum* (syphilis)
◑	*Coxiella burnetti*	☰,✱	*Legionella* spp. (culture or DFA)	☰	*Trypanosoma cruzi* (Chagas disease)
☰	*Cryptosporidium* spp.	◑,✱	*Listeria* spp., isolated from a normally sterile site		
◑	*Cyclospora* spp.	☎,+	Measles virus and anti-measles-IgM serologies	◑,✱	Vancomycin-resistant or Vancomycin-intermediate *Staphylococcus aureus*
☰	Dengue virus	☰[2]	Methicillin-resistant *Staphylococcus aureus*, isolated from a normally sterile site	◑,✱	Vancomycin resistant *Staphylococcus epidermidis*
🔔,☎	Emerging or exotic disease agent	◑,+	Mumps virus and anti-mumps-IgM serologies	🔔,☎	Variola virus (smallpox)
☰	*Entamoeba histolytica*	☰,✱[3]	*Mycobacterium tuberculosis* complex and its drug sensitivity pattern	◑,✱	*Vibrio* spp.
◑	*Escherichia coli* O157:H7			🔔,☎	Viral hemorrhagic fever agent
◑,✱	*Escherichia coli*, *Shiga*-toxin producing	☰	*Neisseria gonorrhoeae*	☰	West Nile virus
🔔,☎,✱	*Francisella tularensis*	☎,✱	*Neisseria meningitidis*, isolated from a normally sterile site	◑,✱	*Yersinia* spp. (other than *Y. pestis*)
☎,✱	*Haemophilus influenzae*, type b, isolated from a normally sterile site	☰	Norovirus	🔔,☎,✱	*Yersinia pestis* (plague)

Key:
🔔 Submit a report immediately after receiving one specimen for detection of the agent. Report receipt of subsequent specimens within five working days after receipt.
☎ Submit a report within 24 hours after obtaining a positive test result.
◑ Submit a report within one working day after obtaining a positive test result.
☰ Submit a report within five working days after obtaining a positive test result or a test result specified in Table 3.
✱ Submit an isolate of the organism for each positive culture to the Arizona State Laboratory at least once each week, as applicable.
\+ For each positive test result, submit a specimen to the Arizona State Laboratory within 24 hours after obtaining the positive test result.

[1] When reporting a positive result for any of the specified tests, report the results of all other tests performed for the subject as part of the disease panel.
[2] Submit a report only when an initial positive result is obtained for an individual.
[3] Submit an isolate of the organism only when an initial positive result is obtained for an individual, when a change in resistance pattern is detected, or when a positive result is obtained > 12 months after the initial positive result is obtained for an individual.

Historical Note
New Table 3 made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Table 3 amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-205. Reporting Requirements for a Pharmacist or an Administrator of a Pharmacy

A. A pharmacist who fills an individual's initial prescription for two or more of the drugs listed in subsection (B) or an administrator of a pharmacy in which an individual's initial prescription for two or more of the drugs listed in subsection (B) is filled shall, either personally or through a representative, submit a report that complies with subsection (C) to the Department within five working days after the prescription is filled.

B. Any combination of two or more of the following drugs when initially prescribed for an individual triggers the reporting requirement of subsection (A):
1. Isoniazid,
2. Streptomycin,
3. Any rifamycin,
4. Pyrazinamide, or
5. Ethambutol.

C. A pharmacist or an administrator of a pharmacy shall submit a report required under subsection (A) by telephone; in a document sent by fax, delivery service, or mail; or through an electronic reporting system authorized by the Department and shall include in the report:
1. The following information about the individual for whom the drugs are prescribed:
   a. Name,
   b. Address,
   c. Telephone number, and
   d. Date of birth; and
2. The following information about the prescription:
   a. The name of the drugs prescribed,
   b. The date of prescription, and
   c. The name and telephone number of the prescribing health care provider.

Historical Note
New Section made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3).

R9-6-206. Local Health Agency Responsibilities Regarding Communicable Disease Reports

A. The Department shall supply each local health agency with forms to be used by:
1. A health care provider required to report when making a written report required under R9-6-202(A) and Table 1;
2. An administrator of a health care institution or correctional facility when making a written report required under R9-6-202(B) and Table 1; and
3. An administrator of a school, child care establishment, or shelter when making a written report required under R9-6-203(A) and Table 2.

B. A local health agency shall distribute copies of the Department-provided forms specified in subsection (A) as needed to health care providers required to report and administrators of health care institutions, correctional facilities, schools, child care establishments, and shelters.

C. Except as specified in Table 4 and Article 3, a local health agency shall provide to the Department the information contained in each report of a case, suspect case, or occurrence received by the local health agency under R9-6-202 or R9-6-203, including any report of disease in a nonresident of the jurisdiction who is or has been diagnosed or treated in the jurisdiction, within five working days after receipt and shall specify:
1. Which of the following best describes the individual identified in each report:
   a. The individual meets the case definition for a case of the specific disease,
   b. The individual is a suspect case,
   c. The individual does not meet the case definition for a case or suspect case of the specific disease, or
   d. The local health agency has not yet determined the status of the disease in the individual; and
2. The status of the epidemiologic investigation for each report.

D. Except as specified in Table 4 and Article 3, a local health agency shall submit to the Department a written or electronic report, in a format specified by the Department, of an epidemiologic investigation conducted by the local health agency:
1. In response to a report of a case, suspect case, or occurrence:
   a. Submitted under R9-6-202 or R9-6-203, or
   b. About which the local health agency was notified by the Department;
2. Within 30 calendar days after receiving the report submitted under R9-6-202 or R9-6-203 or notification by the Department;
3. If an epidemiologic investigation is required for the reported disease under Article 3; and
4. Including in the report of the epidemiologic investigation:
   a. The information described in:
      i. R9-6-202(C) for a report submitted under R9-6-202,
      ii. R9-6-203(B) for a report submitted under R9-6-203, or
      iii. R9-6-202(C) for a report about which the Department notified the local health agency;
   b. A description of all laboratory or other test results, performed in addition to the laboratory tests described in R9-6-202(C) and contributing to the diagnosis;
   c. A description of the case's symptoms of the disease and other signs that may be observed that indicate that the individual may have the disease, if applicable;
   d. A classification of the case according to the case definition;
   e. A description of the condition or status of the case at the end of the epidemiologic investigation;
   f. A description of the case's specific risk factors for acquiring the disease or other epidemiologic evidence of how the case acquired the infection that resulted in the disease;
   g. A description of how the local health agency provided or arranged for the case to receive health education about the nature of the disease and how to prevent transmission or limit disease progression;

h. A description of the case's specific risk factors for transmitting the disease considered by the local health agency when conducting an assessment of contacts;
i. A description of the control measures used by the local health agency to reduce the spread of the disease; and
j. The date the report of the case, suspect case, or occurrence was submitted or the Department notified the local health agency.

E. For each reported case or suspect case of unexplained death with a history of fever, the local health agency for the jurisdiction in which the death occurred shall:
1. Within one working day after receiving a report of unexplained death with a history of fever, submit to the Department in a format specified by the Department:
a. The following information about the deceased individual:
i. Name;
ii. Residential address;
iii. Date of birth;
iv. Race and ethnicity;
v. County of residence;
vi. If the individual was living on a reservation at the time of the individual's death, the name of the reservation;
vii. Gender;
viii. Whether the individual was pregnant and, if so, the result of the pregnancy; and
ix. Occupation;
b. The date of onset of symptoms;
c. The approximate date and time of death;
d. A description of the setting where the death occurred and of the circumstances leading up to the time of death;
e. The name, residential address, and telephone number of a family member of the deceased individual who may be contacted;
f. The name, address, and telephone number of the individual making the report to the local health agency; and
g. The name and address of the:
i. Health care provider required to report, if:
(1) The unexplained death with a history of fever was reported to the local health agency under R9-6-202(A), and
(2) The health care provider is different from the individual specified in subsection (E)(1)(f); or
ii. Health care institution or correctional facility, if the unexplained death with a history of fever was reported to the local health agency under R9-6-202(B); and
2. Within 30 calendar days after receiving the report of unexplained death with a history of fever, submit to the Department a written or electronic report of the epidemiologic investigation required under Article 3, in a format provided by the Department, including:
a. The name and date of birth of the deceased individual;
b. The date of each specimen collection;
c. Identification of each type of specimen collected;
d. Identification of each type of laboratory test completed;
e. A description of the laboratory test results, including quantitative results if available;
f. If an autopsy was completed, the autopsy results;
g. A hypothesis or conclusion as to the cause of death; and
h. Specific recommendations for preventing future deaths, if applicable.

F. Except as specified in Table 4 and Article 3, for each instance when the local health agency receives a report or reports indicating an outbreak or possible outbreak, the local health agency shall:
1. Within one working day after receiving the report or reports, provide to the Department the following information:
a. The location of the outbreak or possible outbreak;
b. If known, the number of cases and suspect cases;
c. The date that the outbreak was reported or the dates that cases suggestive of an outbreak were reported;
d. The setting of the outbreak or possible outbreak;
e. The name of the disease suspected or known to be the cause of the outbreak or possible outbreak; and
f. The name and telephone number of an individual at the local health agency who can serve as a point of contact regarding the outbreak or possible outbreak; and
2. Within 30 calendar days after receiving the last report or reports associated with the outbreak, submit to the Department a written or electronic report, in a format specified by the Department, of the epidemiologic investigation conducted by the local health agency in response to the outbreak or possible outbreak, including:
a. A description of the outbreak location and setting;
b. The date that the local health agency was notified of the outbreak;
c. A description of how the local health agency verified the outbreak;
d. The number of individuals reported to be ill during the outbreak;
e. The number of individuals estimated to be at risk for illness as a result of the outbreak;
f. The specific case definition used;
g. A summary profile of the signs and symptoms;
h. An epidemiologic curve;
i. A copy of the laboratory evidence collected, including all laboratory test results, for all specimens submitted for testing to a laboratory other than the Arizona State Laboratory;
j. Hypotheses of how the outbreak occurred;
k. A description of the control measures used and the dates the control measures were implemented;
l. The conclusions drawn based upon the results of the epidemiologic investigation;
m. Recommendations for preventing future outbreaks; and
n. The name, address, and telephone number of the individual making the report to the Department.

Historical Note

Section renumbered from R9-6-203 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

Table 4. Local Health Agency Reporting Requirements

III	Amebiasis	**III**	Hantavirus infection	**III**	Rocky Mountain spotted fever
☎,**III**,✱	Anthrax	**III**	Hemolytic uremic syndrome	☎,**III**,***S***	Rubella (German measles)
O-III	Aseptic meningitis, viral	**III**	Hepatitis A	☎,**III**,***S***	Rubella syndrome, congenital
☰	Basidiobolomycosis	**III**	Hepatitis B and Hepatitis D	**III**	Salmonellosis
☎,**III**,***S***	Botulism	**III**	Hepatitis C	**O-**☰	Scabies
III,✱	Brucellosis	**III**	Hepatitis E	☎,**III**	Severe acute respiratory syndrome
III	Campylobacteriosis	**None**	Herpes genitalis	**III**	Shigellosis
III	Chagas infection and related disease (American Trypanosomiasis)	**III**	Human Immunodeficiency Virus (HIV) infection and related disease	☎,**III**	Smallpox
III	Chancroid (*Haemophilus ducreyi*)	**III**	Influenza-associated mortality in a child	**O-III**	Streptococcal Group A infection
5-day only	Chlamydia infection, sexually transmitted	☰	Kawasaki syndrome	**III**	Streptococcal Group B infection in an infant younger than 90 days of age
☽,**III**	Cholera	**III**	Legionellosis (Legionnaires' disease)	☰	*Streptococcus pneumoniae* infection
O-III	Coccidioidomycosis (Valley Fever)	**III**	Leptospirosis	**III**,**O-III**	Syphilis
III	Colorado tick fever	**III**,✱	Listeriosis	**III**	Taeniasis
O-☰	Conjunctivitis: acute	**III**	Lyme disease	**III**	Tetanus
☰	Creutzfeldt-Jakob disease	**III**	Lymphocytic choriomeningitis	**III**	Toxic shock syndrome
III	Cryptosporidiosis	**III**	Malaria	**III**	Trichinosis
III	*Cyclospora* infection	☎,**III**,***S***	Measles (rubeola)	**III**,✱	Tuberculosis
☰	Cysticercosis	**III**,✱	Melioidosis	☎,**III**,✱	Tularemia
III	Dengue	☎,**III**,✱	Meningococcal invasive disease	**III**	Typhoid fever
O-III	Diarrhea, nausea, or vomiting	☎,**III**,***S***	Mumps	**III**	Typhus fever
☎,**III**	Diphtheria	**O-III**	Norovirus	☽,**III**	Unexplained death with a history of fever
III	Ehrlichioses (Ehrlichiosis and Anaplasmosis)	**5-day only**	Pediculosis (lice infestation)	**III**	Vaccinia-related adverse event
☎,**III**	Emerging or exotic disease	**III**	Pertussis (whooping cough)	☎,**III**,✱	Vancomycin-resistant or Vancomycin-intermediate *Staphylococcus aureus*
☽,**III**	Encephalitis: viral or parasitic	☎,**III**,✱	Plague	☽,**III**,✱	Vancomycin-resistant *Staphylococcus epidermidis*
III	Enterohemorrhagic *Escherichia coli*	☎,**III**,***S***	Poliomyelitis	☰	Varicella (chickenpox)
III	Enterotoxigenic *Escherichia coli*	**III**	Psittacosis (ornithosis)	**III**	*Vibrio* infection
O-III	Giardiasis	☽,**III**	Q Fever	☎,**III**,***S***	Viral hemorrhagic fever
5-day only	Gonorrhea	☎,**III**	Rabies in a human	**III**	West Nile virus-related syndromes
III	*Haemophilus influenzae*: invasive disease	**III**	Relapsing fever (borreliosis)	☽,**III**	Yellow fever
☰	Hansen's disease (Leprosy)	☰	Reye syndrome	☽,**III**,✱	Yersiniosis (enteropathogenic *Yersinia*)

Unless otherwise specified, notify the Department within five working days after receiving a report under R9-6-202 or R9-6-203.

Key:
☎ Notify the Department within 24 hours after receiving a report under R9-6-202 or R9-6-203.
☽ Notify the Department within one working day after receiving a report under R9-6-202 or R9-6-203.
III Submit an epidemiologic investigation report within 30 calendar days after receiving a report under R9-6-202 or R9-6-203 or notification by the Department.
☰ Submit an epidemiologic investigation report within 60 calendar days after receiving a report under R9-6-202 or R9-6-203 or notification by the Depart-

ment.
✱ Ensure that an isolate from a case is submitted to the Arizona State Laboratory.
S Ensure that specimens from a case, as specified by the Department, are submitted to the Arizona State Laboratory.
O Submit a report after conducting an epidemiological investigation of an outbreak.

Historical Note
New Table 4 made by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-207. Federal or Tribal Entity Reporting

A. To the extent permitted by law, a federal or tribal entity shall comply with the reporting requirements in this Article as follows:
1. If the federal or tribal entity is participating in the diagnosis or treatment of an individual, the federal or tribal entity shall comply with the reporting requirements for a health care provider;
2. If the federal or tribal entity is operating a facility that provides health care services, the federal or tribal entity shall comply with the reporting requirements for an administrator of a health care institution;
3. If the federal or tribal entity is operating a correctional facility, the federal or tribal entity shall comply with the reporting requirements for an administrator of a correctional facility;
4. If the federal or tribal entity is operating a clinical laboratory, the federal or tribal entity shall comply with the reporting requirements for a clinical laboratory director;
5. If the federal or tribal entity is operating a facility that provides pharmacy services, the federal or tribal entity shall comply with the reporting requirements for an administrator of a pharmacy;
6. If the federal or tribal entity is operating a facility that provides child care services, the federal or tribal entity shall comply with the reporting requirements for an administrator of a child care establishment; and
7. If the federal or tribal entity is operating a facility that offers instruction to students in a grade level from kindergarten through grade 12, a college or university, a "private vocational program" as defined in A.R.S. § 32-3001, or an institution that grants a "degree" as defined in A.R.S. § 32-3001, the federal or tribal entity shall comply with the reporting requirements for an administrator of a school.

B. For the purposes of this Section, "federal or tribal entity" means a person operating within this state, whether on federal or tribal land or otherwise, under the authority of an agency or other administrative subdivision of the federal government or a tribal nation and who is:
1. Licensed as a doctor of allopathic, naturopathic, osteopathic, or homeopathic medicine under the laws of this or another state;
2. Licensed as a physician assistant under the laws of this or another state;
3. Licensed as a registered nurse practitioner under the laws of this or another state;
4. Licensed as a dentist under the laws of this or another state;
5. Operating a facility that provides health care services;
6. Operating a correctional facility;
7. Operating a clinical laboratory;
8. Operating a facility that provides pharmacy services;
9. Operating a facility that provides child care services; or
10. Operating a facility that offers instruction to students in a grade level from kindergarten through grade 12, a college or university, a "private vocational program" as defined in A.R.S. § 32-3001, or an institution that grants a "degree" as defined in A.R.S. § 32-3001.

Historical Note
New Section made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3).

R9-6-208. Reserved

R9-6-209. Reserved

R9-6-210. Reserved

R9-6-211. Renumbered

Historical Note
Renumbered to R9-6-201 effective May 2, 1991 (Supp. 91-2).

R9-6-212. Renumbered

Historical Note
Renumbered to R9-6-201(C) effective May 2, 1991 (Supp. 91-2).

R9-6-213. Renumbered

Historical Note
Renumbered to R9-6-202 effective May 2, 1991 (Supp. 91-2).

R9-6-214. Renumbered

Historical Note
Renumbered to R9-6-203 effective May 2, 1991 (Supp. 91-2).

ARTICLE 3. CONTROL MEASURES FOR COMMUNICABLE DISEASES AND INFESTATIONS

R9-6-301. Definitions

In this Article, unless otherwise specified:
1. "Blood bank" means a facility where human whole blood or a blood component is collected, prepared, tested, processed, or stored, or from which human whole blood or a blood component is distributed.
2. "Blood center" means a mobile or stationary facility that procures human whole blood or a blood component that is transported to a blood bank.
3. "Contact precautions" means, in addition to use of standard precautions:
   a. Placing an individual in a private room or a cohort room with a distance of three or more feet separating the individual's bed from the bed of another individual; and
   b. Ensuring the use of a gown and gloves by other individuals when entering the room in which the individual is located.
4. "Contaminated" means to have come in contact with a disease-causing agent or toxin.
5. "Disinfection" means killing or inactivating communicable-disease-causing agents on inanimate objects by directly applied chemical or physical means.
6. "Disinfestation" means any physical, biological, or chemical process to reduce or eliminate undesired arthropod or rodent populations.
7. "Droplet precautions" means, in addition to use of standard precautions:

a. Placing an individual in a private room or a cohort room with a distance of three or more feet and a curtain separating the individual's bed from the bed of another individual;
b. Ensuring that the individual wears a mask covering the individual's mouth and nose, if medically appropriate, when not in the room described in subsection (7)(a); and
c. Ensuring the use of a mask covering the mouth and nose by other individuals when entering the room in which the individual is located.

8. "Follow-up" means the practice of investigating and monitoring cases, carriers, contacts, or suspect cases to detect, treat, or prevent disease.
9. "Incapacitated adult" means an individual older than 18 years of age for whom a guardian has been appointed by a court of competent jurisdiction.
10. "Midwife" has the same meaning as in A.R.S. § 36-751.
11. "Pediculocide" means a shampoo or cream rinse manufactured and labeled for controlling head lice.
12. "Person in charge" means the individual present at a food establishment who is responsible for the food establishment's operation at the time in question.
13. "Plasma center" means a facility where the process of plasmapheresis or another form of apheresis is conducted.
14. "State health officer" means the Director of the Department or the Director's designee.

Historical Note

Adopted effective October 19, 1993 (Supp. 93-4). Amended effective April 4, 1997 (Supp. 97-2). Former R9-6-301 repealed; new R9-6-301 renumbered from R9-6-103 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-302. Local Health Agency Control Measures

A local health agency shall:

1. Review each report received under Article 2 for completeness and accuracy;
2. Confirm each diagnosis;
3. Conduct epidemiologic and other investigations required by this Chapter;
4. Facilitate notification of known contacts;
5. Conduct surveillance;
6. Determine trends;
7. Implement control measures, quarantines, isolations, and exclusions as required by the Arizona Revised Statutes and this Chapter;
8. Disseminate surveillance information to health care providers;
9. Provide health education to a disease case or contact to reduce the risk of transmission of the respective disease; and
10. Report to the Department, as specified in R9-6-206 and this Article.

Historical Note

Renumbered from R9-6-702 and amended effective October 19, 1993 (Supp. 93-4). Former R9-6-302 renumbered to R9-6-304; new R9-6-302 renumbered from R9-6-204 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-303. Isolation and Quarantine

A. When a local health agency is required by this Article to isolate or quarantine an individual or group of individuals, the local health agency:

1. Shall issue a written order:
   a. For isolation or quarantine and other control measures;
   b. To each individual or group of individuals and, for each individual who is a minor or incapacitated adult, the individual's parent or guardian, except as provided in subsection (A)(2);
   c. That specifies:
      i. The isolation or quarantine and other control measure requirements being imposed, including, if applicable, requirements for physical examinations and medical testing to ascertain and monitor each individual's health status;
      ii. The identity of each individual or group of individuals subject to the order;
      iii. The premises at which each individual or group of individuals is to be isolated or quarantined;
      iv. The date and time at which isolation or quarantine and other control measure requirements begin; and
      v. The justification for isolation or quarantine and other control measure requirements, including, if known, the disease for which the individual or individuals are believed to be cases, suspect cases, or contacts; and
   d. That may provide information about existing medical treatment, if available and necessary to render an individual less infectious, and the consequences of an individual's failure to obtain the medical treatment; and
2. May post the written order in a conspicuous place at the premises at which a group of individuals is to be isolated or quarantined if:
   a. The written order applies to the group of individuals, and
   b. It would be impractical to provide a copy to each individual in the group.

B. Within 10 calendar days after issuing a written order described in subsection (A), if a local health agency determines that isolation or quarantine and other control measure requirements need to continue for more than 10 calendar days after the date of the order, the local health agency shall file a petition for a court order that:

1. Authorizes the continuation of isolation or quarantine and other control measure requirements pertaining to an individual or group of individuals;
2. Includes the following:
   a. The isolation or quarantine and other control measure requirements being imposed, including, if applicable, requirements for physical examinations and medical testing to ascertain and monitor an individual's health status;
   b. The identity of each individual or group of individuals subject to isolation or quarantine and other control measure requirements;
   c. The premises at which each individual or group of individuals is isolated or quarantined;
   d. The date and time at which isolation or quarantine and other control measure requirements began; and
   e. The justification for isolation or quarantine and other control measure requirements, including, if known, the disease for which the individual or indi-

viduals are believed to be cases, suspect cases, or contacts; and

3. Is accompanied by the sworn affidavit of a representative of the local health agency or the Department attesting to the facts asserted in the petition, together with any further information that may be relevant and material to the court's consideration.

C. A local health agency that files a petition for a court order under subsection (B) shall provide notice to each individual or group of individuals identified in the petition according to the Arizona Rules of Civil Procedure, except that notice shall be provided within 24 hours after the petition is filed.

D. In the event of noncompliance with a written order issued under subsection (A), a local health agency may contact law enforcement to request assistance in enforcing the order.

Historical Note

Renumbered from R9-6-703 and amended effective October 19, 1993 (Supp. 93-4). Former R9-6-303 renumbered to R9-6-305; new R9-6-303 made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-303 renumbered to R9-6-304; new R9-6-303 renumbered from R9-6-388 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-304. Food Establishment Control Measures

The person in charge of a food establishment shall ensure compliance with all food handler exclusion requirements in this Article or ordered by a local health agency.

Historical Note

Renumbered from R9-6-704 and amended effective October 19, 1993 (Supp. 93-4). Former R9-6-304 renumbered to R9-6-306; new R9-6-304 renumbered from R9-6-302 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-304 renumbered to R9-6-305; new R9-6-304 renumbered from R9-6-303 by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-305. Amebiasis

Case control measures: A local health agency shall:

1. Exclude an amebiasis case or suspect case from working as a food handler, caring for children in or attending a child care establishment, or caring for patients or residents in a health care institution until:
   a. Treatment with an amebicide is initiated, and
   b. Two successive stool specimens negative for amoebae are obtained from specimens collected at least 24 hours apart;
2. Conduct an epidemiologic investigation of each reported amebiasis case or suspect case; and
3. For each amebiasis case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D).

Historical Note

Renumbered from R9-6-705 and amended effective October 19, 1993 (Supp. 93-4). Former R9-6-305 renumbered to R9-6-308; new R9-6-305 renumbered from R9-6-303 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-305 renumbered to R9-6-306; new R9-6-305 renumbered from R9-6-304 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-306. Anthrax

A. Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of an anthrax case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;
2. Conduct an epidemiologic investigation of each reported anthrax case or suspect case;
3. For each anthrax case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D); and
4. Ensure that an isolate from each anthrax case is submitted to the Arizona State Laboratory.

B. Environmental control measures: A local health agency shall provide or arrange for sterilization by dry heating or incineration of objects contaminated by *Bacillus anthracis*.

Historical Note

Renumbered from R9-6-706 and amended effective October 19, 1993 (Supp. 93-4). Former R9-6-306 renumbered to R9-6-309; new R9-6-306 renumbered from R9-6-304 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-306 renumbered to R9-6-307; new R9-6-306 renumbered from R9-6-305 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-307. Aseptic Meningitis

Outbreak control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported outbreak of aseptic meningitis; and
2. For each outbreak of aseptic meningitis, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-202(E).

Historical Note

Former Section R9-6-115, Paragraph (5), renumbered and amended as R9-6-707 effective January 28, 1987 (Supp. 87-1). Former R9-6-307 renumbered to R9-6-310; new R9-6-307 made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-307 renumbered to R9-6-308; new R9-6-307 renumbered from R9-6-306 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-308. Basidiobolomycosis

Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported basidiobolomycosis case or suspect case; and
2. For each basidiobolomycosis case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D).

Historical Note

Adopted effective October 19, 1993 (Supp. 93-4). Amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Former R9-6-308 renumbered to R9-6-311; new R9-6-308 renumbered from R9-6-305 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-308 renumbered to R9-6-309; new R9-6-308 renumbered from R9-6-307 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-309. Botulism

A. Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a botulism case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;

2. Conduct an epidemiologic investigation of each reported botulism case or suspect case; and
3. For each botulism case:
   a. Submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D);
   b. Ensure that a specimen from each botulism case is submitted to the Arizona State Laboratory; and
   c. In consultation with the Department, determine if treatment of the botulism case is required.

B. Environmental control measures: An individual in possession of:
1. Food known to be contaminated by *Clostridium botulinum* shall boil the contaminated food for 10 minutes and then discard it, and
2. Utensils known to be contaminated by *Clostridium botulinum* shall boil the contaminated utensils for 10 minutes before reuse or disposal.

Historical Note

Renumbered from R9-6-708 and amended effective October 19, 1993 (Supp. 93-4). Amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Former R9-6-309 renumbered to R9-6-312; new R9-6-309 renumbered from R9-6-306 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-309 renumbered to R9-6-310; new R9-6-309 renumbered from R9-6-308 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-310. Brucellosis

Case control measures: A local health agency shall:
1. Conduct an epidemiologic investigation of each reported brucellosis case or suspect case;
2. For each brucellosis case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D); and
3. Ensure that an isolate from each brucellosis case is submitted to the Arizona State Laboratory.

Historical Note

Renumbered from R9-6-709 and amended effective October 19, 1993 (Supp. 93-4). Amended effective April 4, 1997 (Supp. 97-2). Former R9-6-310 renumbered to R9-6-313; new R9-6-310 renumbered from R9-6-307 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-310 renumbered to R9-6-311; new R9-6-310 renumbered from R9-6-309 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-311. Campylobacteriosis

Case control measures: A local health agency shall:
1. Exclude a campylobacteriosis case or suspect case from working as a food handler, caring for children in or attending a child care establishment, or caring for patients or residents in a health care institution until:
   a. A culture negative for *Campylobacter* spp. is obtained from a stool specimen, or
   b. Diarrhea has resolved;
2. Conduct an epidemiologic investigation of each reported campylobacteriosis case or suspect case; and
3. For each campylobacteriosis case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D).

Historical Note

Repealed effective May 2, 1991 (Supp. 91-2). New Section R9-6-311 renumbered from R9-6-710 and amended effective October 19, 1993 (Supp. 93-4). Former R9-6-311 renumbered to R9-6-314; new R9-6-311 renumbered from R9-6-308 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-311 renumbered to R9-6-313; new R9-6-311 renumbered from R9-6-310 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-312. Chagas Infection and Related Disease (American Trypanosomiasis)

Case control measures: A local health agency shall:
1. Conduct an epidemiologic investigation of each reported Chagas infection or disease case or suspect case; and
2. For each Chagas infection or disease case:
   a. Submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D); and
   b. Provide to the Chagas infection or disease case or ensure that another person provides to the Chagas infection or disease case health education that includes:
      i. The treatment options for Chagas infection or disease,
      ii. Where the Chagas infection or disease case may receive treatment for Chagas infection or disease, and
      iii. For women of childbearing age, the risks of transmission of Chagas infection or disease to a fetus.

Historical Note

Adopted effective October 19, 1993 (Supp. 93-4). Former R9-6-312 renumbered to R9-6-315; new R9-6-312 renumbered from R9-6-309 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-312 renumbered to R9-6-314; new R9-6-312 made by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-313. Chancroid (*Haemophilus ducreyi*)

A. Case control measures: A local health agency shall:
1. Conduct an epidemiologic investigation of each reported chancroid case or suspect case;
2. For each chancroid case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D); and
3. Comply with the requirements specified in R9-6-1103 concerning treatment and health education for a chancroid case.

B. Contact control measures: When a chancroid case has named a contact, a local health agency shall comply with the requirements specified in R9-6-1103 concerning notification, testing, treatment, and health education for the contact.

Historical Note

Renumbered from R9-6-711 and amended effective October 19, 1993 (Supp. 93-4). Amended effective April 4, 1997 (Supp. 97-2). Former R9-6-313 renumbered to R9-6-316; new R9-6-313 renumbered from R9-6-310 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-313 renumbered to R9-6-315; new R9-6-313 renumbered from R9-6-311 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-314. Chlamydia Infection, Sexually Transmitted

A. Case control measures:
1. The Department shall review each chlamydia infection case report for completeness, accuracy, and need for follow-up.
2. A local health agency shall comply with the requirements specified in R9-6-1103 concerning treatment and health education for a chlamydia infection case that seeks treatment from the local health agency.

B. Contact control measures: If an individual who may have been exposed to chlamydia through sexual contact with a chlamydia infection case seeks treatment for symptoms of chlamydia infection from a local health agency, the local health agency shall comply with the requirements specified in R9-6-1103 concerning treatment and health education for the individual.

Historical Note

Adopted effective October 19, 1993 (Supp. 93-4). Amended effective April 4, 1997 (Supp. 97-2). Former R9-6-314 renumbered to R9-6-318; new R9-6-314 renumbered from R9-6-311 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-314 renumbered to R9-6-316; new R9-6-314 renumbered from R9-6-312 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-315. Cholera

A. Case control measures: A local health agency shall:
1. Upon receiving a report under R9-6-202 of a cholera case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
2. Exclude a cholera case or suspect case from working as a food handler, caring for patients or residents in a health care institution, or caring for children in or attending a child care establishment until two successive cultures negative for Vibrio cholerae are obtained from stool specimens collected at least 24 hours apart and at least 48 hours after discontinuing antibiotics;
3. Conduct an epidemiologic investigation of each reported cholera case or suspect case; and
4. For each cholera case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D).

B. Contact control measures: A local health agency shall provide follow-up for each cholera contact for five calendar days after exposure.

Historical Note

Renumbered from R9-6-712 and amended effective October 19, 1993 (Supp. 93-4). Former R9-6-315 renumbered to R9-6-321; new R9-6-315 renumbered from R9-6-312 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-315 renumbered to R9-6-317; new R9-6-315 renumbered from R9-6-313 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-316. Coccidioidomycosis (Valley Fever)

Outbreak control measures: A local health agency shall:
1. Conduct an epidemiologic investigation of each reported outbreak of coccidioidomycosis; and
2. For each outbreak of coccidioidomycosis, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-202(E).

Historical Note

Renumbered from R9-6-713 and amended effective October 19, 1993 (Supp. 93-4). Amended effective April 4, 1997 (Supp. 97-2). Former R9-6-316 repealed; new R9-6-316 renumbered from R9-6-313 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-316 renumbered to R9-6-318; new R9-6-316 renumbered from R9-6-314 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-317. Colorado Tick Fever

Case control measures: A local health agency shall:
1. Conduct an epidemiologic investigation of each reported Colorado tick fever case or suspect case; and
2. For each Colorado tick fever case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D).

Historical Note

Renumbered from R9-6-714 and amended effective October 19, 1993 (Supp. 93-4). Former R9-6-317 renumbered to R9-6-323; new R9-6-317 made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-317 renumbered to R9-6-319; new R9-6-317 renumbered from R9-6-315 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-318. Conjunctivitis: Acute

A. Case control measures: An administrator of a school or child care establishment, either personally or through a representative, shall exclude an acute conjunctivitis case from attending the school or child care establishment until the symptoms of acute conjunctivitis subside or treatment for acute conjunctivitis is initiated and maintained for 24 hours.

B. Outbreak control measures: A local health agency shall:
1. Conduct an epidemiologic investigation of each reported conjunctivitis outbreak; and
2. For each conjunctivitis outbreak, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(F).

Historical Note

Adopted effective October 19, 1993 (Supp. 93-4). Former R9-6-318 renumbered to R9-6-324; new R9-6-318 renumbered from R9-6-314 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-318 renumbered to R9-6-320; new R9-6-318 renumbered from R9-6-316 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-319. Creutzfeldt-Jakob Disease

Case control measures: A local health agency shall:
1. Conduct an epidemiologic investigation of each reported Creutzfeldt-Jakob disease case or suspect case; and
2. For each Creutzfeldt-Jakob disease case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D).

Historical Note

Renumbered from R9-6-715 and amended effective October 19, 1993 (Supp. 93-4). Former R9-6-319 renumbered to R9-6-326; new R9-6-319 made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-319 renumbered to R9-6-321; new R9-6-319 renumbered from R9-6-317 and amended by

final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-320. Cryptosporidiosis

Case control measures: A local health agency shall:

1. Exclude a cryptosporidiosis case or suspect case with diarrhea from working as a food handler, caring for patients or residents in a health care institution, or caring for children in or attending a child care establishment until diarrhea has resolved;
2. Conduct an epidemiologic investigation of each reported cryptosporidiosis case or suspect case; and
3. For each cryptosporidiosis case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D).

Historical Note

Renumbered from R9-6-716 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-320 renumbered to Section R9-6-321; new Section R9-6-320 adopted effective April 4, 1997 (Supp. 97-2). Section repealed; new Section made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-320 renumbered to R9-6-322; new R9-6-320 renumbered from R9-6-318 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-321. *Cyclospora* Infection

Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported *Cyclospora* infection case or suspect case; and
2. For each *Cyclospora* infection case submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D).

Historical Note

Renumbered from R9-6-717 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-321 renumbered to R9-6-322; new Section R9-6-321 renumbered from R9-6-320 effective April 4, 1997 (Supp. 97-2). Former R9-6-321 renumbered to R9-6-322; new R9-6-321 renumbered from R9-6-315 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-321 renumbered to R9-6-323; new R9-6-321 renumbered from R9-6-319 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-322. Cysticercosis

Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported cysticercosis case or suspect case; and
2. For each cysticercosis case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D).

Historical Note

Renumbered from R9-6-718 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-322 renumbered to R9-6-323; new Section R9-6-322 renumbered from R9-6-321 effective April 4, 1997 (Supp. 97-2). Former R9-6-322 renumbered to R9-6-329; new R9-6-322 renumbered from R9-6-321 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-322 renumbered to R9-6-324; new R9-6-322 renumbered from R9-6-320 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-323. Dengue

Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported dengue case or suspect case; and
2. For each dengue case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D).

Historical Note

Renumbered from R9-6-719 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-323 renumbered to R9-6-324; new Section R9-6-323 renumbered from R9-6-322 and amended effective April 4, 1997 (Supp. 97-2). Amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Former R9-6-323 renumbered to R9-6-330; new R9-6-323 renumbered from R9-6-317 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-323 renumbered to R9-6-325; new R9-6-323 renumbered from R9-6-321 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-324. Diarrhea, Nausea, or Vomiting

A. Environmental control measures: A local health agency shall conduct a sanitary inspection or ensure that a sanitary inspection is conducted of each water, sewage, or food preparation facility associated with an outbreak of diarrhea, nausea, or vomiting.

B. Outbreak control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported outbreak of diarrhea, nausea, or vomiting;
2. Submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(F) for:
   a. Each suspected foodborne illness outbreak,
   b. Each suspected waterborne illness outbreak, and
   c. Each outbreak of viral gastroenteritis.

Historical Note

Renumbered from R9-6-720 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-324 renumbered to R9-6-326; new Section R9-6-324 renumbered from R9-6-323, effective April 4, 1997 (Supp. 97-2). Former R9-6-324 renumbered to R9-6-331; new R9-6-324 renumbered from R9-6-318 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-324 renumbered to R9-6-326; new R9-6-324 renumbered from R9-6-322 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-325. Diphtheria

A. Case control measures:

1. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall:
   a. Isolate and institute droplet precautions for a pharyngeal diphtheria case or suspect case until:
      i. Two successive sets of cultures negative for *Cornyebacterium diphtheriae* are obtained from nose and throat specimens collected from the case or suspect case at least 24 hours apart and at least 24 hours after cessation of treatment; or
      ii. Fourteen calendar days after initiation of treatment; and
   b. Isolate and institute contact precautions for a cutaneous diphtheria case or suspect case until:

i. Two successive sets of cultures negative for *Cornyebacterium diphtheriae* are obtained from skin specimens collected from the case or suspect case at least 24 hours apart and at least 24 hours after cessation of treatment; or
ii. Fourteen calendar days after initiation of treatment.

2. A local health agency shall:
   a. Upon receiving a report under R9-6-202 of a diphtheria case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;
   b. Conduct an epidemiologic investigation of each reported diphtheria case or suspect case; and
   c. For each diphtheria case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D).

B. Contact control measures: A local health agency shall:
1. Exclude each diphtheria contact from working as a food handler, caring for patients or residents in a health care institution, or caring for children in or attending a school or child care establishment until a set of cultures negative for *Cornyebacterium diphtheriae* is obtained from the contact's nose and throat specimens;
2. In consultation with the Department, quarantine a contact of a diphtheria case, if indicated, until two successive sets of cultures negative for *Cornyebacterium diphtheriae* are obtained from nose and throat specimens collected from the contact at least 24 hours apart;
3. Offer each previously immunized diphtheria contact a vaccine containing diphtheria toxoid; and
4. Offer each unimmunized diphtheria contact the primary vaccine series and treatment.

Historical Note

Renumbered from R9-6-721 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-325 renumbered to R9-6-327; new Section R9-6-325 adopted effective April 4, 1997 (Supp. 97-2). Former R9-6-325 renumbered to R9-6-333; new R9-6-325 made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-325 renumbered to R9-6-327; new R9-6-325 renumbered from R9-6-323 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-326. Ehrlichioses (Ehrlichiosis and Anaplasmosis)

Case control measures: A local health agency shall:
1. Conduct an epidemiologic investigation of each reported ehrlichiosis or anaplasmosis case or suspect case; and
2. For each ehrlichiosis or anaplasmosis case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D).

Historical Note

Adopted effective October 19, 1993 (Supp. 93-4). Former Section R9-6-326 renumbered to R9-6-329; new Section R9-6-326 renumbered from R9-6-324 and amended effective April 4, 1997 (Supp. 97-2). Former R9-6-326 renumbered to R9-6-335; new R9-6-326 renumbered from R9-6-319 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-326 renumbered to R9-6-328; new R9-6-326 renumbered from R9-6-324 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-327. Emerging or Exotic Disease

A. Case control measures: A local health agency shall:
1. Upon receiving a report under R9-6-202 of an emerging or exotic disease case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;
2. In consultation with the Department, isolate an emerging or exotic disease case or suspect case as necessary to prevent transmission;
3. Conduct an epidemiologic investigation of each reported emerging or exotic disease case or suspect case; and
4. For each emerging or exotic disease case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D).

B. Contact control measures: A local health agency, in consultation with the Department, shall quarantine an emerging or exotic disease contact as necessary to prevent transmission.

Historical Note

Renumbered from R9-6-722 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-327 renumbered to R9-6-330; new Section R9-6-327 renumbered from R9-6-325 and amended effective April 4, 1997 (Supp. 97-2). Former R9-6-327 renumbered to R9-6-336; new R9-6-327 made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-327 renumbered to R9-6-329; new R9-6-327 renumbered from R9-6-325 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-328. Encephalitis: Viral or Parasitic

Case control measures: A local health agency shall:
1. Upon receiving a report under R9-6-202 of a viral or parasitic encephalitis case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
2. Conduct an epidemiologic investigation of each reported viral or parasitic encephalitis case or suspect case; and
3. For each encephalitis case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D).

Historical Note

Renumbered from R9-6-701 and amended effective October 19, 1993 (Supp. 93-4). Former Section R6-6-328 renumbered to R9-6-331; new Section R9-6-328 adopted effective April 4, 1997 (Supp. 97-2). Former R9-6-328 renumbered to R9-6-337; new R9-6-328 made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-328 renumbered to R9-6-330; new R9-6-328 renumbered from R9-6-326 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-329. Enterohemorrhagic *Escherichia coli*

A. Case control measures: A local health agency shall:
1. Exclude an enterohemorrhagic *Escherichia coli* case or suspect case with diarrhea from working as a food handler, caring for patients or residents in a health care institution, or caring for children in or attending a child care establishment until:
   a. Two successive cultures negative for enterohemorrhagic *Escherichia coli* are obtained from stool specimens collected from the case at least 24 hours apart

and at least 48 hours after discontinuing antibiotics, or
b. Diarrhea has resolved;
2. Conduct an epidemiologic investigation of each reported enterohemorrhagic *Escherichia coli* case or suspect case; and
3. For each enterohemorrhagic *Escherichia coli* case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D).

B. Contact control measures: A local health agency shall exclude an enterohemorrhagic *Escherichia coli* contact with diarrhea of unknown cause from working as a food handler, caring for patients or residents in a health care institution, or caring for children in or attending a child care establishment until diarrhea has resolved.

C. Environmental control measures: A local health agency shall:
1. If an animal located in a private residence is suspected to be the source of infection for an enterohemorrhagic *Escherichia coli* case or outbreak, provide health education for the animal's owner about enterohemorrhagic *Escherichia coli* and the risks of becoming infected with enterohemorrhagic *Escherichia coli*; and
2. If an animal located in a setting other than a private residence is suspected to be the source of infection for an enterohemorrhagic *Escherichia coli* case or outbreak:
a. Provide health education for the animal's owner about enterohemorrhagic *Escherichia coli* and the risks of becoming infected with enterohemorrhagic *Escherichia coli*, and
b. Require the animal's owner to provide information to individuals with whom the animal may come into contact about enterohemorrhagic *Escherichia coli* and methods to reduce the risk of transmission.

Historical Note

Adopted effective October 19, 1993 (Supp. 93-4). Section R9-6-329 renumbered to R9-6-332; new Section R9-6-329 renumbered from R9-6-326 and amended effective April 4, 1997 (Supp. 97-2). Former R9-6-329 repealed; new R9-6-329 renumbered from R9-6-322 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-329 renumbered to R9-6-331; new R9-6-329 renumbered from R9-6-327 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-330. Expired

Historical Note

Renumbered from R9-6-723 and amended effective October 19, 1993 (Supp. 93-4). Section R9-6-330 renumbered to R9-6-333; new Section R9-6-330 renumbered from R9-6-327 effective April 4, 1997 (Supp. 97-2). Amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Former R9-6-330 repealed; new R9-6-330 renumbered from R9-6-323 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-330 renumbered to R9-6-332; new R9-6-330 renumbered from R9-6-328 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section expired under A.R.S. § 41-1056(J) at 19 A.A.R. 1928, effective April 30, 2013 (Supp. 13-3).

R9-6-331. Giardiasis

A. Case control measures: A local health agency shall exclude a giardiasis case or suspect case from working as a food handler, caring for patients or residents in a health care institution, or caring for children in or attending a child care establishment until:
1. Two successive stool specimens negative for *Giardia lamblia* are obtained from specimens collected from the case at least 24 hours apart; or
2. Treatment for giardiasis is initiated and diarrhea has resolved.

B. Contact control measures: A local health agency shall exclude a giardiasis contact with diarrhea of unknown cause from working as a food handler, caring for patients or residents in a health care institution, or caring for children in or attending a child care establishment until diarrhea has resolved.

C. Outbreak control measures: A local health agency shall:
1. Conduct an epidemiologic investigation of each reported giardiasis outbreak;
2. For each giardiasis case involved in an outbreak, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D); and
3. For each giardiasis outbreak, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(F).

Historical Note

Renumbered from R9-6-724 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-331 renumbered to R9-6-334; new Section R9-6-331 renumbered from R9-6-328 effective April 4, 1997 (Supp. 97-2). Amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Former R9-6-331 renumbered to R9-6-339; new R9-6-331 renumbered from R9-6-324 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-331 renumbered to R9-6-333; new R9-6-331 renumbered from R9-6-329 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-332. Gonorrhea

A. Case control measures:
1. The Department shall review each gonorrhea case report for completeness, accuracy, and need for follow-up.
2. For the prevention of gonorrheal ophthalmia, a physician, physician assistant, registered nurse practitioner, or midwife attending the birth of an infant in this state shall treat the eyes of the infant immediately after the birth with one of the following, unless treatment is refused by the parent or guardian:
a. Erythromycin ophthalmic ointment 0.5%, or
b. Tetracycline ophthalmic ointment 1%.
3. A local health agency shall comply with the requirements specified in R9-6-1103 concerning treatment and health education for a gonorrhea case that seeks treatment from the local health agency.

B. Contact control measures: If an individual who may have been exposed to gonorrhea through sexual contact with a gonorrhea case seeks treatment for symptoms of gonorrhea from a local health agency, the local health agency shall comply with the requirements specified in R9-6-1103 concerning treatment and health education for the individual.

Historical Note

Renumbered from R9-6-725 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-332 renumbered to R9-6-335; new Section R9-6-332 renumbered from R9-6-329 effective April 4, 1997 (Supp. 97-2). Former R9-6-332 repealed; new R9-6-332 renumbered from R9-6-334 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-332 renumbered to R9-6-334; new R9-6-

332 renumbered from R9-6-330 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-333. *Haemophilus influenzae*: Invasive Disease

A. Case control measures:
1. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall isolate and institute droplet precautions for a *Haemophilus influenzae* meningitis or epiglottitis case or suspect case for 24 hours after the initiation of treatment.
2. A local health agency shall:
   a. Conduct an epidemiologic investigation of each reported *Haemophilus influenzae* invasive disease case or suspect case; and
   b. For each *Haemophilus influenzae* invasive disease case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D).

B. Contact control measures: A local health agency shall evaluate the level of risk of transmission from each contact's exposure to a *Haemophilus influenzae* invasive disease case and, if indicated, shall provide or arrange for each contact to receive immunization or treatment.

Historical Note

Renumbered from R9-6-726 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-333 renumbered to R9-6-336; new Section R9-6-333 renumbered from R9-6-330 effective April 4, 1997 (Supp. 97-2). Former R9-6-333 renumbered to R9-6-341; new R9-6-333 renumbered from R9-6-325 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-333 renumbered to R9-6-335; new R9-6-333 renumbered from R9-6-331 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-334. Hansen's Disease (Leprosy)

A. Case control measures: A local health agency shall:
1. Conduct an epidemiologic investigation of each reported Hansen's disease case or suspect case; and
2. For each Hansen's disease case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D).

B. Contact control measures: In consultation with the Department, a local health agency shall examine contacts of a Hansen's disease case, if indicated, for signs and symptoms of leprosy at six-to-twelve month intervals for five years after the last exposure to an infectious case.

Historical Note

Renumbered from R9-6-727 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-334 renumbered to R9-6-337; new Section R9-6-334 renumbered from R9-6-331 effective April 4, 1997 (Supp. 97-2). Former R9-6-334 renumbered to R9-6-332; new R9-6-334 made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-334 renumbered to R9-6-336; new R9-6-334 renumbered from R9-6-332 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-335. Hantavirus Infection

Case control measures: A local health agency shall:
1. Provide or arrange for a hantavirus infection case or, if the case is a child or incapacitated adult, the parent or guardian of the case to receive health education about reducing the risks of becoming reinfected with or of having others become infected with hantavirus;
2. Conduct an epidemiologic investigation of each reported hantavirus infection case or suspect case; and
3. For each hantavirus infection case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D).

Historical Note

Renumbered from R9-6-728 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-335 renumbered to R9-6-338; new Section R9-6-335 renumbered from R9-6-332 effective April 4, 1997 (Supp. 97-2). Former R9-6-335 renumbered to R9-6-342; new R9-6-335 renumbered from R9-6-326 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-335 renumbered to R9-6-337; new R9-6-335 renumbered from R9-6-333 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-336. Hemolytic Uremic Syndrome

A. Case control measures: A local health agency shall:
1. Exclude a hemolytic uremic syndrome case or suspect case from working as a food handler, caring for patients or residents in a health care institution, or caring for children in or attending a child care establishment until:
   a. Two successive cultures negative for enterohemorrhagic *Escherichia coli* and *Shigella* spp. are obtained from stool specimens collected from the case at least 24 hours apart and at least 48 hours after discontinuing antibiotics, or
   b. Diarrhea has resolved;
2. Conduct an epidemiologic investigation of each reported hemolytic uremic syndrome case or suspect case; and
3. For each hemolytic uremic syndrome case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D).

B. Contact control measures: A local health agency shall exclude a hemolytic uremic syndrome contact with diarrhea of unknown cause from working as a food handler until diarrhea has resolved.

Historical Note

Renumbered from R9-6-729 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-336 renumbered to R9-6-339; new Section R9-6-336 renumbered from R9-6-333 effective April 4, 1997 (Supp. 97-2). Former R9-6-336 renumbered to R9-6-343; new R9-6-336 renumbered from R9-6-327 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-336 renumbered to R9-6-338; new R9-6-336 renumbered from R9-6-334 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-337. Hepatitis A

A. Case control measures: A local health agency shall:
1. Exclude a hepatitis A case or suspect case from working as a food handler, caring for patients or residents in a health care institution, or caring for children in or attending a child care establishment during the first 14 calendar days of illness or for seven calendar days after onset of jaundice;
2. Conduct an epidemiologic investigation of each reported hepatitis A case or suspect case; and

3. For each hepatitis A case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D).

B. Contact control measures: A local health agency shall:
1. Exclude a hepatitis A contact with symptoms of hepatitis A from working as a food handler during the first 14 calendar days of illness or for seven calendar days after onset of jaundice;
2. For 45 calendar days after exposure, monitor a food handler who was a contact of a hepatitis A case during the infectious period for symptoms of hepatitis A; and
3. Evaluate the level of risk of transmission from each contact's exposure to a hepatitis A case and, if indicated, provide or arrange for each contact to receive prophylaxis and immunization.

Historical Note

Renumbered from R9-6-730 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-337 renumbered to R9-6-340; new Section R9-6-337 renumbered from R9-6-334 effective April 4, 1997 (Supp. 97-2). Former R9-6-337 renumbered to R9-6-344; new R9-6-337 renumbered from R9-6-328 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-337 renumbered to R9-6-339; new R9-6-337 renumbered from R9-6-335 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-338. Hepatitis B and Hepatitis D

A. Case control measures:
1. A local health agency shall:
   a. Evaluate a health care provider identified as the source of hepatitis B virus transmission in the work place and, if indicated, ensure reassignment of the health care provider to a position where the occupational risk of transmission is eliminated;
   b. Conduct an epidemiologic investigation of each reported case or suspect case of hepatitis B or hepatitis B co-infected with hepatitis D; and
   c. For each acute case of hepatitis B or hepatitis B co-infected with hepatitis D or case of perinatal hepatitis B, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D).
2. The operator of a blood bank, blood center, or plasma center shall notify a donor of a test result with significant evidence suggestive of hepatitis B, as required under A.R.S. § 32-1483 and 21 CFR 630.6.

B. Contact control measures: A local health agency shall:
1. Refer each non-immune hepatitis B contact to a health care provider for prophylaxis and initiation of the hepatitis B vaccine series, and
2. Provide health education related to the progression of hepatitis B disease and the prevention of transmission of hepatitis B infection to each non-immune hepatitis B contact.

Historical Note

Renumbered from R9-6-731 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-338 renumbered to R9-6-341; new Section R9-6-338 renumbered from R9-6-335 effective April 4, 1997 (Supp. 97-2). Former R9-6-338 renumbered to R9-6-346; new R9-6-338 made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-338 renumbered to R9-6-340; new R9-6-338 renumbered from R9-6-336 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-339. Hepatitis C

Case control measures:
1. A local health agency shall:
   a. Conduct an epidemiologic investigation of each reported acute hepatitis C case or suspect case; and
   b. For each acute hepatitis C case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D).
2. The Department shall provide health education related to the progression of hepatitis C disease and the prevention of transmission of hepatitis C infection to each reported non-acute hepatitis C case or suspect case.

Historical Note

Renumbered from R9-6-732 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-339 renumbered to R9-6-342; new Section R9-6-339 renumbered from R9-6-336 and amended effective April 4, 1997 (Supp 97-2). Former R9-6-339 renumbered to R9-6-347; new R9-6-339 renumbered from R9-6-331 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-339 renumbered to R9-6-341; new R9-6-339 renumbered from R9-6-337 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-340. Hepatitis E

Case control measures: A local health agency shall:
1. Conduct an epidemiologic investigation of each reported hepatitis E case or suspect case; and
2. For each hepatitis E case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D).

Historical Note

Renumbered from R9-6-733 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-340 renumbered to R9-6-343; new Section R9-6-340 renumbered from R9-6-337 effective April 4, 1997 (Supp. 97-2). Former R9-6-340 renumbered to R9-6-348; new R9-6-340 made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-340 renumbered to R9-6-343; new R9-6-340 renumbered from R9-6-338 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-341. Human Immunodeficiency Virus (HIV) Infection and Related Disease

A. Case control measures:
1. A local health agency shall:
   a. Conduct an epidemiologic investigation of each reported HIV-infected individual or suspect case; and
   b. For each HIV-infected individual, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D).
2. The operator of a blood bank, blood center, or plasma center shall notify a donor of a test result with significant evidence suggestive of HIV infection, as required under A.R.S. § 32-1483 and 21 CFR 630.6.
3. The Department and a local health agency shall offer anonymous HIV-testing to an individual as specified in R9-6-1005.

B. Contact control measures: The Department or the Department's designee shall confidentially notify an individual

reported to be at risk for HIV infection under A.R.S. § 36-664(J) as specified in R9-6-1006(A).

C. Environmental control measures: An employer, as defined under A.R.S. § 23-401, or health care provider shall comply with the requirements specified in A.R.S. § 23-403 and A.A.C. R20-5-602.

Historical Note

Renumbered from R9-6-734 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-341 renumbered to R9-6-344; new Section R9-6-341 renumbered from R9-6-338 and amended effective April 4, 1997 (Supp. 97-2). Former R9-6-341 renumbered to R9-6-349; new R9-6-341 renumbered from R9-6-333 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-341 renumbered to R9-6-344; new R9-6-341 renumbered from R9-6-339 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-342. Influenza-Associated Mortality in a Child

Case control measures: A local health agency shall:

1. Confirm that influenza was the cause of death for each reported case or suspect case of influenza-associated mortality in a child; and
2. For each case of influenza-associated mortality in a child, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(C).

Historical Note

Renumbered from R9-6-735 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-342 renumbered to R9-6-345; new Section R9-6-342 renumbered from R9-6-339 and amended effective April 4, 1997 (Supp. 97-2). Former R9-6-342 renumbered to R9-6-350; new R9-6-342 renumbered from R9-6-335 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-342 renumbered to R9-6-345; new R9-6-342 made by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-343. Expired

Historical Note

Renumbered from R9-6-736 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-343 renumbered to R9-6-346; new Section R9-4-343 renumbered from R9-6-340 and amended effective April 4, 1997 (Supp. 97-2). Former R9-6-343 renumbered to R9-6-351; new R9-6-343 renumbered from R9-6-336 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-343 renumbered to R9-6-346; new R9-6-343 renumbered from R9-6-340 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section expired under A.R.S. § 41-1056(J) at 19 A.A.R. 1928, effective April 30, 2013 (Supp. 13-3).

R9-6-344. Legionellosis (Legionnaires' Disease)

A. Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported legionellosis case or suspect case; and
2. For each legionellosis case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D).

B. Environmental control measures: The owner of a water, cooling, or ventilation system that is determined by the Department or a local health agency to have caused a case of *Legionella* infection shall disinfect the system before resuming its use.

Historical Note

Renumbered from R9-6-737 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-344 renumbered to R9-6-347; new Section R9-6-344 renumbered from R9-6-341 and amended effective April 4, 1997 (Supp. 97-2). Former R9-6-344 renumbered to R9-6-352; new R9-6-344 renumbered from R9-6-337 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-344 renumbered to R9-6-347; new R9-6-344 renumbered from R9-6-341 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-345. Leptospirosis

Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported leptospirosis case or suspect case; and
2. For each leptospirosis case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D).

Historical Note

Renumbered from R9-6-738 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-345 renumbered to R9-6-348; new Section R9-6-345 renumbered from R9-6-342 and amended effective April 4, 1997 (Supp. 97-2). Former R9-6-345 renumbered to R9-6-353; new R9-6-345 made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-345 renumbered to R9-6-348; new R9-6-345 renumbered from R9-6-342 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-346. Listeriosis

Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported listeriosis case or suspect case;
2. For each listeriosis case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D); and
3. Ensure that an isolate from each listeriosis case is submitted to the Arizona State Laboratory.

Historical Note

Renumbered from R9-6-739 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-346 renumbered to R9-6-349; new Section R9-6-346 renumbered from R9-6-343 effective April 4, 1997 (Supp. 97-2). Former R9-6-346 renumbered to R9-6-354; new R9-6-346 renumbered from R9-6-338 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-346 renumbered to R9-6-349; new R9-6-346 renumbered from R9-6-343 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-347. Lyme Disease

Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported Lyme disease case or suspect case; and
2. For each Lyme disease case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D).

Historical Note

Renumbered from R9-6-740 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-347 renumbered to R9-6-350; new Section R9-6-347 renumbered from R9-6-344 effective April 4, 1997 (Supp. 97-2). Former R9-6-347 renumbered to R9-6-355; new R9-6-347 renumbered from R9-6-339 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-347 renumbered to R9-6-350; new R9-6-347 renumbered from R9-6-344 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-348. Lymphocytic Choriomeningitis

Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported lymphocytic choriomeningitis case or suspect case; and
2. For each lymphocytic choriomeningitis case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D).

Historical Note

Renumbered from R9-6-741 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-348 renumbered to R9-6-351; new Section R9-6-348 renumbered from R9-6-345 and amended effective April 4, 1997 (Supp. 97-2). Former R9-6-348 renumbered to R9-6-356; new R9-6-348 renumbered from R9-6-340 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-348 renumbered to R9-6-352; new R9-6-348 renumbered from R9-6-345 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-349. Malaria

Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported malaria case or suspect case; and
2. For each malaria case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D).

Historical Note

Renumbered from R9-6-742 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-349 renumbered to R9-6-352; new Section R9-6-349 renumbered from R9-6-346 effective April 4, 1997 (Supp. 97-2). Former R9-6-349 renumbered to R9-6-357; new R9-6-349 renumbered from R9-6-341 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-349 renumbered to R9-6-353; new R9-6-349 renumbered from R9-6-346 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-350. Measles (Rubeola)

A. Case control measures:

1. An administrator of a school or child care establishment, either personally or through a representative, shall:
   a. Exclude a measles case from the school or child care establishment and from school- or child-care-establishment-sponsored events from the onset of illness through the fourth calendar day after the rash appears; and
   b. Exclude a measles suspect case from the school or child care establishment and from school- or child-care-establishment-sponsored events until evaluated and determined to be noninfectious by a physician, physician assistant, or registered nurse practitioner.
2. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall isolate and institute airborne precautions for a measles case from onset of illness through the fourth calendar day after the rash appears.
3. A local health agency shall:
   a. Upon receiving a report under R9-6-202 or R9-6-203 of a measles case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;
   b. Conduct an epidemiologic investigation of each reported measles case or suspect case;
   c. For each measles case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D); and
   d. Ensure that specimens from each measles case, as required by the Department, are submitted to the Arizona State Laboratory.

B. Contact control measures:

1. When a measles case has been at a school or child care establishment, the administrator of the school or child care establishment, either personally or through a representative, shall:
   a. Consult with the local health agency to determine who shall be excluded and how long each individual shall be excluded from the school or child care establishment, and
   b. Comply with the local health agency's recommendations for exclusion.
2. A local health agency shall provide or arrange for immunization of each non-immune measles contact within 72 hours after last exposure, if possible.
3. An administrator of a health care institution shall ensure that a paid or volunteer full-time or part-time worker at a health care institution does not participate in the direct care of a measles case or suspect case unless the worker is able to provide evidence of immunity to measles through one of the following:
   a. A record of immunization against measles with two doses of live virus vaccine given on or after the first birthday and at least one month apart;
   b. A statement signed by a physician, physician assistant, registered nurse practitioner, state health officer, or local health officer affirming serologic evidence of immunity to measles; or
   c. Documentary evidence of birth before January 1, 1957.

Historical Note

Renumbered from R9-6-743 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-350 renumbered to R9-6-353; new Section R9-6-350 renumbered from R9-6-347 effective April 4, 1997 (Supp. 97-2). Former R9-6-350 renumbered to R9-6-358; new R9-6-350 renumbered from R9-6-342 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-350 renumbered to R9-6-355; new R9-6-350 renumbered from R9-6-347 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-351. Melioidosis

Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported melioidosis case or suspect case;

2. For each melioidosis case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D); and
3. Ensure that an isolate from each melioidosis case is submitted to the Arizona State Laboratory.

Historical Note

Renumbered from R9-6-744 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-351 renumbered to R9-6-354; new Section R9-6-351 renumbered from R9-6-348 effective April 4, 1997 (Supp. 97-2). Former R9-6-351 renumbered to R9-6-359; new R9-6-351 renumbered from R9-6-343 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-351 renumbered to R9-6-356; new R9-6-351 made by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-352. Meningococcal Invasive Disease

A. Case control measures:
1. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall isolate and institute droplet precautions for a meningococcal invasive disease case for 24 hours after the initiation of treatment.
2. A local health agency shall:
   a. Upon receiving a report under R9-6-202 or R9-6-203 of a meningococcal invasive disease case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;
   b. Conduct an epidemiologic investigation of each reported meningococcal invasive disease case or suspect case;
   c. For each meningococcal invasive disease case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D); and
   d. Ensure that an isolate from each meningococcal invasive disease case is submitted to the Arizona State Laboratory.

B. Contact control measures: A local health agency shall evaluate the level of risk of transmission from each contact's exposure to a meningococcal invasive disease case and, if indicated, provide or arrange for each contact to receive prophylaxis.

Historical Note

Renumbered from R9-6-745 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-352 renumbered to R9-6-355; new Section R9-6-352 renumbered from R9-6-349 effective April 4, 1997 (Supp. 97-2). Former R9-6-352 renumbered to R9-6-360; new R9-6-352 renumbered from R9-6-344 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-352 renumbered to R9-6-357; new R9-6-352 renumbered from R9-6-348 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-353. Mumps

A. Case control measures:
1. An administrator of a school or child care establishment, either personally or through a representative, shall:
   a. Exclude a mumps case from the school or child care establishment for five calendar days after the onset of glandular swelling; and
   b. Exclude a mumps suspect case from the school or child care establishment and from school- or child-care-establishment-sponsored events until evaluated and determined to be noninfectious by a physician, physician assistant, or registered nurse practitioner.
2. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall isolate and institute droplet precautions with a mumps case for five calendar days after the onset of glandular swelling.
3. A local health agency shall:
   a. Upon receiving a report under R9-6-202 or R9-6-203 of a mumps case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;
   b. Conduct an epidemiologic investigation of each reported mumps case or suspect case;
   c. For each mumps case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D); and
   d. Ensure that specimens from each mumps case, as required by the Department, are submitted to the Arizona State Laboratory.

B. Contact control measures:
1. When a mumps case has been at a school or child care establishment, the administrator of the school or child care establishment, either personally or through a representative, shall:
   a. Consult with the local health agency to determine who shall be excluded and how long each individual shall be excluded from the school or child care establishment, and
   b. Comply with the local health agency's recommendations for exclusion.
2. An administrator of a health care institution shall ensure that a paid or volunteer full-time or part-time worker at a health care institution does not participate in the direct care of a mumps case or suspect case unless the worker is able to provide evidence of immunity to mumps through one of the following:
   a. A record of immunization against mumps with two doses of live virus vaccine given on or after the first birthday and at least one month apart; or
   b. A statement signed by a physician, physician assistant, registered nurse practitioner, state health officer, or local health officer affirming serologic evidence of immunity to mumps.
3. A local health agency shall determine which contacts will be:
   a. Excluded from a school or child care establishment, and
   b. Advised to obtain an immunization against mumps.

Historical Note

Renumbered from R9-6-746 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-353 renumbered to R9-6-356; new Section R9-6-353 renumbered from R9-6-350 effective April 4, 1997 (Supp. 97-2). Former R9-6-353 renumbered to R9-6-361; new R9-6-353 renumbered from R9-6-345 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-353 renumbered to R9-6-358; new R9-6-353 renumbered from R9-6-349 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-354. Norovirus

A. Outbreak control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported norovirus outbreak; and
2. Submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(F).

B. Environmental control measures: A local health agency shall conduct a sanitary inspection or ensure that a sanitary inspection is conducted of each water, sewage, or food preparation facility associated with a norovirus outbreak.

Historical Note

Renumbered from R9-6-748 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-354 renumbered to R9-6-357; new Section R9-6-354 renumbered from R9-6-351 and amended effective April 4, 1997 (Supp. 97-2). Former R9-6-354 renumbered to R9-6-362; new R9-6-354 renumbered from R9-6-346 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-354 renumbered to R9-6-359; new R9-6-354 made by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-355. Pediculosis (Lice Infestation)

Case control measures:

1. An administrator of a school or child care establishment, either personally or through a representative, shall exclude a pediculosis case from the school or child care establishment until the case is treated with a pediculocide.
2. An administrator of a shelter shall ensure that a pediculosis case is treated with a pediculocide and that the case's clothing and personal articles are disinfested.

Historical Note

Renumbered from R9-6-749 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-355 renumbered to R9-6-358; new Section R9-6-355 renumbered from R9-6-352 effective April 4, 1997 (Supp. 97-2). Former R9-6-355 renumbered to R9-6-363; new R9-6-355 renumbered from R9-6-347 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-355 renumbered to R9-6-360; new R9-6-355 renumbered from R9-6-350 by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-356. Pertussis (Whooping Cough)

A. Case control measures:

1. An administrator of a school or child care establishment, either personally or through a representative, shall:
   a. Exclude a pertussis case from the school or child care establishment for 21 calendar days after the date of onset of cough or for five calendar days after the date of initiation of antibiotic treatment for pertussis; and
   b. Exclude a pertussis suspect case from the school or child care establishment until evaluated and determined to be noninfectious by a physician, physician assistant, or registered nurse practitioner.
2. An administrator of a health care institution, either personally or through a representative, shall:
   a. Exclude a pertussis case from working at the health care institution for 21 calendar days after the date of onset of cough or for five calendar days after the date of initiation of antibiotic treatment for pertussis; and
   b. Exclude a pertussis suspect case from working at the health care institution until evaluated and determined to be noninfectious by a physician, physician assistant, or registered nurse practitioner.
3. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall isolate and initiate droplet precautions for a pertussis case for five calendar days after the date of initiation of antibiotic treatment for pertussis.
4. A local health agency shall:
   a. Conduct an epidemiologic investigation of each reported pertussis case or suspect case; and
   b. For each pertussis case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D).

B. Contact control measures:

1. When a pertussis case has been at a school or child care establishment, the administrator of the school or child care establishment, either personally or through a representative, shall:
   a. Consult with the local health agency to determine who shall be excluded and how long each individual shall be excluded from the school or child care establishment, and
   b. Comply with the local health agency's recommendations for exclusion.
2. A local health agency shall identify contacts of a pertussis case and, if indicated, shall provide or arrange for a contact to receive antibiotic prophylaxis.

Historical Note

Former Section R9-6-115, Paragraph (38), renumbered and amended as R9-6-750 effective January 28, 1987 (Supp. 87-1). Renumbered from R9-6-750 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-356 renumbered to R9-6-360; new Section R9-6-356 renumbered from R9-6-353 and amended effective April 4, 1997 (Supp. 97-2). Former R9-6-356 renumbered to R9-6-365; new R9-6-356 renumbered from R9-6-348 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-356 renumbered to R9-6-361; new R9-6-356 renumbered from R9-6-351 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-357. Plague

A. Case control measures:

1. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall isolate and institute droplet precautions for a pneumonic plague case or suspect case until 72 hours of antibiotic therapy have been completed with favorable clinical response.
2. An individual handling the body of a deceased plague case shall use droplet precautions.
3. A local health agency shall:
   a. Upon receiving a report under R9-6-202 of a plague case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;
   b. Conduct an epidemiologic investigation of each reported plague case or suspect case;
   c. For each plague case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D); and
   d. Ensure that an isolate from each plague case is submitted to the Arizona State Laboratory.

B. Contact control measures: A local health agency shall provide follow-up to pneumonic plague contacts for seven calendar days after last exposure to a pneumonic plague case.

Historical Note

Adopted effective October 19, 1993 (Supp. 93-4). Former Section R9-6-357 renumbered to R9-6-361; new Section R9-6-357 renumbered from R9-6-354 and amended effective April 4, 1997 (Supp. 97-2). Former R9-6-357 repealed; new R9-6-357 renumbered from R9-6-349 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-357 renumbered to R9-6-362; new R9-6-357 renumbered from R9-6-352 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-358. Poliomyelitis

Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a poliomyelitis case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;
2. Conduct an epidemiologic investigation of each reported poliomyelitis case or suspect case;
3. For each poliomyelitis case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D); and
4. Ensure that specimens from each poliomyelitis case, as required by the Department, are submitted to the Arizona State Laboratory.

Historical Note

Former Section R9-6-115, Paragraph (39), renumbered and amended as R9-6-751 effective January 28, 1987 (Supp. 87-1). Renumbered from R9-6-751 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-358 renumbered to R9-6-362; new Section R9-6-358 renumbered from R9-6-355 and amended effective April 4, 1997 (Supp. 97-2). Former R9-6-358 renumbered to R9-6-367; new R9-6-358 renumbered from R9-6-350 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-358 renumbered to R9-6-363; new R9-6-358 renumbered from R9-6-353 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-359. Psittacosis (Ornithosis)

A. Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported psittacosis case or suspect case; and
2. For each psittacosis case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D).

B. Environmental control measures: A local health agency shall:

1. If a bird infected with *Chlamydia psittaci* or *Chlamydophila psittaci* is located in a private residence:
   a. Provide health education for the bird's owner about psittacosis and the risks of becoming infected with psittacosis, and
   b. Advise the bird's owner to obtain treatment for the bird; and
2. If a bird infected with *Chlamydia psittaci* or *Chlamydophila psittaci* is located in a setting other than a private residence:
   a. Provide health education for the bird's owner about psittacosis and the risks of becoming infected with psittacosis,
   b. Ensure that the bird is treated or destroyed and any contaminated structures are disinfected, and
   c. Require the bird's owner to isolate the bird from contact with members of the public and from other birds until treatment of the bird is completed or the bird is destroyed.

Historical Note

Adopted effective January 28, 1987 (Supp. 87-1). Renumbered from R9-6-752 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-359 renumbered to R9-6-363; new Section R9-6-359 adopted effective April 4, 1997 (Supp. 97-2). Former R9-6-359 repealed; new R9-6-359 renumbered from R9-6-351 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-359 renumbered to R9-6-364; new R9-6-359 renumbered from R9-6-354 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-360. Q Fever

Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a Q fever case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
2. Conduct an epidemiologic investigation of each reported Q fever case or suspect case; and
3. For each Q fever case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D).

Historical Note

Former Section R9-6-115, Paragraph (40), renumbered and amended as R9-6-753 effective January 28, 1987 (Supp. 87-1). Renumbered from R9-6-753 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-360 renumbered to R9-6-364; new Section R9-6-360 renumbered from R9-6-356 and amended effective April 4, 1997 (Supp. 97-2). Amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Former R9-6-360 renumbered to R9-6-368; new R9-6-360 renumbered from R9-6-352 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-360 renumbered to R9-6-365; new R9-6-360 renumbered from R9-6-355 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-361. Rabies in a Human

A. Case control measures: A local health agency shall:

1. Upon receiving a report under R9-6-202 of a human rabies case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;
2. Conduct an epidemiologic investigation of each reported human rabies case or suspect case; and
3. For each human rabies case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D).

B. Contact control measures: A local health agency shall evaluate the level of risk of transmission from each contact's exposure to a human rabies case and, if indicated, provide or arrange for each contact to receive prophylaxis.

Historical Note

Former Section R9-6-115, Paragraph (41), renumbered and amended as R9-6-754 effective January 28, 1987 (Supp. 87-1). Renumbered from R9-6-754 and amended

effective October 19, 1993 (Supp. 93-4). Former Section R9-6-361 renumbered to R9-6-365; new Section R9-6-361 renumbered from R9-6-357 effective April 4, 1997 (Supp. 97-2). Former R9-6-361 renumbered to R9-6-369; new R9-6-361 renumbered from R9-6-353 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-361 renumbered to R9-6-366; new R9-6-361 renumbered from R9-6-356 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-362. Relapsing Fever (Borreliosis)

Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported borreliosis case or suspect case; and
2. For each borreliosis case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D).

Historical Note

Former Section R9-6-115, Paragraph (42), renumbered and amended as R9-6-755 effective January 28, 1987 (Supp. 87-1). Renumbered from R9-6-755 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-362 renumbered to R9-6-366; new Section R9-6-362 renumbered from R9-6-358 effective April 4, 1997 (Supp. 97-2). Former R9-6-362 renumbered to R9-6-370; new R9-6-362 renumbered from R9-6-354 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-362 renumbered to R9-6-367; new R9-6-362 renumbered from R9-6-357 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-363. Expired

Historical Note

Former Section R9-6-115, Paragraph (43), renumbered and amended as R9-6-756 effective January 28, 1987 (Supp. 87-1). Renumbered from R9-6-756 and amended effective October 19, 1993 (Supp. 93-4). Section R9-6-363 renumbered to R9-6-367; new Section R9-6-363 renumbered from R9-6-359 effective April 4, 1997 (Supp. 97-2). Former R9-6-363 renumbered to R9-6-371; new R9-6-363 renumbered from R9-6-355 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-363 renumbered to R9-6-368; new R9-6-363 renumbered from R9-6-358 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section expired under A.R.S. § 41-1056(J) at 19 A.A.R. 1928, effective April 30, 2013 (Supp. 13-3).

R9-6-364. Rocky Mountain Spotted Fever

Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported Rocky Mountain spotted fever case or suspect case; and
2. For each Rocky Mountain spotted fever case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D).

Historical Note

Former Section R9-6-115, Paragraph (44), renumbered and amended as R9-6-757 effective January 28, 1987 (Supp. 87-1). Renumbered from R9-6-757 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-364 renumbered to R9-6-368; new Section R9-6-364 renumbered from R9-6-360 effective April 4, 1997 (Supp. 97-2). Former R9-6-364 renumbered to R9-6-372; new R9-6-364 made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-364 renumbered to R9-6-369; new R9-6-364 renumbered from R9-6-359 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-365. Rubella (German Measles)

A. Case control measures:

1. An administrator of a school or child care establishment, either personally or through a representative, shall:
   a. Exclude a rubella case from the school or child care establishment and from school- or child-care-establishment-sponsored events from the onset of illness through the seventh calendar day after the rash appears; and
   b. Exclude a rubella suspect case from the school or child care establishment and from school- or child-care-establishment-sponsored events until evaluated and determined to be noninfectious by a physician, physician assistant, or registered nurse practitioner.
2. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall isolate and institute droplet precautions for a rubella case through the seventh calendar day after the rash appears.
3. A local health agency shall:
   a. Upon receiving a report under R9-6-202 or R9-6-203 of a rubella case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;
   b. Conduct an epidemiologic investigation of each reported rubella case or suspect case;
   c. For each rubella case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D); and
   d. Ensure that specimens from each rubella case, as required by the Department, are submitted to the Arizona State Laboratory.

B. Contact control measures:

1. An administrator of a health care institution shall ensure that a paid or volunteer full-time or part-time worker at a health care institution does not participate in the direct care of a rubella case or suspect case or of a patient who is or may be pregnant unless the worker first provides evidence of immunity to rubella consisting of:
   a. A record of immunization against rubella given on or after the first birthday, or
   b. A statement signed by a physician, physician assistant, registered nurse practitioner, state health officer, or local health officer affirming serologic evidence of immunity to rubella.
2. When a rubella case has been at a school or child care establishment, the administrator of the school or child care establishment, either personally or through a representative, shall:
   a. Consult with the local health agency to determine who shall be excluded and how long each individual shall be excluded from the school or child care establishment, and
   b. Comply with the local health agency's recommendations for exclusion.
3. A local health agency shall provide or arrange for immunization of each non-immune rubella contact within 72 hours after last exposure, if possible.

Historical Note

Former Section R9-6-115, Paragraph (4), renumbered and amended as R9-6-758 effective January 28, 1987 (Supp. 87-1). Renumbered from R9-6-758 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-365 renumbered to R9-6-372; new Section R9-6-365 renumbered from R9-6-361 effective April 4, 1997 (Supp. 97-2). Former R9-6-365 renumbered to R9-6-373; new R9-6-365 renumbered from R9-6-356 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-365 renumbered to R9-6-370; new R9-6-365 renumbered from R9-6-360 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-366. Rubella Syndrome, Congenital

A. Case control measures:
1. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall isolate and implement contact precautions for an infant congenital rubella syndrome case until:
   a. The infant congenital rubella syndrome case reaches one year of age, or
   b. Two successive negative virus cultures are obtained from the infant congenital rubella syndrome case after the infant congenital rubella syndrome case reaches three months of age.
2. A local health agency shall:
   a. Upon receiving a report under R9-6-202 of a congenital rubella syndrome case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;
   b. Conduct an epidemiologic investigation of each reported congenital rubella syndrome case or suspect case;
   c. For each congenital rubella syndrome case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D); and
   d. Ensure that specimens from each congenital rubella syndrome case, as required by the Department, are submitted to the Arizona State Laboratory.

B. Contact control measures: An administrator of a health care institution shall ensure that a paid or volunteer full-time or part-time worker at a health care institution who is known to be pregnant does not participate in the direct care of a congenital rubella syndrome case or suspect case unless the worker first provides evidence of immunity to rubella that complies with R9-6-365(B)(1).

Historical Note

Former Section R9-6-115, Paragraph (46), renumbered and amended as R9-6-759 effective January 28, 1987 (Supp. 87-1). Renumbered from R9-6-759 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-366 renumbered to R9-6-374; new Section R9-6-366 renumbered from R9-6-362 effective April 4, 1997 (Supp. 97-2). Former R9-6-366 renumbered to R9-6-374; new R9-6-366 made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-366 renumbered to R9-6-371; new R9-6-366 renumbered from R9-6-361 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-367. Salmonellosis

A. Case control measures: A local health agency shall:
1. Exclude a salmonellosis case with diarrhea from working as a food handler, caring for children in or attending a child care establishment, or caring for patients or residents in a health care institution until either of the following occurs:
   a. Two successive cultures negative for *Salmonella* spp. are obtained from stool specimens collected at least 24 hours apart, or
   b. Diarrhea has resolved;
2. Conduct an epidemiologic investigation of each reported salmonellosis case or suspect case; and
3. For each salmonellosis case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D).

B. Contact control measures: A local health agency shall exclude a salmonellosis contact with diarrhea of unknown cause from working as a food handler, caring for patients or residents in a health care institution, or caring for children in or attending a child care establishment until either of the following occurs:
1. Two successive cultures negative for *Salmonella* spp. are obtained from stool specimens collected at least 24 hours apart, or
2. Diarrhea has resolved.

C. Environmental control measures: A local health agency shall:
1. If an animal infected with *Salmonella* spp. is located in a private residence, provide health education for the animal's owner about salmonellosis and the risks of becoming infected with *Salmonella* spp.; and
2. If an animal infected with *Salmonella* spp. is located in a setting other than a private residence:
   a. Provide health education for the animal's owner about salmonellosis and the risks of becoming infected with *Salmonella* spp., and
   b. Require the animal's owner to provide information to individuals with whom the animal may come into contact about salmonellosis and methods to reduce the risk of transmission.

Historical Note

Section R9-6-367 renumbered from R9-6-363 effective April 4, 1997 (Supp. 97-2). Former R9-6-367 renumbered to R9-6-375; new R9-6-367 renumbered from R9-6-358 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-367 renumbered to R9-6-372; new R9-6-367 renumbered from R9-6-362 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-368. Scabies

A. Case control measures:
1. An administrator of a school or child care establishment, either personally or through a representative, shall exclude a scabies case from the school or child care establishment until treatment for scabies is completed.
2. An administrator of a health care institution or shelter, either personally or through a representative, shall exclude a scabies case from participating in the direct care of a patient or resident until treatment for scabies is completed.
3. An administrator of a shelter, either personally or through a representative, shall ensure that a scabies case receives treatment for scabies and that the case's clothing and personal articles are disinfested.

B. Contact control measures: An administrator of a school, child care establishment, health care institution, or shelter, either personally or through a representative, shall advise a scabies contact with symptoms of scabies to obtain examination and, if necessary, treatment.

C. Outbreak control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported scabies outbreak;
2. Provide health education regarding prevention, control, and treatment of scabies to individuals affected by the outbreak;
3. When a scabies outbreak occurs in a health care institution, notify the licensing agency of the outbreak; and
4. For each scabies outbreak, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-202(E).

Historical Note

Section R9-6-368 renumbered from R9-6-364 effective April 4, 1997 (Supp. 97-2). Former R9-6-368 renumbered to R9-6-376; new R9-6-368 renumbered from R9-6-360 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-368 renumbered to R9-6-375; new R9-6-368 renumbered from R9-6-363 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-369. Severe Acute Respiratory Syndrome

A. Case control measures. A local health agency shall:
1. Upon receiving a report under R9-6-202 of a severe acute respiratory syndrome case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;
2. In consultation with the Department, ensure the isolation of and the institution of both airborne precautions and contact precautions for a severe acute respiratory syndrome case or suspect case to prevent transmission;
3. Conduct an epidemiologic investigation of each reported severe acute respiratory syndrome case or suspect case; and
4. For each severe acute respiratory syndrome case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D).

B. Contact control measures: A local health agency, in consultation with the Department, shall quarantine a severe acute respiratory syndrome contact as necessary to prevent transmission.

Historical Note

Adopted effective April 4, 1997 (Supp. 97-2). Former R9-6-369 renumbered to R9-6-379; new R9-6-369 renumbered from R9-6-361 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-369 renumbered to R9-6-376; new R9-6-369 renumbered from R9-6-364 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-370. Shigellosis

A. Case control measures: A local health agency shall:
1. Exclude a shigellosis case with diarrhea from working as a food handler, caring for children in or attending a child care establishment, or caring for patients or residents in a health care institution until either of the following occurs:
   a. Two successive cultures negative for *Shigella* spp. are obtained from stool specimens collected at least 24 hours apart and at least 48 hours after discontinuing antibiotics, or
   b. Treatment is maintained for 24 hours and diarrhea has resolved;
2. Conduct an epidemiologic investigation of each reported shigellosis case or suspect case; and
3. For each shigellosis case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D).

B. Contact control measures: A local health agency shall exclude a shigellosis contact with diarrhea of unknown cause from working as a food handler, caring for children in or attending a child care establishment, or caring for patients or residents in a health care institution until:
1. Two successive cultures negative for *Shigella* spp. are obtained from stool specimens collected at least 24 hours apart, or
2. Treatment has been maintained for 24 hours and diarrhea has resolved.

Historical Note

Adopted effective April 4, 1997 (Supp. 97-2). Former R9-6-370 renumbered to R9-6-380; new R9-6-370 renumbered from R9-6-362 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-370 renumbered to R9-6-377; new R9-6-370 renumbered from R9-6-365 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-371. Smallpox

A. Case control measures: A local health agency shall:
1. Upon receiving a report under R9-6-202 of a smallpox case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;
2. In consultation with the Department:
   a. Ensure the isolation of and the institution of both airborne precautions and contact precautions for a smallpox case or suspect case to prevent transmission; and
   b. Conduct an epidemiologic investigation of each reported smallpox case or suspect case; and
3. For each smallpox case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D).

B. Contact control measures: A local health agency, in consultation with the Department, shall:
1. Quarantine a smallpox contact as necessary to prevent transmission; and
2. Monitor the contact for smallpox symptoms, including fever, each day for 21 calendar days after last exposure.

Historical Note

Adopted effective April 4, 1997 (Supp. 97-2). Former R9-6-371 renumbered to R9-6-381; new R9-6-371 renumbered from R9-6-363 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-371 renumbered to R9-6-378; new R9-6-371 renumbered from R9-6-366 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-372. Streptococcal Group A Infection

A. Non-invasive streptococcal group A infection:
Case control measures: An administrator of a school, child care establishment, or health care institution or a person in charge of a food establishment, either personally or through a representative, shall exclude a streptococcal group A infection case with streptococcal lesions or streptococcal sore throat from working as a food handler, attending or working in a school, caring for children in or attending a child care establishment, or caring for patients or residents in a health care

institution for 24 hours after the initiation of treatment for streptococcal infection.

B. Invasive streptococcal group A infection:
Outbreak control measures: A local health agency shall:
1. Conduct an epidemiologic investigation of each reported outbreak of streptococcal group A invasive infection;
2. For each streptococcal group A invasive infection case involved in an outbreak, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D); and
3. For each outbreak of streptococcal group A invasive infection, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(F).

Historical Note
Section R9-6-372 renumbered from R9-6-365 and amended effective April 4, 1997 (Supp. 97-2). Former R9-6-372 renumbered to R9-6-382; new R9-6-372 renumbered from R9-6-364 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-372 renumbered to R9-6-379; new R9-6-372 renumbered from R9-6-367 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-373. Streptococcal Group B Infection in an Infant Younger Than 90 Days of Age
Case control measures: A local health agency shall:
1. Confirm the diagnosis of streptococcal group B infection for each reported case or suspect case of streptococcal group B infection in an infant younger than 90 days of age; and
2. For each case of streptococcal group B infection in an infant younger than 90 days of age, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(C).

Historical Note
Adopted effective April 4, 1997 (Supp. 97-2). Former R9-6-373 renumbered to R9-6-383; new R9-6-373 renumbered from R9-6-365 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-373 renumbered to R9-6-380; new R9-6-373 made by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-374. *Streptococcus pneumoniae* Infection
Case control measures: A local health agency shall:
1. If a reported *Streptococcus pneumoniae* infection case or suspect case is five or more years of age:
   a. Confirm the diagnosis of *Streptococcus pneumoniae* infection for each reported *Streptococcus pneumoniae* infection case or suspect case who is five or more years of age; and
   b. For each *Streptococcus pneumoniae* infection case who is five or more years of age, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(C); and
2. If a reported *Streptococcus pneumoniae* infection case or suspect case is under five years of age:
   a. Conduct an epidemiologic investigation for each reported *Streptococcus pneumoniae* infection case or suspect case who is under five years of age; and
   b. For each *Streptococcus pneumoniae* infection case who is under five years of age, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D).

Historical Note
Section R9-6-374 renumbered from R9-6-366 effective April 4, 1997 (Supp. 97-2). Former R9-6-374 renumbered to R9-6-386; new R9-6-374 renumbered from R9-6-366 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-374 renumbered to R9-6-381; new R9-6-374 made by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-375. Syphilis
A. Case control measures:
1. A syphilis case shall obtain serologic testing for syphilis three months, six months, and one year after initiating treatment.
2. A local health agency shall:
   a. Conduct an epidemiologic investigation of each reported syphilis case or suspect case, confirming the stage of the disease;
   b. For each syphilis case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D);
   c. If the syphilis case is pregnant, ensure that the syphilis case obtains the serologic testing for syphilis required in subsection (A)(1); and
   d. Comply with the requirements specified in R9-6-1103 concerning treatment and health education for a syphilis case.
3. The operator of a blood bank, blood center, or plasma center shall notify a donor of a test result with significant evidence suggestive of syphilis, as required under A.R.S. § 32-1483 and 21 CFR 630.6.

B. Contact control measures: When a syphilis case has named a contact, a local health agency shall comply with the requirements specified in R9-6-1103 concerning notification, testing, treatment, and health education for the contact.

C. Outbreak control measures: A local health agency shall:
1. Conduct an epidemiologic investigation of each reported syphilis outbreak; and
2. For each syphilis outbreak, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(F).

Historical Note
Adopted effective April 4, 1997 (Supp. 97-2). Former R9-6-375 renumbered to R9-6-387; new R9-6-375 renumbered from R9-6-367 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-375 renumbered to R9-6-382; new R9-6-375 renumbered from R9-6-368 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-376. Taeniasis
Case control measures: A local health agency shall:
1. Exclude a taeniasis case with *Taenia* spp. from working as a food handler, caring for children in or attending a child care establishment, or caring for patients or residents in a health care institution until free of infestation;
2. Conduct an epidemiologic investigation of each reported taeniasis case; and
3. For each taeniasis case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D).

Historical Note
Section renumbered from R9-6-368 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004

(Supp. 04-3). Former R9-6-376 renumbered to R9-6-383; new R9-6-376 renumbered from R9-6-369 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-377. Tetanus

Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported tetanus case or suspect case; and
2. For each tetanus case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D).

Historical Note

New Section made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-377 renumbered to R9-6-384; new R9-6-377 renumbered from R9-6-370 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-378. Toxic Shock Syndrome

Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported toxic shock syndrome case or suspect case; and
2. For each toxic shock syndrome case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D).

Historical Note

New Section made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-378 renumbered to R9-6-385; new R9-6-378 renumbered from R9-6-371 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-379. Trichinosis

Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported trichinosis case or suspect case; and
2. For each trichinosis case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D).

Historical Note

Section renumbered from R9-6-369 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Section repealed; new Section renumbered from R9-6-372 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-380. Tuberculosis

A. Case control measures:

1. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall isolate and institute airborne precautions for an individual with infectious active tuberculosis or a suspect case until:
   a. At least three successive sputum smears collected at least eight hours apart, at least one of which is taken in the morning as soon as possible after the individual awakens from sleep, are negative for acid-fast bacilli;
   b. Anti-tuberculosis treatment is initiated with multiple antibiotics;
   c. Clinical signs and symptoms of active tuberculosis are improved; and
   d. For a case of multi-drug resistant active tuberculosis, a tuberculosis control officer has approved the release of the case from airborne precautions.
2. An administrator of a health care institution, either personally or through a representative, shall notify a local health agency at least one working day before discharging a tuberculosis case or suspect case.
3. A local health agency shall:
   a. Exclude an individual with infectious active tuberculosis or a suspect case from working, unless the individual's work setting has been approved by a tuberculosis control officer, until:
      i. At least three successive sputum smears collected at least eight hours apart, at least one of which is taken first thing in the morning as soon as possible after the individual awakens from sleep, are negative for acid-fast bacilli;
      ii. Anti-tuberculosis treatment is initiated with multiple antibiotics;
      iii. Clinical signs and symptoms of active tuberculosis are improved; and
      iv. For a case of multi-drug resistant active tuberculosis, a tuberculosis control officer has approved the release of the case from airborne precautions;
   b. Conduct an epidemiologic investigation of each reported tuberculosis case or suspect case;
   c. For each tuberculosis case or suspect case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D);
   d. Ensure that an isolate from each tuberculosis case is submitted to the Arizona State Laboratory; and
   e. Comply with the requirements specified in R9-6-1202.

B. Contact control measures:

1. A contact of an individual with infectious active tuberculosis shall allow a local health agency to evaluate the contact's tuberculosis status.
2. A local health agency shall comply with the tuberculosis contact control measures specified in R9-6-1202.

C. An individual is not a tuberculosis case if the individual has a positive result from an approved test for tuberculosis but does not have clinical signs or symptoms of disease.

Historical Note

Section renumbered from R9-6-370 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-380 renumbered to R9-6-386; new R9-6-380 renumbered from R9-6-373 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-381. Tularemia

Case control measures:

1. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall isolate a pneumonic tularemia case until 72 hours of antibiotic therapy have been completed with favorable clinical response.
2. A local health agency shall:
   a. Upon receiving a report under R9-6-202 of a tularemia case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;
   b. Conduct an epidemiologic investigation of each reported tularemia case or suspect case;
   c. For each tularemia case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D); and

d. Ensure that an isolate from each tularemia case is submitted to the Arizona State Laboratory.

Historical Note

Section renumbered from R9-6-371 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-381 renumbered to R9-6-387; new R9-6-381 renumbered from R9-6-374 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-382. Typhoid Fever

A. Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported typhoid fever case or suspect case;
2. For each typhoid fever case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D);
3. Exclude a typhoid fever case from working as a food handler, caring for children in or attending a child care establishment, or caring for patients or residents in a health care institution until:
   a. At least one month after the date of onset of illness, and
   b. After three successive cultures negative for *Salmonella typhi* have been obtained from stool specimens collected at least 24 hours apart and at least 48 hours after cessation of antibiotic therapy;
4. If a culture from a typhoid fever case who has received antibiotic therapy is positive for *Salmonella typhi*, enforce the exclusions specified in subsection (A)(3) until three successive cultures negative for *Salmonella typhi* are obtained from stool specimens collected at least one month apart and 12 or fewer months after the date of onset of illness;
5. If a positive culture is obtained on a stool specimen collected at least 12 months after onset of illness from a typhoid fever case who has received antibiotic therapy, redesignate the case as a carrier; and
6. Exclude a typhoid fever carrier from working as a food handler, caring for children in or attending a child care establishment, or caring for patients or residents in a health care institution until three successive cultures negative for *Salmonella typhi* have been obtained from stool specimens collected at least one month apart, at least one by purging.

B. Contact control measures: A local health agency shall exclude a typhoid fever contact from working as a food handler, caring for children in or attending a child care establishment, or caring for patients or residents in a health care institution until two successive cultures negative for *Salmonella typhi* are obtained from stool specimens collected at least 24 hours apart.

Historical Note

Section renumbered from R9-6-372 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-382 renumbered to R9-6-388; new R9-6-382 renumbered from R9-6-375 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-383. Typhus Fever

Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported typhus fever case or suspect case; and
2. For each typhus fever case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D).

Historical Note

Section renumbered from R9-6-373 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-383 renumbered to R9-6-389; new R9-6-383 renumbered from R9-6-376 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-384. Expired

Historical Note

New Section made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-384 renumbered to R9-6-390; new R9-6-384 renumbered from R9-6-377 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section expired under A.R.S. § 41-1056(J) at 19 A.A.R. 1928, effective April 30, 2013 (Supp. 13-3).

R9-6-385. Vaccinia-related Adverse Event

Case control measures: A local health agency shall:

1. Conduct an epidemiologic investigation of each reported case or suspect case of a vaccinia-related adverse event; and
2. For each case of a vaccinia-related adverse event, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D).

Historical Note

New Section made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-385 renumbered to R9-6-391; new R9-6-385 renumbered from R9-6-378 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-386. Vancomycin-Resistant or Vancomycin-Intermediate *Staphylococcus aureus*

Case control measures:

1. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall isolate and implement contact precautions for a case or suspect case of vancomycin-resistant or vancomycin-intermediate *Staphylococcus aureus*.
2. A local health agency, in consultation with the Department, shall:
   a. Upon receiving a report under R9-6-202 of a case or suspect case of vancomycin-resistant or vancomycin-intermediate *Staphylococcus aureus*, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;
   b. Isolate a case or suspect case of vancomycin-resistant or vancomycin-intermediate *Staphylococcus aureus* as necessary to prevent transmission;
   c. Conduct an epidemiologic investigation of each reported case or suspect case of vancomycin-resistant or vancomycin-intermediate *Staphylococcus aureus*;
   d. For each case of vancomycin-resistant or vancomycin-intermediate *Staphylococcus aureus*, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D); and
   e. Ensure that an isolate from each case of vancomycin-resistant or vancomycin-intermediate *Staphylo-*

coccus aureus is submitted to the Arizona State Laboratory.

Historical Note

Section renumbered from R9-6-374 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-386 renumbered to R9-6-392; new R9-6-386 renumbered from R9-6-380 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-387. Vancomycin-Resistant *Staphylococcus epidermidis*

Case control measures:

1. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall isolate and implement contact precautions for a case or suspect case of vancomycin-resistant *Staphylococcus epidermidis*.
2. A local health agency shall:
   a. Upon receiving a report under R9-6-202 of a case or suspect case of vancomycin-resistant *Staphylococcus epidermidis*, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
   b. Conduct an epidemiologic investigation of each reported case or suspect case of vancomycin-resistant *Staphylococcus epidermidis*;
   c. For each case of vancomycin-resistant *Staphylococcus epidermidis*, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D); and
   d. Ensure that an isolate from each case of vancomycin-resistant *Staphylococcus epidermidis* is submitted to the Arizona State Laboratory.

Historical Note

Section renumbered from R9-6-375 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-387 renumbered to R9-6-393; new R9-6-387 renumbered from R9-6-381 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-388. Varicella (Chickenpox)

A. Case control measures:

1. An administrator of a school or child care establishment, either personally or through a representative, shall exclude a varicella case from the school or child care establishment and from school- or child-care-establishment-sponsored events until lesions are dry and crusted.
2. An administrator of a health care institution, either personally or through a representative, shall isolate and implement airborne precautions for a varicella case until the case is no longer infectious.
3. A local health agency shall:
   a. Conduct an epidemiologic investigation of each reported case of death due to varicella infection; and
   b. For each reported case of death due to varicella infection, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D).

B. Contact control measures:

1. When a varicella case has been at a school or child care establishment, the administrator of the school or child care establishment, either personally or through a representative, shall:
   a. Consult with the local health agency to determine who shall be excluded and how long each individual shall be excluded from the school or child care establishment, and
   b. Comply with the local health agency's recommendations for exclusion.
2. A local health agency shall determine which contacts of a varicella case will be:
   a. Excluded from a school or child care establishment, and
   b. Advised to obtain an immunization against varicella.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former R9-6-388 renumbered to R9-6-303; new R9-6-388 renumbered from R9-6-382 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-389. *Vibrio* Infection

Case control measures: A local health agency shall:

1. Exclude a *Vibrio* infection case or suspect case from working as a food handler, caring for patients or residents in a health care institution, or caring for children in or attending a child care establishment until either of the following occurs:
   a. Two successive cultures negative for *Vibrio* spp. are obtained from stool specimens collected at least 24 hours apart, or
   b. Diarrhea has resolved;
2. Conduct an epidemiologic investigation of each reported *Vibrio* infection case or suspect case; and
3. For each *Vibrio* infection case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D).

Historical Note

New Section recodified from R9-19-313 at 11 A.A.R. 3578, effective September 2, 2005 (Supp. 05-4). Former R9-6-389 renumbered to R9-6-394; new R9-6-389 renumbered from R9-6-383 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-390. Viral Hemorrhagic Fever

A. Case control measures:

1. A diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall isolate and implement both droplet precautions and contact precautions for a viral hemorrhagic fever case or suspect case for the duration of the illness.
2. A local health agency shall:
   a. Upon receiving a report under R9-6-202 of a viral hemorrhagic fever case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;
   b. Conduct an epidemiologic investigation of each reported viral hemorrhagic fever case or suspect case;
   c. For each viral hemorrhagic fever case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D); and
   d. Ensure that specimens from each viral hemorrhagic fever case are submitted to the Arizona State Laboratory.

B. Contact control measures: A local health agency, in consultation with the Department, shall quarantine a viral hemorrhagic fever contact as necessary to prevent transmission.

Historical Note
Section R9-6-390 renumbered from R9-6-384 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-391. West Nile Virus-related Syndromes
Case control measures: A local health agency shall:
1. Conduct an epidemiologic investigation of each reported West Nile virus-related syndrome case or suspect case; and
2. For each case of West Nile virus-related syndrome, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D).

Historical Note
Section R9-6-391 renumbered from R9-6-385 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-392. Yellow Fever
Case control measures: A local health agency shall:
1. Upon receiving a report under R9-6-202 of a yellow fever case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
2. Conduct an epidemiologic investigation of each reported yellow fever case or suspect case; and
3. For each yellow fever case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D).

Historical Note
Section R9-6-392 renumbered from R9-6-386 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-393. Yersiniosis (Enteropathogenic *Yersinia*)
Case control measures: A local health agency shall:
1. Exclude a yersiniosis case or suspect case from working as a food handler, caring for patients or residents in a health care institution, or caring for children in or attending a child care establishment until either of the following occurs:
   a. Two successive cultures negative for enteropathogenic *Yersinia* are obtained from stool specimens collected at least 24 hours apart and at least 48 hours after discontinuing antibiotics, or
   b. Diarrhea has resolved;
2. Upon receiving a report under R9-6-202 of a yersiniosis case or suspect case, notify the Department within one working day after receiving the report and provide to the Department the information contained in the report;
3. Conduct an epidemiologic investigation of each reported yersiniosis case or suspect case;
4. For each yersiniosis case, submit to the Department, as specified in Article 2, Table 4, the information required under R9-6-206(D); and
5. Ensure that an isolate from each yersiniosis case is submitted to the Arizona State Laboratory.

Historical Note
Section R9-6-393 renumbered from R9-6-387 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-394. Expired

Historical Note
Section R9-6-394 renumbered from R9-6-389 by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section expired under A.R.S. § 41-1056(J) at 19 A.A.R. 1928, effective April 30, 2013 (Supp. 13-3).

Exhibit III-A. Repealed

Historical Note
Exhibit III-A made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Exhibit III-A repealed by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

Exhibit III-B. Repealed

Historical Note
Exhibit III-B made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Exhibit III-B repealed by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

Exhibit III-C. Repealed

Historical Note
Exhibit III-C made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Exhibit III-C repealed by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

Exhibit III-D. Repealed

Historical Note
Exhibit III-D made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Exhibit III-D repealed by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

Exhibit III-E. Repealed

Historical Note
Exhibit III-E made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Exhibit III-E repealed by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

Exhibit III-F. Repealed

Historical Note
Exhibit III-F made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Exhibit III-F repealed by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

Exhibit III-G. Repealed

Historical Note
Exhibit III-G made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Exhibit III-G repealed by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

Exhibit III-H. Repealed

Historical Note
Exhibit III-H made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Exhibit III-H repealed by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

Exhibit III-I. Repealed

Historical Note
Exhibit III-I made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Exhibit III-I repealed by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

Exhibit III-J. Repealed

Historical Note
Exhibit III-J made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Exhibit III-J repealed by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

Exhibit III-K. Repealed

Historical Note
Exhibit III-K made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Exhibit III-K repealed by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

Exhibit III-L. Repealed

Historical Note
Exhibit III-L made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Exhibit III-L repealed by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

Exhibit III-M. Repealed

Historical Note
Exhibit III-M made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Exhibit III-M repealed by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

Exhibit III-N. Repealed

Historical Note
Exhibit III-N made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Exhibit III-N repealed by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

ARTICLE 4. AIDS DRUG ASSISTANCE PROGRAM (ADAP)

R9-6-401. Definitions

In this Article, unless otherwise specified:

1. "ADAP" means the AIDS Drug Assistance Program.
2. "Adult" means an individual who is:
   a. Eighteen or more years old;
   b. Married; or
   c. Emancipated, as specified in A.R.S. Title 12, Chapter 15.
3. "Advocacy" means the act of supporting, recommending, or arguing in favor of a cause or course of action for the benefit of an individual or group of individuals.
4. "AHCCCS" means the Arizona Health Care Cost Containment System.
5. "Annual family income" means the combined yearly gross earned income and unearned income of all adult individuals within a family unit.
6. "Applicant" means an individual for whom a request for initial enrollment in ADAP is submitted to the Department, as specified in R9-6-404.
7. "Applying for a low-income subsidy" means submitting forms and supporting documentation to the Social Security Administration for determining eligibility for receiving a low-income subsidy.
8. "Biological substance" means a compound made by or derived from a plant or animal source.
9. "Business day" means any day of the week other than a Saturday, Sunday, legal holiday, or day on which the Department is authorized or obligated by law or executive order to close.
10. "Calendar day" means any day of the week, including a Saturday, Sunday, or legal holiday.
11. "Case management services" means the activities performed by a case manager for an HIV-infected individual or the individuals in the HIV-infected individual's family unit.
12. "Case manager" means an individual who:
    a. Assesses the needs of an HIV-infected individual for health services, housing, support services, and financial assistance;
    b. Assists the HIV-infected individual with obtaining health services, housing, support services, or financial assistance, as applicable;
    c. Coordinates the interaction of the HIV-infected individual with service providers; and
    d. Monitors the interaction of the HIV-infected individual with service providers to:
       i. Determine the effects of each service provider's activities on the needs of the HIV-infected individual, and
       ii. Develop strategies to reduce unmet needs.
13. "CD4-T-lymphocyte count" means the number of a specific type of white blood cell in a cubic millimeter of blood.
14. "Community service organization" means a nonprofit entity that assists an individual who is infected with HIV or affected by another individual's infection with HIV by providing the services listed below or coordinating the interaction of the individual with service providers to obtain or retain:
    a. Rehabilitation services,
    b. Case management services,
    c. Support services,
    d. Advocacy,
    e. Financial assistance, or
    f. Housing.
15. "Confirmatory test" means a laboratory analysis, such as a Western blot analysis, approved by the U.S. Food and Drug Administration to be used after a screening test to diagnose or monitor the progression of HIV infection.
16. "Current" means within the six months before the:
    a. Date of application, or
    b. Date on which an enrolled individual submits to the Department the documents required in R9-6-407 for continuing enrollment.
17. "Date of application" means the month, day, and year that an individual submits the documents specified in R9-6-404 to the Department as an application for initial enrollment in ADAP.
18. "Diagnosis" means an identification of a communicable disease by an individual authorized by law to make the identification.
19. "Drug" means a chemical or biological substance determined by the U.S. Food and Drug Administration to be useful in the treatment of individuals with HIV infection and available only through a prescription order.
20. "Earned income" means monetary payments received by an individual as a result of work performed or rental of property owned or leased by the individual, including:
    a. Wages,

b. Commissions and fees,
c. Salaries and tips,
d. Profit from self-employment,
e. Profit from rent received from a tenant or boarder, and
f. Any other monetary payments received by an individual for work performed or rental of property.

21. "Employed" means working for a person for money in the form of wages or a salary.
22. "Enrolling in a Medicare drug plan" means submitting information to the Centers for Medicare and Medicaid Services during an initial enrollment period or general enrollment period and selecting a Medicare drug plan.
23. "Family unit" means:
    a. A group of individuals residing together who are related by birth, marriage, or adoption; or
    b. An individual who:
        i. Does not reside with another individual; or
        ii Resides only with another individual or group of individuals to whom the individual is unrelated by birth, marriage, or adoption.
24. "Formulary" means a list of drugs that are available to an individual through the individual's health insurance or ADAP.
25. "General enrollment period" means the interval of time between November 15 and December 31 of each calendar year during which an individual:
    a. May enroll in a Medicare drug plan if the individual, before May 15, 2006:
        i. Was enrolled in Medicare,
        ii. Was eligible to enroll in a Medicare drug plan, and
        iii. Did not enroll in a Medicare drug plan; or
    b. Currently enrolled in a Medicare drug plan may select a different Medicare drug plan.
26. "Gift" means something given voluntarily by an individual to another individual without payment in return.
27. "Guardian" means an individual appointed as a legal guardian by a court of competent jurisdiction.
28. "Health-related services" means the same as in A.R.S. § 36-401.
29. "Health services" means medical services, nursing services, or health-related services provided to an individual.
30. "HIV infection" means the same as in A.R.S. § 36-661.
31. "Homeless" means having a primary nighttime sleeping place that is not:
    a. Designed to be a sleeping place for human beings, or
    b. Ordinarily used as a primary nighttime sleeping place for human beings.
32. "Initial enrollment period" means the interval of time during which an individual may first enroll in a Medicare drug plan.
33. "Job" means a position in which an individual is employed.
34. "Low-income subsidy" means Medicare-provided assistance that may partially or fully cover the costs of drugs and is based on the income of an individual and, if applicable, the individual's spouse.
35. "Medical services" means the same as in A.R.S. § 36-401.
36. "Medicare" means a federal health insurance program established under Title XVIII of the Social Security Act.
37. "Medicare drug plan" means insurance approved by Medicare to cover some of the costs of drugs for individuals enrolled in Medicare.
38. "Non-permanent housing" means a living situation in which an individual is:
    a. Homeless, or
    b. Living in a shelter or other temporary living arrangement.
39. "Nonprofit" means owned and operated under the direction of an entity that is recognized as exempt under § 501 of the U.S. Internal Revenue Code.
40. "Nursing services" means the same as in A.R.S. § 36-401.
41. "Physician" means an individual licensed as a doctor of allopathic medicine under A.R.S. Title 32, Chapter 13, or as a doctor of osteopathic medicine under A.R.S. Title 32, Chapter 17.
42. "Physician assistant" means an individual licensed under A.R.S. Title 32, Chapter 25.
43. "Poverty level" means the annual family income for a family unit of a particular size, as specified in the poverty guidelines updated annually in the Federal Register by the U.S. Department of Health and Human Services.
44. "Prescription order" means the same as in A.R.S. § 32-1901.
45. "Primary care provider" means the physician, registered nurse practitioner, or physician assistant who is treating an applicant or enrolled individual for HIV infection.
46. "Provisional enrollment" means an interval of time, determined by the Department, during which an individual who meets the eligibility criteria specified in R9-6-403(1) through (4) may receive drugs on the ADAP formulary through the vendor pharmacy while the individual is waiting for:
    a. An eligibility determination for AHCCCS enrollment or a low-income subsidy; or
    b. Enrollment in a Medicare drug plan.
47. "Public assistance" means a government program that provides a monetary payment, or that supplies goods or services that have a monetary value, to individuals, based on need, such as Supplemental Security Income, Temporary Aid to Needy Families, Food Stamps, or non-federally funded General Assistance.
48. "Registered nurse practitioner" means an individual who meets the definition of registered nurse practitioner in A.R.S. § 32-1601 and is licensed under A.R.S. Title 32, Chapter 15.
49. "Regular" means recurring at fixed intervals.
50. "Rehabilitation services" means the same as in A.A.C. R9-10-201.
51. "Representative" means the:
    a. Guardian of an individual;
    b. Parent of an individual who is not an adult; or
    c. Person designated as an agent for an individual through a power of attorney, as specified in A.R.S. Title 14, Chapter 5, Article 5.
52. "Reservist" means a member of the Reserves of the U.S. Army, Air Force, Navy, Marine Corps, or Coast Guard.
53. "Resident" means an individual who has a place of habitation in Arizona and lives in Arizona as other than a tourist.
54. "Restricted drug" means a drug on the ADAP formulary that is approved by the Department on a case-by-case basis for enrolled individuals who meet medical indications for the use of the drug.
55. "Routine training" means military education and related hands-on activities designed to make an individual ready for the tasks the individual would be expected to perform

as a member of the U.S. Air Force, Army, Coast Guard, Marine Corps, or Navy.

56. "Screening test" means a laboratory analysis approved by the U.S. Food and Drug Administration as an initial test to indicate the possibility that an individual is HIV infected.
57. "Self-employed" means receiving money as a direct result of the work performed by an individual rather than from wages or a salary paid to the individual.
58. "Service provider" means an individual who provides medical services, nursing services, health-related services, or support services for an HIV-infected individual.
59. "Shelter" means a facility that provides individuals with a temporary place to sleep at night with the expectation that the individual will go elsewhere during the daylight hours.
60. "Support services" means activities, not related to the treatment of HIV infection, intended to maintain or improve the physical, mental, or psychosocial capabilities of an HIV-infected individual or the individual's family unit and that may include:
    a. Providing opportunities for social interactions for HIV-infected individuals;
    b. Taking care of a child of an HIV-infected individual while the HIV-infected individual receives medical services;
    c. Providing food or meals to an HIV-infected individual in the HIV-infected individual's residence; or
    d. Providing information about available support services or materials about how to reduce the risk of spreading HIV.
61. "Temporary" means transient, with no expectation of permanence.
62. "Third-party payor" means a person other than an HIV-infected individual, such as health insurance or an employer, that is responsible for paying a portion of the costs of drugs for the HIV-infected individual.
63. "Tourist" means an individual who is living in Arizona but maintains a place of habitation outside of Arizona and lives outside of Arizona for more than six months during a calendar year.
64. "Treatment" means the administration to an individual of health services intended to relieve illness or injury.
65. "Unearned income" means monetary payments received by an individual that are not compensation for work performed or rental of property owned or leased by the individual, including:
    a. Unemployment insurance;
    b. Workers' compensation;
    c. Disability payments;
    d. Payments from the Social Security Administration;
    e. Payments from public assistance;
    f. Periodic insurance or annuity payments;
    g. Retirement or pension payments;
    h. Strike benefits from union funds;
    i. Training stipends;
    j. Child support payments;
    k. Alimony payments;
    l. Military family allotments;
    m. Regular support payments from a relative or other individual not residing in the household;
    n. Investment income;
    o. Royalty payments;
    p. Periodic payments from estates or trusts; and
    q. Any other monetary payments received by an individual that are not:
        i. As a result of work performed or rental of property owned by the individual,
        ii Gifts,
        iii. Lump-sum capital gains payments,
        iv. Lump-sum inheritance payments,
        v. Lump-sum insurance payments, or
        vi. Payments made to compensate for personal injury.
66. "Vendor pharmacy" means an entity that contracts with the Department to perform the activities specified in R9-6-409(C).
67. "Veteran" means an individual who has served in the United States Armed Forces.
68. "Viral load test" means a laboratory analysis to determine the amount of HIV circulating in the body of an individual.

Historical Note

Adopted as an emergency effective January 12, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Readopted without change as an emergency effective May 9, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-2). Amended and readopted as an emergency effective August 8, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired. Readopted without change as an emergency effective November 16, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Adopted without change as a permanent rule effective May 22, 1989. Amended as an emergency effective June 26, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Emergency amendment readopted without change effective October 17, 1989 (Supp. 89-4). Amended effective September 19, 1990 (Supp. 90-3). Renumbered from R9-6-801 effective October 19, 1993 (Supp. 93-4). Former Section R9-6-401 renumbered to R9-6-402; new Section R9-6-401 made by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Amended by final rulemaking at 13 A.A.R. 3329, effective November 10, 2007 (Supp. 07-3).

R9-6-402. Limitations and Termination of Program

ADAP ceases to provide drugs when available funding is exhausted or terminated. ADAP is not an entitlement program and does not create a right to assistance absent available funding.

Historical Note

Adopted as an emergency effective January 12, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Readopted without change as an emergency effective May 9, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-2). Amended and readopted as an emergency effective August 8, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired. Readopted without change as an emergency effective November 16, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Adopted without change as a permanent rule effective May 22, 1989 (Supp. 89-2). Amended effective September 19, 1990 (Supp. 90-3). Amended as an emergency effective August 8, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-3). Emergency expired. Emergency amendments re-adopted without change effective November 19, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-4). Emergency expired. Emergency amendments re-adopted without

change effective February 28, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-1). Emergency expired. Renumbered from R9-6-802 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-402 renumbered to R9-6-403; new Section R9-6-402 renumbered from R9-6-401 and amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2).

R9-6-403. Eligibility Requirements

An individual is eligible to enroll in ADAP if the individual:

1. Has a diagnosis of HIV infection from a physician, registered nurse practitioner, or physician assistant;
2. Is a resident of Arizona, as established by documentation that complies with R9-6-404(A)(9);
3. Has an annual family income that is less than or equal to 300% of the poverty level;
4. Satisfies one of the following:
   a. Has no health insurance coverage;
   b. Has health insurance coverage that:
      i. Does not cover drugs, or
      ii. Does not include on its formulary at least one of the drugs prescribed for the individual that is on the ADAP formulary;
   c. Is an American Indian or Alaska Native who:
      i. Is eligible for, but chooses not to use, the Indian Health Service to receive drugs; and
      ii. Either has no other health insurance coverage or has health insurance coverage that:
         (1) Does not cover drugs, or
         (2) Does not include on its formulary at least one of the drugs prescribed for the individual that is on the ADAP formulary; or
   d. Is a veteran who:
      i. Is eligible for, but chooses not to use, Veterans Health Administration benefits to receive drugs; and
      ii. Either has no other health insurance coverage or has health insurance coverage that:
         (1) Does not cover drugs, or
         (2) Does not include on its formulary at least one of the drugs prescribed for the individual that is on the ADAP formulary;
5. Is ineligible for enrollment in AHCCCS, as established by documentation issued by AHCCCS; and
6. If eligible for Medicare:
   a. Is ineligible for a full low-income subsidy, as established by documentation issued by the Social Security Administration; and
   b. Has enrolled in a Medicare drug plan.

Historical Note

Adopted as an emergency effective January 12, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Readopted without change as an emergency effective May 9, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-2). Amended and readopted as an emergency effective August 8, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired. Readopted without change as an emergency effective November 16, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Amended subsection (B) and adopted as a permanent rule effective May 22, 1989 (Supp. 89-2). Amended as an emergency effective August 8, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-3). Emergency expired. Emergency amendments re-adopted without change effective November 19, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-4). Emergency expired. Emergency amendments re-adopted without change effective February 28, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-1). Emergency expired. Renumbered from R9-6-803 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-403 renumbered to R9-6-404; new Section R9-6-403 renumbered from R9-6-402 and amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Amended by final rulemaking at 13 A.A.R. 3329, effective November 10, 2007 (Supp. 07-3).

R9-6-404. Initial Application Process

A. An applicant for initial enrollment in ADAP or the applicant's representative shall submit to the Department the following documents:

1. A Department-provided form, completed by the applicant or the applicant's representative containing:
   a. The applicant's name, date of birth, and gender;
   b. Except as provided in subsection (A)(1)(c), the applicant's residential address and mailing address;
   c. If the applicant is in non-permanent housing, the address of a community service organization that has agreed to receive written communications for the applicant;
   d. If applicable, the name of the applicant's representative and the mailing address of the applicant's representative, if different from the applicant's mailing address;
   e. The telephone number of the applicant or a person that has agreed to receive telephone communications for the applicant;
   f. The number of individuals in the applicant's family unit and the names and ages of the individuals;
   g. The names of individuals, other than the persons specified in subsection (A)(1)(q)(iii), with whom the applicant authorizes the Department to speak about the applicant's enrollment in ADAP;
   h. The applicant's annual family income;
   i. The applicant's race and ethnicity;
   j. Whether the applicant or an adult in the applicant's family unit:
      i. Is employed;
      ii. Is self-employed;
      iii. Is receiving public assistance;
      iv. Is receiving regular monetary payments from a source not specified in subsection (A)(1)(j)(i) through subsection (A)(1)(j)(iii) and, if so, an identification of the source of the monetary payments; or
      v. Is using a source not specified in subsection (A)(1)(j)(i) through subsection (A)(1)(j)(iv) or savings to assist the applicant in obtaining food, water, housing, or clothing for the applicant and if so, an identification of the source;
   k. Whether the applicant is receiving benefits from AHCCCS;
   l. The date the applicant or the applicant's representative is scheduled to meet with AHCCCS to discuss eligibility for AHCCCS, if applicable;
   m. Whether the applicant is eligible for Medicare benefits and, if not, the date on which the applicant will be eligible for Medicare benefits;

n. If the applicant is eligible for Medicare benefits, whether:
   i. The applicant or the applicant's representative has applied for a low-income subsidy for the applicant and, if so, the date of the application for the low-income subsidy; and
   ii. Either:
      (1) The applicant or the applicant's representative has applied for a Medicare drug plan for the applicant and, if so, the date of the application for the Medicare drug plan; or
      (2) The applicant is enrolled in a Medicare drug plan;
o. Whether the applicant has health insurance other than Medicare that would pay for drugs on the ADAP formulary;
p. Whether the applicant has served on active duty:
   i. In the U.S. Air Force, Army, Coast Guard, Marine Corps, or Navy;
   ii. In the Army National Guard or Air National Guard; or
   iii. As a reservist serving on active duty other than for routine training purposes;
q. A statement by the applicant or the applicant's representative confirming that the applicant or the applicant's representative:
   i. Understands that the applicant or the applicant's representative is required to submit to the Department proof of ineligibility for enrollment in AHCCCS and for a low-income subsidy within 30 calendar days after the date of application, if not provided to the Department with the application;
   ii. Understands that the applicant or the applicant's representative is required to submit to the Department proof of enrollment in a Medicare drug plan, if the applicant is eligible for Medicare, within 30 calendar days after the date of application, if not provided to the Department with the application;
   iii. Grants permission to the Department to discuss the information provided to the Department under subsection (A) with:
      (1) AHCCCS, for the purpose of determining AHCCCS eligibility;
      (2) Medicare and the Social Security Administration, for the purpose of determining eligibility for a low-income subsidy and enrollment in a Medicare drug plan;
      (3) The applicant's primary care provider or designee;
      (4) The vendor pharmacy, to assist with drug distribution; and
      (5) Any other entity as necessary to establish eligibility for enrollment in ADAP or assist with drug distribution to the applicant;
   iv. Understands that the applicant or the applicant's representative is required to submit to the Department proof of annual family income as part of the application; and
   v. Understands that the applicant or the applicant's representative is required to notify the Department of changes specified in R9-6-406(A);
r. A statement by the applicant or the applicant's representative attesting that:
   i. To the best of the knowledge and belief of the applicant or the applicant's representative, the information provided to the Department as specified in subsection (A), including the information in the documents accompanying the form specified in subsection (A)(1), is accurate and complete;
   ii. The applicant meets the eligibility criteria specified in R9-6-403; and
   iii. The applicant or applicant's representative understands that eligibility does not guarantee that the Department will be able to provide drugs and understands that an individual's enrollment in ADAP may be terminated as specified in R9-6-408; and
s. The dated signature of the applicant or the applicant's representative;

2. The Department-provided form specified in subsection (B), completed by the applicant's primary care provider;
3. A written prescription order signed by the applicant's primary care provider or a copy of the written prescription order for each drug on the list specified in subsection (B)(5);
4. A copy of current documentation from AHCCCS stating that the applicant's eligibility for enrollment in AHCCCS has not yet been determined or that AHCCCS is denying eligibility to the applicant;
5. If the applicant is eligible for Medicare, a copy of current documentation from the Social Security Administration stating that the applicant's eligibility for a low-income subsidy has not yet been determined or that the applicant is ineligible for a full low-income subsidy;
6. If the applicant is eligible for Medicare, a copy of the applicant's Medicare prescription card or copy of a letter from the company providing the applicant's Medicare drug plan, confirming that the applicant has applied for or is enrolled in a Medicare drug plan;
7. Proof of annual family income, including the following items as applicable to the applicant's family unit:
   a. For each job held by an adult in the family unit:
      i. Paycheck stubs from the 30 calendar days before the date of application, or
      ii. A statement from the employer listing gross wages for the 30 calendar days before the date of application;
   b. From each self-employed adult in the family unit, documentation of the current net income from self-employment, such as:
      i. An income tax return submitted for the previous tax year to the U.S. Internal Revenue Service or the Arizona Department of Revenue;
      ii. The Internal Revenue Service Forms 1099 prepared for the previous tax year for the self-employed adult in the family unit;
      iii. A profit and loss statement for the self-employed adult's business; or
      iv. Bank statements from the self-employed adult's checking and savings accounts;
   c. A letter from each entity providing public assistance to an adult in the family unit, describing payments from public assistance;
   d. A letter from an entity providing a monetary award to an adult in the family unit to cover educational

expenses other than tuition, describing the monetary award; and

e. Documentation showing the amount and source of any regular monetary payments received by an adult in the family unit from sources other than those specified in subsection (A)(7)(a) through subsection (A)(7)(d);

8. If the applicant or the applicant's representative has stated on the form specified in subsection (A)(1) that the applicant has no source of regular monetary payments and is unable to provide any of the documentation specified in subsection (A)(7), a Department-provided form, completed and signed within 30 calendar days before the date of application, containing:
   a. Information completed by the applicant or the applicant's representative stating whether:
      i. An adult in the applicant's family unit receives money from intermittent work performed by the adult in the family unit for which no paycheck stub is received and, if so, the average monthly earnings, and the adult's occupation;
      ii. The applicant is homeless or living in a shelter;
      iii. The applicant is receiving assistance from another individual; and
      iv. The applicant has another source of assistance for obtaining food, water, housing, and clothing, and, if so, an identification of the source;
   b. A statement by the applicant or the applicant's representative attesting that to the best of the knowledge and belief of the applicant or the applicant's representative, the information submitted under subsection (A)(8)(a) is accurate and complete;
   c. The dated signature of the applicant or the applicant's representative;
   d. A statement by the applicant's case manager or primary care provider attesting that to the best of the knowledge and belief of the applicant's case manager or primary care provider the information submitted under subsection (A)(8)(a) is accurate and complete; and
   e. The dated signature of the applicant's case manager or primary care provider;
9. Proof that the applicant is a resident of Arizona that includes:
   a. One of the following that shows the Arizona residential address included on the Department-provided form specified in subsection (A)(1) and the name of the applicant or an adult in the applicant's family unit:
      i. Documentation issued by a governmental entity related to participation in public assistance, dated within 60 calendar days before the date of application;
      ii. Current documentation from AHCCCS related to the applicant's eligibility for enrollment in AHCCCS;
      iii. Current documentation from the Social Security Administration or the Department of Veterans Affairs related to the applicant's eligibility for benefits;
      iv. Current documentation from the Arizona Department of Economic Security related to the applicant's eligibility for unemployment insurance benefits;
      v. A property tax statement for the most recent tax year issued by a governmental entity;
      vi. A homeowners' association assessment or fee statement, dated within 60 calendar days before the date of application;
      vii. A current lease agreement; or
      viii. A mortgage statement for the most recent tax year;
   b. If the applicant is unable to produce documentation that satisfies subsection (A)(9)(a), two of the following that show the Arizona residential address included on the Department-provided form specified in subsection (A)(1) and the name of the applicant or an adult in the applicant's family unit:
      i. A utility bill dated within 60 calendar days before the date of application;
      ii. A tax statement, other than a property tax statement, issued by a governmental entity for the most recent tax year;
      iii. An Internal Revenue Service Form W-2 for the most recent tax year;
      iv. A check stub or statement of direct deposit issued by an employer for the most recent pay period;
      v. A bank or credit union statement dated within 60 calendar days before the date of application;
      vi. A non-expired Arizona driver license issued by the Arizona Department of Transportation's Motor Vehicle Division;
      vii. A non-expired Arizona vehicle registration issued by the Arizona Department of Transportation's Motor Vehicle Division;
      viii. A non-expired Arizona identification card issued by the Arizona Department of Transportation's Motor Vehicle Division;
      ix. A tribal enrollment card or other type of tribal identification; or
      x. A current immigration identification card issued by U.S. Citizenship and Immigration Services; or
   c. If the applicant is unable to produce documentation that satisfies either subsection (A)(9)(a) or (b), two of the following that include the name of the applicant or an adult in the applicant's family unit:
      i. A document listed in subsection (A)(9)(b)(i) through subsection (A)(9)(b)(x) that includes the Arizona residential address shown on the Department-provided form specified in subsection (A)(1);
      ii. A letter issued by an entity providing non-permanent housing to the applicant, including the Arizona residential address of the non-permanent housing that is the same as the Arizona residential address for the applicant shown on the Department-provided form specified in subsection (A)(1);
      iii. A written statement issued by a community service organization, verifying that the applicant is homeless and a resident of Arizona;
      iv. A credit card, primary care provider's office, insurance company, or mobile telephone company billing statement dated within 60 calendar days before the date of application, including the Arizona residential address shown on the Department-provided form specified in subsection (A)(1);

v. A current vehicle insurance card, including the Arizona residential address shown on the Department-provided form specified in subsection (A)(1);
vi. An official document, such as an Arizona voter registration card, issued by a governmental entity and including the Arizona residential address shown on the Department-provided form specified in subsection (A)(1);
vii. A written statement issued by the applicant's case manager indicating that the case manager has conducted a home visit with the applicant at the Arizona residential address shown on the Department-provided form specified in subsection (A)(1) within 30 calendar days before the date of application; or
viii. A written statement issued by the applicant's primary care provider, verifying that the applicant is a resident of Arizona; and

10. If the applicant or the applicant's representative has stated on the Department-provided form specified in subsection (A)(8) that the applicant receives assistance from another individual, a letter from the individual to support the statement of the applicant or the applicant's representative.

B. The primary care provider of an applicant for initial enrollment in ADAP shall complete for the applicant a Department-provided form containing:
1. The applicant's name;
2. The primary care provider's name, business address, telephone number, fax number, and professional license number;
3. A statement that the applicant has been diagnosed with HIV infection;
4. The dates of and results for the most recent confirmatory test, CD4-T-lymphocyte count, and, if available, viral load test conducted for the applicant;
5. A list of each drug from the current ADAP formulary prescribed for the applicant by the primary care provider;
6. A statement by the primary care provider that the primary care provider understands that the primary care provider is required to notify the Department of changes specified in R9-6-406(B);
7. A statement by the primary care provider attesting that, to the best of the primary care provider's knowledge and belief, the information provided to the Department as specified in subsection (B) is accurate and complete; and
8. The dated signature of the primary care provider.

C. For purposes of enrollment in ADAP, an applicant or the applicant's representative may report annual family income using actual family income for the most recent 12 months or estimated annual family income determined by multiplying the most recent monthly family income by 12.

Historical Note

Adopted as an emergency effective January 12, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Readopted without change as an emergency effective May 9, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-2). Amended and readopted as an emergency effective August 8, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired. Readopted as an emergency and subsection (A) corrected effective November 16, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Amended subsection (B) and adopted as a permanent rule effective May 22, 1989 (Supp. 89-2). Renumbered from R9-6-804 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-404 renumbered to R9-6-405; new Section R9-6-404 renumbered from R9-6-403 and amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Amended by final rulemaking at 13 A.A.R. 3329, effective November 10, 2007 (Supp. 07-3).

R9-6-405. Enrollment Process; Provisional Enrollment

A. The Department shall:
1. Review the documents submitted by an applicant as required in R9-6-404(A);
2. Determine whether the applicant is eligible under R9-6-403;
3. Grant or deny enrollment based on applicant eligibility, the date of application, and the availability of funds; and
4. Notify the applicant or the applicant's representative of the Department's decision within five business days after receiving the documents specified in R9-6-404(A).

B. An applicant or the applicant's representative shall execute any consent forms or releases of information necessary for the Department to verify eligibility.

C. The Department shall send an applicant or the applicant's representative a written notice of denial, setting forth the information required under A.R.S. § 41-1092.03, if:
1. The applicant or the applicant's representative fails to provide documentation establishing eligibility for enrollment in ADAP,
2. The documentation submitted to the Department under R9-6-404 is found to contain false information, or
3. The Department does not have funds available to enroll the applicant in ADAP.

D. The Department shall grant a 30-day provisional enrollment in ADAP to an applicant if:
1. The Department determines that the applicant meets the requirements of R9-6-403(1) through (4); and
2. The applicant or the applicant's representative attests in writing that the applicant has applied for AHCCCS enrollment and, if eligible for Medicare, a low-income subsidy and a Medicare drug plan, but is unable to provide documentation that complies with R9-6-403(5) or (6) or both.

E. The Department shall provide an applicant to whom the Department has granted provisional enrollment in ADAP with the drugs on the list specified in R9-6-404(B)(5) during the provisional enrollment period.

F. Except as specified in subsection (H), to continue ADAP enrollment beyond a 30-day provisional enrollment period, an applicant or the applicant's representative shall provide to the Department, before the end of the 30-day provisional enrollment period, documentation that complies with R9-6-403(5) and, if applicable, R9-6-403(6).

G. Except as specified in subsection (H), if an applicant with provisional enrollment or the applicant's representative fails to provide documentation as required in subsection (F) to the Department before end of a 30-day provisional enrollment period, the Department shall send the applicant or the applicant's representative a written notice of denial, setting forth the information required under A.R.S. § 41-1092.03.

H. The Department may grant an extension of provisional enrollment to an applicant beyond a 30-day provisional enrollment period if the applicant or the applicant's representative provides documentation to the Department that the applicant has applied for AHCCCS enrollment and, if eligible for Medicare, a low-income subsidy and Medicare drug plan and:

1. AHCCCS has not yet determined whether the applicant is eligible for AHCCCS enrollment; or
2. If the applicant is eligible for Medicare:
   a. The Social Security Administration has not yet determined whether the applicant is eligible for a low-income subsidy, or
   b. The applicant cannot enroll in a Medicare drug plan until the next general enrollment period.

Historical Note

Adopted as an emergency effective January 12, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Readopted without change as an emergency effective May 9, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-2). Amended and readopted as an emergency effective August 8, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired. Readopted as an emergency and subsection (B), Paragraph (2) corrected effective November 16, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Adopted without change as a permanent rule effective May 22, 1989 (Supp. 89-2). Renumbered from R9-6-805 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-405 renumbered to R9-6-406; new Section R9-6-405 renumbered from R9-6-404 and amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Amended by final rulemaking at 13 A.A.R. 3329, effective November 10, 2007 (Supp. 07-3).

R9-6-406. Notification Requirements

A. An enrolled individual or the enrolled individual's representative shall notify the Department in writing or by telephone and comply with the applicable requirements specified in R9-6-407 within 30 calendar days after any of the following occurs:
1. The residential or mailing address or the telephone number of the enrolled individual changes from that provided to the Department under R9-6-404(A)(1) or R9-6-407;
2. The enrolled individual adds or deletes an individual with whom the Department may speak about the enrolled individual's ADAP enrollment from the list specified in R9-6-404(A)(1)(g);
3. The enrolled individual begins receiving treatment for HIV infection from a primary care provider different from the primary care provider who completed:
   a. The form specified in R9-6-404(B), or
   b. The most recent form specified in R9-6-407(D);
4. The enrolled individual has:
   a. Been determined eligible for and enrolled to receive drug coverage through AHCCCS;
   b. Received notification of drug coverage from a third-party payor other than AHCCCS, the Indian Health Service, or the Veterans Health Administration; or
   c. Been determined eligible for a low-income subsidy;
5. The enrolled individual's annual family income has:
   a. Increased to an amount above 300% of the poverty level, or
   b. Decreased to an amount that may make the enrolled individual eligible for enrollment in AHCCCS; or
6. The enrolled individual establishes residency outside Arizona.

B. An enrolled individual's primary care provider shall:
1. Notify the Department in writing or by telephone:
   a. That the enrolled individual has died, within 14 calendar days after the primary care provider learns of the death; and
   b. That the enrolled individual is receiving treatment for HIV infection from a different primary care provider, within 14 calendar days after the primary care provider learns of the change in primary care provider; and
2. Include in the notification:
   a. The name and date of birth of the enrolled individual;
   b. If notifying under subsection (B)(1)(a), the date of death; and
   c. If notifying under subsection (B)(1)(b), the name, business address, and telephone number of the new primary care provider.

C. An enrolled individual's primary care provider shall notify the vendor pharmacy, as specified in R9-6-409(A):
1. When prescribing a new drug for the enrolled individual, or
2. Within seven calendar days after discontinuing a drug that was contained in the list completed by the enrolled individual's primary care provider under R9-6-404(B) or R9-6-407(D).

D. An enrolled individual's case manager shall notify the Department in writing or by telephone within 30 calendar days after the case manager learns that:
1. The residential or mailing address or the telephone number of the enrolled individual has changed from that provided to the Department under R9-6-404(A)(1) or R9-6-407;
2. The enrolled individual has begun receiving treatment for HIV infection from a primary care provider who is different from the primary care provider who completed:
   a. The form specified in R9-6-404(B), or
   b. The most recent form specified in R9-6-407(D);
3. The enrolled individual has:
   a. Been determined eligible for and enrolled to receive drug coverage through AHCCCS;
   b. Received notification of drug coverage from a third-party payor other than AHCCCS, the Indian Health Service, or the Veterans Health Administration; or
   c. Been determined eligible for a low-income subsidy;
4. The enrolled individual's annual family income has:
   a. Increased to an amount above 300% of the poverty level; or
   b. Decreased to an amount that may make the enrolled individual eligible for enrollment in AHCCCS;
5. The enrolled individual has established residency outside Arizona; or
6. The enrolled individual has died.

Historical Note

Adopted as an emergency effective January 12, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Readopted without change as an emergency effective May 9, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-2). Amended and readopted as an emergency effective August 8, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired. Readopted without change as an emergency effective November 16, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Adopted without change as a permanent rule effective May 22, 1989 (Supp. 89-2). Amended effective September 19, 1990 (Supp. 90-3). Renumbered from R9-6-806 effective October 19, 1993 (Supp. 93-4). Former Section R9-6-406 renumbered to R9-6-407; new Section R9-6-406 renumbered from R9-6-405 and amended by final

rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Former R9-6-406 renumbered to R9-6-407; new R9-6-406 made by final rulemaking at 13 A.A.R. 3329, effective November 10, 2007 (Supp. 07-3).

R9-6-407. Continuing Enrollment

A. To continue enrollment in ADAP, an enrolled individual or the enrolled individual's representative shall:
1. When the enrolled individual's residential or mailing address changes, comply with subsection (B);
2. When the enrolled individual's primary care provider changes, comply with subsection (C);
3. When the enrolled individual's annual family income decreases to an amount that may make the individual eligible for enrollment in AHCCCS, comply with subsection (E);
4. When the enrolled individual becomes eligible for Medicare, comply with subsection (F);
5. Before the expiration of each six-month period after an individual's initial enrollment, comply with subsection (G); and
6. Before the expiration of each 24-month period after an individual's initial enrollment, comply with subsection (H).

B. When an enrolled individual's residential or mailing address changes, the enrolled individual or the enrolled individual's representative shall:
1. Complete a Department-provided form containing for the enrolled individual the information specified in R9-6-404(A)(1)(a) through R9-6-404(A)(1)(h) and R9-6-404(A)(1)(j), (k), (m), (n), and (o);
2. Attest on the form specified in subsection (B)(1) that:
   a. To the best of the knowledge and belief of the enrolled individual or the enrolled individual's representative, the information submitted in the form and the documents submitted with the form are accurate and complete;
   b. The enrolled individual meets the eligibility criteria specified in R9-6-403; and
   c. The enrolled individual or the enrolled individual's representative understands that eligibility does not guarantee that the Department will be able to provide drugs and that an individual's enrollment in ADAP may be terminated as specified in R9-6-408;
3. Grant permission on the form specified in subsection (B)(1) for the Department to discuss the enrolled individual's enrollment with:
   a. AHCCCS, for the purpose of determining AHCCCS eligibility;
   b. Medicare and the Social Security Administration, for the purpose of determining eligibility for a low-income subsidy and enrollment in a Medicare drug plan;
   c. The applicant's primary care provider or designee;
   d. The vendor pharmacy, to assist with drug distribution; and
   e. Any other entity as necessary to establish eligibility for enrollment in ADAP or assist with drug distribution;
4. Sign and date the form specified in subsection (B)(1); and
5. Submit to the Department within 30 calendar days of the change:
   a. The form specified in subsection (B)(1); and
   b. Proof of Arizona residency, as specified in R9-6-404(A)(9), showing the new Arizona residential address included on the form specified in subsection (B)(1).

C. When an enrolled individual's primary care provider changes, the enrolled individual or the enrolled individual's representative shall:
1. Comply with subsections (B)(1) through (4);
2. Obtain from the new primary care provider the Department-provided form specified in subsection (D), completed by the new primary care provider; and
3. Submit the form specified in subsection (B)(1) and the form specified in subsection (C)(2) to the Department within 30 calendar days after the change.

D. The primary care provider of an enrolled individual shall complete for the enrolled individual a Department-provided form containing:
1. The information required under R9-6-404(B)(1), (2), and (5) through (8); and
2. The dates of and results for the most recent CD4-T-lymphocyte count and, if available, viral load test conducted for the enrolled individual.

E. When an enrolled individual's annual family income decreases to an amount that may make the individual eligible for enrollment in AHCCCS, the enrolled individual or the enrolled individual's representative shall:
1. Apply for enrollment in AHCCCS within 30 calendar days after the change in annual family income; and
2. If the enrolled individual is determined to be ineligible for AHCCCS enrollment, submit to the Department within 30 calendar days after the change, documentation that complies with R9-6-403(5).

F. When an enrolled individual becomes eligible for Medicare, the enrolled individual or the enrolled individual's representative shall, within 30 calendar days after the enrolled individual becomes eligible for Medicare:
1. Apply for a low-income subsidy and for a Medicare drug plan, and
2. If the enrolled individual is determined to be ineligible for a low-income subsidy, submit to the Department documentation that complies with R9-6-403(6).

G. Before the expiration of each six-month period after an individual's initial enrollment, the enrolled individual or the enrolled individual's representative shall submit to the Department:
1. Proof of annual family income, as specified in R9-6-404(A)(7) or (8); and
2. Proof that the enrolled individual is a resident of Arizona, as specified in R9-6-404(A)(9).

H. Before the expiration of each 24-month period after an individual's initial enrollment, the enrolled individual or the enrolled individual's representative shall:
1. Comply with subsections (B)(1) through (4);
2. Obtain from the enrolled individual's primary care provider the Department-provided form completed as specified in subsection (D); and
3. Submit to the Department:
   a. The form specified in subsection (H)(1),
   b. The form specified in subsection (H)(2),
   c. Proof of annual family income, as specified in R9-6-404(A)(7) or (8), and
   d. Proof that the enrolled individual is a resident of Arizona, as specified in R9-6-404(A)(9).

I. The Department shall:
1. Review information about an enrolled individual and determine eligibility for continuing enrollment for the enrolled individual:
   a. Every six months after the individual's initial enrollment;

b. When the Department receives information from the enrolled individual or the enrolled individual's representative under subsection (A); or
c. When the Department no longer has sufficient funds to provide continuing enrollment to all enrolled individuals;
2. Grant continuing enrollment to an enrolled individual, subject to the availability of funds, when:
a. The enrolled individual or the enrolled individual's representative complies with subsection (A); and
b. The Department determines that:
i. The information in the documents submitted to the Department is accurate and complete, and
ii. The enrolled individual is eligible under R9-6-403; and
3. Notify the enrolled individual or the enrolled individual's representative of the Department's decision within five business days after receipt of the documents required in subsection (A).

J. If the Department denies continuing enrollment to an enrolled individual, the Department shall send to the enrolled individual or the enrolled individual's representative a written notice of denial setting forth the information required under A.R.S. § 41-1092.03.

Historical Note

Adopted as an emergency effective January 12, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Readopted without change as an emergency effective May 9, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-2). Emergency not renewed. Former Section R9-6-808 renumbered as Section R9-6-807, amended, and readopted as an emergency effective August 8, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired. Readopted as an emergency and subsection (C) corrected effective November 16, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Adopted without change as a permanent rule effective May 22, 1989 (Supp. 89-2). Renumbered from R9-6-807 effective October 19, 1993 (Supp. 93-4). Former Section R9-6-407 repealed; new Section R9-6-407 renumbered from R9-6-406 and amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Former R9-6-407 renumbered to R9-6-409; new R9-6-407 renumbered from R9-6-406 and amended by final rulemaking at 13 A.A.R. 3329, effective November 10, 2007 (Supp. 07-3).

R9-6-408. Termination from ADAP Services

A. The Department may terminate an individual's enrollment in ADAP if:
1. The Department learns that information submitted to the Department by the individual or the individual's representative under R9-6-404(A) or (C), R9-6-407(A), or R9-6-409(E) is inaccurate or incomplete;
2. The vendor pharmacy does not receive a request from the individual or the individual's representative for any refill of a drug for a period of 90 calendar days; or
3. The individual or the individual's representative exhibits violent or threatening behavior to an employee of the Department or the vendor pharmacy, as established by documentation such as a police report or a written document from the individual.

B. The Department may terminate approval of a restricted drug for an individual enrolled in ADAP if the Department learns that the enrolled individual:
1. Is not following the instructions of the enrolled individual's primary care provider regarding the use of the restricted drug; or
2. Has not had additional laboratory analyses performed, as required in R9-6-409(E)(1)(i)(ii), to support continuing use of the restricted drug.

C. The Department shall send to an individual or the individual's representative a written notice of termination setting forth the information required under A.R.S. § 41-1092.03 if the Department terminates:
1. The individual's enrollment in ADAP, or
2. Approval of a restricted drug for the individual.

Historical Note

Adopted as an emergency effective January 12, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Readopted without change as an emergency effective May 9, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-2). Former Section R9-6-809 renumbered as Section R9-6-808, amended and readopted as an emergency effective August 8, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired. Readopted without change as an emergency effective November 16, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Adopted without change as a permanent rule effective May 22, 1989 (Supp. 89-2). Renumbered from R9-6-808 effective October 19, 1993 (Supp. 93-4). Former Section R9-6-408 renumbered to R9-6-409; new Section R9-6-408 made by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Section repealed; new Section made by final rulemaking at 13 A.A.R. 3329, effective November 10, 2007 (Supp. 07-3).

R9-6-409. Drug Prescription and Distribution Requirements

A. A primary care provider shall:
1. Issue a prescription order:
a. For each drug from the ADAP formulary prescribed for an applicant or enrolled individual by the primary care provider;
b. For dispensing up to a 30-day supply of the drug; and
c. To authorize no more than a six-month supply of the drug, including the original prescription order and all refills;
2. Submit:
a. A written prescription order or copy of a written prescription order to the Department as specified in R9-6-404(A)(3); and
b. A written or oral prescription order to the vendor pharmacy when:
i. Prescribing a drug for a newly enrolled individual,
ii. Prescribing a new drug for an enrolled individual, or
iii. Authorizing an additional six-month supply of a drug for an enrolled individual; and
3. Notify the vendor pharmacy when discontinuing a drug for an enrolled individual.

B. The Department shall forward a written prescription order submitted to the Department as specified in subsection (A)(2)(a) to the vendor pharmacy within three business days of approving an individual for initial enrollment.

C. The vendor pharmacy shall:

1. Maintain a supply of the drugs on the ADAP formulary available for dispensing;
2. Receive prescription orders issued by an enrolled individual's primary care provider;
3. Before dispensing drugs, verify:
   a. With an enrolled individual or the enrolled individual's representative the address to which the enrolled individual or the enrolled individual's representative wants the drugs delivered, and
   b. An individual's enrollment status;
4. Dispense up to a 30-day supply of a drug to an enrolled individual:
   a. Upon receipt of a:
      i. Prescription order as specified in subsection (C)(2), or
      ii. Request from the enrolled individual or the enrolled individual's representative for a refill of the drug;
   b. To the address identified, as specified in subsection (C)(3)(a); and
   c. So the drug is dispensed to the enrolled individual no later than three business days after the vendor pharmacy:
      i. Receives a prescription order or request for refill, as specified in subsection (C)(4)(a);
      ii. Has verified the address to which the drug is to be delivered, as specified in subsection (C)(3)(a); and
      iii. Has verified the individual's enrollment status, as specified in subsection (C)(3)(b); and
5. Notify the Department upon receiving a request for dispensing a drug for an individual who is neither enrolled nor provisionally enrolled in ADAP.

D. The Department may authorize replacement of a drug when:
1. The drug has been dispensed by the vendor pharmacy to an enrolled individual, and
2. The enrolled individual or the enrolled individual's representative claims the dispensed drug was lost, stolen, or damaged.

E. The primary care provider of an enrolled individual may request approval of a restricted drug for the enrolled individual by:
1. Completing a Department-provided form for each requested restricted drug that contains the following information:
   a. The name, business address, and telephone number of the primary care provider;
   b. The date of the request;
   c. The enrolled individual's name and date of birth;
   d. The indications for the use of the restricted drug;
   e. The most recent results of laboratory analyses to support the request and the dates of the laboratory analyses;
   f. A justification for use of the restricted drug by the enrolled individual;
   g. An attestation by the primary care provider that:
      i. To the best of the primary care provider's knowledge and belief, the information presented in the request is accurate and complete; and
      ii. The primary care provider understands that the primary care provider is required to provide instructions to the enrolled individual regarding the use of the restricted drug and monitor the enrolled individual's use of the restricted drug;
   h. The dated signature of the primary care provider;
   i. An attestation by the enrolled individual or the enrolled individual's representative that the enrolled individual or the enrolled individual's representative understands that the enrolled individual is required to:
      i. Follow the instructions of the enrolled individual's primary care provider regarding the use of the restricted drug; and
      ii. Have periodic laboratory analyses performed to support continuing use of the restricted drug; and
   j. The dated signature of the enrolled individual or the enrolled individual's representative;
2. Issuing a written or oral prescription order for the restricted drug to the vendor pharmacy; and
3. Submitting to the Department:
   a. The completed drug-specific form specified in subsection (E)(1), and
   b. Copies of the results of the most recent laboratory analyses to support the request for the restricted drug.

F. If the restricted drug requested under subsection (E) is approved by the Department for an enrolled individual, the enrolled individual's primary care provider shall:
1. Provide instructions to the enrolled individual regarding the use of the restricted drug; and
2. Monitor the enrolled individual's use of and clinical response to the restricted drug.

G. When the Department receives a drug-specific form requesting a restricted drug for an enrolled individual, the Department shall:
1. Review the documents submitted according to subsection (E)(3);
2. Determine whether the information submitted to the Department:
   a. Is complete; and
   b. Substantiates that the enrolled individual's use of the restricted drug is indicated; and
3. Notify the following of the Department's decision within five business days after receiving the request:
   a. The enrolled individual or the enrolled individual's representative;
   b. The enrolled individual's primary care provider; and
   c. The vendor pharmacy.

H. If the Department denies a request for approval of a restricted drug for an enrolled individual, the Department shall send to the enrolled individual or the enrolled individual's representative a written notice of denial setting forth the information required under A.R.S. § 41-1092.03.

I. The Department shall only authorize the distribution of drugs that are included on the ADAP formulary.

Historical Note

Adopted effective October 19, 1993 (Supp. 93-4). Amended effective April 4, 1997 (Supp. 97-2). Former Section R9-6-409 renumbered to R9-6-902; new Section R9-6-409 renumbered from R9-6-408 and amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Former R9-6-409 renumbered to R9-6-410; new R9-6-409 renumbered from R9-6-407 and amended by final rulemaking at 13 A.A.R. 3329, effective November 10, 2007 (Supp. 07-3).

Exhibit A. Renumbered

Historical Note

Exhibit A "Consent for HIV Testing" (English) form adopted effective April 4, 1997 (Supp. 97-2). Exhibit A

renumbered to Article 9 by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2).

Exhibit B. Renumbered

Historical Note
Exhibit B "Consentimiento Para la Prueba de VIH" (Consent for HIV Testing-Spanish) form adopted effective April 4, 1997 (Supp. 97-2). Exhibit B renumbered to Article 9 by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2).

R9-6-410. Confidentiality
In administering ADAP, the Department shall comply with all applicable federal and state laws relating to confidentiality of information.

Historical Note
Adopted effective October 19, 1993 (Supp. 93-4). Section renumbered to R9-6-903 by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Section R9-6-410 renumbered from R9-6-409 and amended by final rulemaking at 13 A.A.R. 3329, effective November 10, 2007 (Supp. 07-3).

R9-6-411. Repealed

Historical Note
Amended effective February 25, 1976 (Supp. 76-1). Repealed effective October 19, 1993 (Supp. 93-4).

R9-6-412. Repealed

Historical Note
Correction, adding Historical Note: Amended effective February 25, 1976 (Supp. 87-1). Repealed effective October 19, 1993 (Supp. 93-4).

R9-6-413. Repealed

Historical Note
Amended effective February 25, 1976 (Supp. 76-1). Amended effective June 4, 1980 (Supp. 80-3). Amended effective January 28, 1987 (Supp. 87-1). Repealed effective October 19, 1993 (Supp. 93-4).

R9-6-414. Repealed

Historical Note
Amended effective February 25, 1976 (Supp. 76-1). Repealed effective October 19, 1993 (Supp. 93-4).

R9-6-415. Repealed

Historical Note
Amended effective February 25, 1976 (Supp. 76-1). Repealed effective October 19, 1993 (Supp. 93-4).

R9-6-416. Repealed

Historical Note
Amended effective February 25, 1976 (Supp. 76-1). Repealed effective October 19, 1993 (Supp. 93-4).

R9-6-417. Repealed

Historical Note
Repealed effective October 19, 1993 (Supp. 93-4).

R9-6-418. Repealed

Historical Note
Amended effective February 25, 1976 (Supp. 76-1). Repealed effective October 19, 1993 (Supp. 93-4).

R9-6-419. Repealed

Historical Note
Repealed effective October 19, 1993 (Supp. 93-4).

R9-6-420. Reserved

R9-6-421. Reserved

R9-6-422. Reserved

R9-6-423. Reserved

R9-6-424. Reserved

R9-6-425. Reserved

R9-6-426. Reserved

R9-6-427. Reserved

R9-6-428. Reserved

R9-6-429. Reserved

R9-6-430. Reserved

R9-6-431. Repealed

Historical Note
Repealed effective October 19, 1993 (Supp. 93-4).

R9-6-432. Repealed

Historical Note
Amended effective February 25, 1976 (Supp. 76-1). Repealed effective October 19, 1993 (Supp. 93-4).

R9-6-433. Repealed

Historical Note
Repealed effective October 19, 1993 (Supp. 93-4).

ARTICLE 5. RABIES CONTROL

R9-6-501. Definitions
In this Article, unless otherwise specified:

1. "Animal control agency" means a board, commission, department, office, or other administrative unit of federal or state government or of a political subdivision of the state that has the responsibility for controlling rabies in animals in a particular geographic area.
2. "Approved rabies vaccine" means a rabies vaccine authorized for use in this state by the state veterinarian under A.A.C. R3-2-409.
3. "Cat" means an animal of the genus species *Felis domesticus*.
4. "Currently vaccinated" means that an animal was last immunized against rabies with an approved rabies vaccine:
   a. At least 28 days and no longer than one year before being exposed, if the animal has only received an initial dose of approved rabies vaccine;
   b. No longer than one year before being exposed, if the approved rabies vaccine is approved for annual use under A.A.C. R3-2-409; or
   c. No longer than three years before being exposed, if the approved rabies vaccine is approved for triennial use under A.A.C. R3-2-409.
5. "Dog" means an animal of the genus species *Canis familiaris*.
6. "Euthanize" means to kill an animal painlessly.
7. "Exposed" means bitten by or having touched a rabid animal or an animal suspected of being rabid.
8. "Ferret" means an animal of the genus species *Mustela putorius*.
9. "Not currently vaccinated" means that an animal does not meet the definition of "currently vaccinated."

10. "Rabid" means infected with rabies virus, a rhabdovirus of the genus *Lyssavirus*.
11. "Suspect case" means an animal whose signs or symptoms indicate that the animal may be rabid.

Historical Note

Amended effective December 22, 1976 (Supp. 76-5). Correction, this Section shown as amended effective December 22, 1976 should read amended effective May 12, 1977 (Supp. 77-3). Corrections, subsections (A), (B) and (C) (Supp. 77-5). Amended effective April 10, 1980 (Supp. 80-2). Former Section R9-6-116 renumbered without change as R9-6-501 effective January 28, 1987 (Supp. 87-1). Section R9-6-501 repealed, new Section adopted effective January 20, 1992 (Supp. 92-1). Former Section R9-6-501 renumbered to R9-6-701, new Section R9-6-501 renumbered from R9-6-201 and amended effective October 19, 1993 (Supp. 93-4). Amended effective April 4, 1997 (Supp. 97-2). Former R9-6-501 renumbered to R9-6-502; new R9-6-501 renumbered from R9-6-105 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3).

R9-6-502. Management of Exposed Animals

A. An animal control agency shall manage an exposed dog, cat, or ferret as follows:
1. If the exposed dog, cat, or ferret is currently vaccinated, the animal control agency shall:
   a. Revaccinate the animal with an approved rabies vaccine within seven days after the date that the animal is exposed; and
   b. Confine and observe the animal in the owner's home or, at the owner's expense, in a veterinary hospital or the animal control agency's facility, as determined by the animal control agency, for 45 days after the animal is exposed; or
2. If the exposed dog, cat, or ferret is not currently vaccinated, the animal control agency shall:
   a. Euthanize the animal; or
   b. At the owner's request, confine the animal for 180 days, at the owner's expense, in a veterinary hospital or the animal control agency's facility, as determined by the animal control agency, and vaccinate the animal with an approved rabies vaccine 28 days before it is released from confinement.

B. An animal control agency that is aware of an exposed animal, other than a cat, dog, ferret, or livestock, shall:
1. Make every effort to capture the exposed animal as soon as it is identified, and
2. Euthanize the animal as soon as it is captured.

C. An animal control agency shall release from confinement a dog, cat, or ferret exposed to a suspect case when the animal control agency receives a negative rabies report on the suspect case from the Department.

D. Livestock shall be handled according to A.A.C. R3-2-408.

Historical Note

Amended effective December 22, 1976 (Supp. 76-5). Correction, this Section shown as amended effective December 22, 1976 should read amended effective May 12, 1977 (Supp. 77-3). Amended effective April 10, 1980 (Supp. 80-2). Amended as an emergency effective August 31, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-4). Emergency expired. Former R9-6-117 amended as a permanent rule by adding a new subsection (C) and repealing the former subsections (C), (D) and (E) effective January 21, 1983 (Supp. 83-1). Former Section R9-6-117 renumbered without change as R9-6-502 effective January 28, 1987 (Supp. 87-1). Section R9-6-502 repealed, new Section adopted effective January 20, 1992 (Supp. 92-1). Former Section R9-6-502 renumbered to R9-6-702, new Section R9-6-502 renumbered from R9-6-202 and amended effective October 19, 1993 (Supp. 93-4). Former R9-6-502 renumbered to R9-6-503; new R9-6-502 renumbered from R9-6-501 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3).

R9-6-503. Suspect Cases

A. An animal control agency shall ensure confinement of a dog, cat, or ferret that is a suspect case until:
1. The animal dies,
2. The animal is euthanized, or
3. A veterinarian determines that the animal is not rabid.

B. When an animal control agency euthanizes a suspect case, the animal control agency shall avoid damaging the brain, so that rabies testing can be performed.

Historical Note

Amended effective December 22, 1976 (Supp. 76-5). Correction, this Section shown as amended effective December 22, 1976 should read amended effective May 12, 1977 (Supp. 77-3). Amended effective April 10, 1980 (Supp. 80-2). Amended as an emergency effective August 31, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-4). Emergency expired. Former R9-6-118 amended as a permanent rule by repealing subsection (C) and renumbering subsections (D) through (I) effective January 21, 1983 (Supp. 83-1). Former Section R9-6-118 renumbered without change as R9-6-503 effective January 28, 1987 (Supp. 87-1). Section R9-6-503 repealed, new Section adopted effective January 20, 1992 (Supp. 92-1). Former Section R9-6-503 renumbered to R9-6-703, new Section R9-6-503 renumbered from R9-6-203 and amended effective October 19, 1993 (Supp. 93-4). Former R9-6-503 renumbered to R9-6-504; new R9-6-503 renumbered from R9-6-502 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3).

R9-6-504. Animal Control Agency Reporting Requirements

By April 30 of each year, an animal control agency shall submit a report to the Department that contains the number of animal bites to humans reported as occurring in the animal control agency's jurisdiction during the preceding calendar year and a breakdown of the bites by:
1. Species of animal,
2. Age of victim, and
3. Month of occurrence.

Historical Note

Amended effective December 22, 1976 (Supp. 76-5). Correction, this Section shown as amended effective December 22, 1976 should read amended effective May 12, 1977 (Supp. 77-3). Amended effective April 10, 1980 (Supp. 80-2). Amended as an emergency effective August 31, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-4). Emergency expired. Former R9-6-119 amended as a permanent rule by repealing subsections (A) and (B), renumbering and amending subsections (C) through (I) effective January 21, 1983 (Supp. 83-1). Former Section R9-6-119 renumbered without change as R9-6-504 effective January 28, 1987 (Supp. 87-1). Section R9-6-504 repealed, new Section adopted effective January 20, 1992 (Supp. 92-1). Former Section R9-6-504 renumbered to R9-6-704 effective October 19,

1993 (Supp. 93-4). Section renumbered from R9-6-503 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3).

R9-6-505. Renumbered

Historical Note
Adopted effective January 20, 1992 (Supp. 92-1). Former Section R9-6-505 renumbered to R9-6-705 effective October 19, 1993 (Supp. 93-4).

R9-6-506. Renumbered

Historical Note
Adopted effective January 20, 1992 (Supp. 92-1). Former Section R9-6-506 renumbered to R9-6-706 effective October 19, 1993 (Supp. 93-4).

Table 1. Renumbered

Historical Note
Adopted effective January 20, 1992 (Supp. 92-1). Former Section R9-6-506, Table 1 renumbered to R9-6-706 Table 1 effective October 19, 1993 (Supp. 93-4).

Table 2. Renumbered

Historical Note
Adopted effective January 20, 1992 (Supp. 92-1). Former Section R9-6-506, Table 2 renumbered to R9-6-706, Table 2 effective October 19, 1993 (Supp. 93-4).

ARTICLE 6. REPORTING POST-EXPOSURE RABIES PROPHYLAXIS

R9-6-601. Reporting Requirements
A physician or an authorized designee, shall submit a written or electronic report to the Department of all patients who receive post-exposure rabies prophylaxis. The report shall include:

1. Name, age, address, and telephone number of the person exposed;
2. Date of report;
3. Reporting institution or physician;
4. Date of exposure;
5. Body part exposed;
6. Type of exposure: Bite or saliva contact (non-bite);
7. Species of animal;
8. Animal disposition: quarantined, euthanized, died, unable to locate;
9. Animal rabies test results if any: positive or negative;
10. Treatment regimen; and
11. Date treatment was initiated.

Historical Note
Adopted effective January 28, 1987 (Supp. 87-1). Former Section R9-6-601 renumbered to R9-6-201, new Section R9-6-601 adopted effective October 19, 1993 (Supp. 93-4). Section renumbered from R9-6-106 and amended by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former Section R9-6-601 renumbered to R9-6-1201; new Section R9-6-601 made by final rulemaking at 13 A.A.R. 4106, effective January 5, 2008 (Supp. 07-4).

R9-6-602. Renumbered

Historical Note
Adopted effective January 28, 1987 (Supp. 87-1). Former Section R9-6-602 renumbered to R9-6-202, new Section R9-6-601 adopted effective October 19, 1993 (Supp. 93-4). Section repealed; new Section made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former Section R9-6-602 renumbered to R9-6-1202 by final rulemaking at 13 A.A.R. 4106, effective January 5, 2008 (Supp. 07-4).

R9-6-603. Renumbered

Historical Note
Adopted effective January 28, 1987 (Supp. 87-1). Amended effective September 14, 1990 (Supp. 90-3). Repealed effective October 19, 1993 (Supp. 93-4), new Section R9-6-603 adopted effective October 19, 1993 (Supp. 93-4). Section repealed; new Section made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former Section R9-6-603 renumbered to R9-6-1203 by final rulemaking at 13 A.A.R. 4106, effective January 5, 2008 (Supp. 07-4).

R9-6-604. Renumbered

Historical Note
Adopted effective January 28, 1987 (Supp. 87-1). Amended effective September 14, 1990 (Supp. 90-3). Repealed effective October 19, 1993 (Supp. 93-4). New Section made by final rulemaking at 10 A.A.R. 3559, effective October 2, 2004 (Supp. 04-3). Former Section R9-6-604 renumbered to R9-6-1204 by final rulemaking at 13 A.A.R. 4106, effective January 5, 2008 (Supp. 07-4).

R9-6-605. Repealed

Historical Note
Adopted effective January 28, 1987 (Supp. 87-1). Amended effective September 14, 1990 (Supp. 90-3). Repealed effective October 19, 1993 (Supp. 93-4).

R9-6-606. Emergency Expired

Historical Note
Adopted as an emergency effective October 12, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-4). Emergency expired. Emergency rule readopted without change effective February 22, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-1). Emergency expired. Emergency rule readopted with changes effective July 3, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-3). Emergency expired.

ARTICLE 7. REQUIRED IMMUNIZATIONS FOR CHILD CARE OR SCHOOL ENTRY

R9-6-701. Definitions
In this Article, unless otherwise specified:

1. "Administration of vaccine" means the inoculation of a child with an immunizing agent by an individual authorized by federal or state law.
2. "AHCCCS" means the Arizona Health Care Cost Containment System.
3. "ASIIS" means the Arizona State Immunization Information System, an immunization reporting system that collects, stores, analyzes, releases, and reports immunization data.
4. "Case" has the same meaning as in R9-6-101.
5. "Catch-up immunization schedule" means the times established in Table 2 for the immunization of a child who has not completed the vaccine series required in Table 1 before entry into a child care or school.
6. "CDC" means the Centers for Disease Control and Prevention.
7. "Charter school" has the same meaning as in A.R.S. § 15-101.

8. "Child" means:
   a. An individual 18 years of age or less, or
   b. An individual more than 18 years of age attending school.
9. "Child care" means:
   a. A child care facility as defined in A.R.S. § 36-881; or
   b. A child care group home as defined in A.R.S. § 36-897.
10. "Child care administrator" means an individual, or the individual's designee, having daily control and supervision of a child care.
11. "Communicable period" means the time during which an individual is capable of infecting another individual with a communicable disease.
12. "Contact person" means an individual who, on behalf of a school or child care and upon request of the Department, provides information to the Department.
13. "Day" means a calendar day, and excludes the:
   a. Day of the act, or event, from which a designated period of time begins to run, and
   b. Last day of the period if a Saturday, Sunday, or official state holiday.
14. "DTaP" means diphtheria, tetanus, and acellular pertussis vaccine.
15. "DTP" means diphtheria, tetanus, and pertussis vaccine.
16. "Enroll" means to accept into a school by the school or into a child care by the child care.
17. "Entry" means the first day of attendance at a child care or at a specific grade level in a school.
18. "Head Start program" means a federally funded program administered under 42 U.S.C. 9831 to 42 U.S.C. 9852.
19. "Hep A" means hepatitis A vaccine.
20. "Hep B" means hepatitis B vaccine.
21. "Hib" means *Haemophilus influenzae* type b vaccine.
22. "Immunization" has the same meaning as in A.R.S. § 36-671.
23. "Immunization registry" means a storage of immunization data for vaccines.
24. "Immunization registry administrator" means an individual, or the individual's designee, having daily control and supervision of an immunization registry.
25. "Imported" means entered through a fully automated process without electronic manipulation of the data.
26. "IRMS number" means a numeric identifier the Department issues to a person whose information is stored in ASIIS.
27. "KidsCare" means a federally funded program administered by AHCCCS under A.R.S. § 36-2982.
28. "Kindergarten" means the grade level in a school that precedes first grade.
29. "Laboratory evidence of immunity" has the same meaning as in A.R.S. § 36-671.
30. "Local health agency" has the same meaning as "health agency" in A.R.S. § 36-671.
31. "Local health officer" means an individual or the individual's designee having daily control and supervision of a local health agency.
32. "Medical exemption" means to excuse a child from immunization against a specified disease if the required immunization may be detrimental to the child's health, as determined by a physician.
33. "Medical services" has the same meaning as in A.R.S. § 36-401.
34. "MMR" means measles, mumps, and rubella vaccine.
35. "MV" means meningococcal vaccine.
36. "Outbreak" means an unexpected increase in the incidence of a disease as determined by the Department or local health agency.
37. "Physician" has the same meaning as in A.R.S. § 15-871.
38. "Polio" means poliomyelitis vaccine.
39. "Practical nurse" has the same meaning as in A.R.S. § 32-1601.
40. "Private school" has the same meaning as in A.R.S. § 15-101.
41. "Provider" means an individual who administers a vaccine, or an entity that is responsible for administering a vaccine.
42. "Public school" has the same meaning as "school" in A.R.S. § 15-101.
43. "Registered nurse" has the same meaning as in A.R.S. § 32-1601.
44. "Registered nurse practitioner" has the same meaning as in A.R.S. § 32-1601.
45. "Responsible person" has the same meaning as "parent" in R9-5-101.
46. "Route of administration" means a method of inoculation with a vaccine.
47. "School" has the same meaning as in A.R.S. § 36-671.
48. "School administrator" has the same meaning as in A.R.S. § 36-671.
49. "Suspect case" has the same meaning as in R9-6-101.
50. "Td" means tetanus and diphtheria vaccine.
51. "Tdap" means tetanus, diphtheria, and acellular pertussis vaccine.
52. "Temporary" means lasting for a limited time.
53. "Underinsured" means having medical insurance that does not cover all or part of the cost of a vaccination.
54. "Uninsured" means not having medical insurance.
55. "Vaccine" has the same meaning as "biological product" defined in 21 CFR 600.3h (April 1, 2000).
56. "VAR" means varicella vaccine.
57. "VFC" means Vaccines for Children, a federal program administered by the Department.
58. "VFC PIN number" means a numeric identifier that the VFC issues to a person participating in the VFC.
59. "WIC" means Women, Infants, and Children, a federal program administered by the Department.
60. "WIC administrator" means an individual, or the individual's designee, having daily control and supervision of a WIC.

Historical Note

Former Section R9-6-115, Paragraph (47), renumbered and amended as R9-6-701 effective January 28, 1987 (Supp. 87-1). Amended effective September 14, 1990 (Supp. 90-3). Former Section R9-6-701 renumbered to Section R9-6-328, new Section R9-6-701 renumbered from R9-6-501 and amended effective October 19, 1993 (Supp. 93-4). Amended effective April 4, 1997 (Supp. 97-2). Amended by final rulemaking at 5 A.A.R. 496, effective January 19, 1999 (Supp. 99-1). Amended by final rulemaking at 6 A.A.R. 1310, effective March 17, 2000 (Supp. 00-1). Former Section R9-6-701 renumbered to R9-6-702; new Section R9-6-701 made by final rulemaking at 8 A.A.R. 4274, effective September 16, 2002 (Supp. 02-3). Amended by final rulemaking at 11 A.A.R. 2283, effective June 7, 2005 (Supp. 05-2). Amended by final rulemaking at 13 A.A.R. 4106, effective January 5, 2008 (Supp. 07-4).

R9-6-702. Required Immunizations for Child Care or School Entry

A. Except as provided in R9-6-706, the school administrator or child care administrator shall:
1. Ensure that a child attending a school or child care has been immunized for each of the following diseases according to Table 1 or Table 2:
   a. Diphtheria;
   b. Tetanus;
   c. Hepatitis A, for a child 1 through 5 years of age in child care in Maricopa County;
   d. Hepatitis B;
   e. Pertussis;
   f. Poliomyelitis;
   g. Measles (rubeola);
   h. Mumps;
   i. Rubella (German Measles);
   j. *Haemophilus influenzae* type b;
   k. Varicella; and
   l. Meningococcal; and
2. If a child does not have proof of immunization according to Table 1 or Table 2, exclude the child from:
   a. School entry; or
   b. Child care, unless the child is immunized against the diseases listed in subsection (A)(1) within 15 days following entry.

B. Unless exempt according to R9-6-706, a child who has not received VAR according to Table 1 or Table 2 shall:
1. Receive VAR according to the following:
   a. By September 1, 2005 for a child who is entering kindergarten, first grade, or seventh grade;
   b. By September 1, 2006 for a child who is entering kindergarten through second grade, seventh grade, or eighth grade;
   c. By September 1, 2007 for a child who is entering kindergarten through third grade, or seventh grade through ninth grade;
   d. By September 1, 2008 for a child who is entering kindergarten through fourth grade, or seventh grade through tenth grade;
   e. By September 1, 2009 for a child who is entering kindergarten through fifth grade, or seventh grade through 11th grade; and
   f. By September 1, 2010 for a child who is entering kindergarten through 12th grade; and
2. Be excluded from school entry by a school administrator until the child meets the requirements in Table 2.

C. Unless exempt according to R9-6-706, a child, 11 years of age or older, who has not received MV according to Table 1 or Table 2 shall:
1. Receive MV according to the following:
   a. By September 1, 2008 for a child entering sixth grade;
   b. By September 1, 2009 for a child entering sixth and seventh grade;
   c. By September 1, 2010 for a child entering sixth through eighth grade;
   d. By September 1, 2011 for a child entering sixth through ninth grade;
   e. By September 1, 2012 for a child entering sixth through 10th grade;
   f. By September 1, 2013 for a child entering sixth through 11th grade; and
   g. By September 1, 2014 for a child entering sixth through 12th grade; and
2. Be excluded from school entry by a school administrator until the child meets the requirements in this Section.

D. Unless exempt according to R9-6-706, a child, 11 years of age or older, who has not received Tdap according to Table 1 or Table 2 shall:
1. Receive the Tdap according to the following:
   a. By September 1, 2008 for a child entering sixth grade;
   b. By September 1, 2009 for a child entering sixth and seventh grade;
   c. By September 1, 2010 for a child entering sixth through eighth grade;
   d. By September 1, 2011 for a child entering sixth through ninth grade;
   e. By September 1, 2012 for a child entering sixth through 10th grade;
   f. By September 1, 2013 for a child entering sixth through 11th grade; and
   g. By September 1, 2014 for a child entering sixth through 12th grade; and
2. Be excluded from school entry by a school administrator until the child meets the requirements in this Section.

E. If the Department receives written notification from the CDC that there is a shortage of a vaccine for a disease listed in subsection (A)(1), or that the CDC is limiting the amount of a vaccine for a disease listed in subsection (A)(1), the Department shall:
1. Provide written notification to each school and child care in this state of the shortage or limitation of the vaccine;
2. Suspend compliance with subsections (A), (B), (C), and (D); and
3. Upon receiving written notification from the CDC that the vaccine is available, notify each school and child care in this state:
   a. That the vaccine is available, and
   b. Of the time by which an individual is required to comply with subsections (A), (B), (C), and (D).

F. The Department shall notify each school and child care in this state that the Department no longer requires compliance with subsections (A), (B), (C), and (D) for a disease listed in subsection (A)(1) if:
1. The disease is declared eradicated by:
   a. The World Health Organization, and
   b. The Advisory Committee on Immunization Practices; and
2. The Department no longer recommends immunization against the disease.

Historical Note

Former Section R9-6-115, Paragraph (1), renumbered and amended as R9-6-702 effective January 28, 1987 (Supp. 87-1). Former Section R9-6-702 renumbered to Section R9-6-302, new Section R9-6-702 renumbered from R9-6-502 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-702 renumbered to R9-6-703; new Section R9-6-702 renumbered from R9-6-701 and amended by final rulemaking at 8 A.A.R. 4274, effective September 16, 2002 (Supp. 02-3). Amended by final rulemaking at 11 A.A.R. 2283, effective June 7, 2005 (Supp. 05-2). Amended by final rulemaking at 13 A.A.R. 4106, effective January 5, 2008 (Supp. 07-4).

R9-6-703. Responsibilities of Individuals and Local Health Agencies for Administering Vaccines

A. Upon request of a responsible person, a local health agency shall provide for the immunization of a child against any disease listed in R9-6-702(A)(1).

B. An individual administering a vaccine shall ensure that the dosage and route of administration of each vaccine are provided according to the manufacturer's recommendations.

C. Before administering a vaccine to a child, the individual administering the vaccine shall:
1. Provide the responsible person with the following written information:
   a. A description of the disease,
   b. A description of the vaccine,
   c. A statement of the risks of the disease and the risks and benefits of immunization, and
   d. Contraindications for administering the vaccine; and
2. Obtain a statement signed by the responsible person confirming that the responsible person:
   a. Was provided the written information described in subsection (C)(1),
   b. Was provided an opportunity to read the written information,
   c. Was provided an opportunity to ask questions, and
   d. Requests that the designated vaccine be administered to the child.

D. Following the administration of a vaccine, the individual administering the vaccine shall provide written information to the responsible person or, if a child is immunized at school, to the child to give to the responsible person, that includes:
1. The vaccine administered,
2. The reactions to the vaccine that might be expected, and
3. The course of action if a severe reaction occurs.

E. An individual administering a vaccine shall provide a written record as set forth in R9-6-704 to the immunized child or to the responsible person.

Historical Note

Former Section R9-6-115, Paragraph (2), renumbered and amended as R9-6-703 effective January 28, 1987 (Supp. 87-1). Former Section R9-6-703 renumbered to Section R9-6-303, new Section R9-6-703 renumbered from R9-6-503 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-703 renumbered to R9-6-704; new Section R9-6-703 renumbered from R9-6-702 and amended by final rulemaking at 8 A.A.R. 4274, effective September 16, 2002 (Supp. 02-3).

R9-6-704. Standards for Documentary Proof of Immunity

A. An individual may establish proof of a child's immunity to a disease listed in R9-6-702(A)(1) by one of the following:
1. An immunization record that contains:
   a. The child's name;
   b. The child's date of birth;
   c. The type of vaccine administered;
   d. The month and year of each immunization, other than MMR, for a child who received an immunization before January 1, 2003;
   e. The month, day, and year of MMR immunization for a child who received an immunization before January 1, 2003;
   f. The month, day, and year of each immunization for a child who received an immunization on or after January 1, 2003; and
   g. The name of the individual administering the vaccine or the name of the entity that the individual administering the vaccine represents;
2. Laboratory evidence of immunity;
3. An Arizona school immunization record that includes:
   a. The child's name;
   b. The child's date of birth;
   c. The grade of the child on the date of enrollment;
   d. Whether the child is male or female;
   e. The type of vaccine administered;
   f. The month and year of each immunization, other than MMR, for a child who received an immunization before January 1, 2003;
   g. The month, day, and year of MMR immunization for a child who received an immunization before January 1, 2003; and
   h. The month, day, and year of each immunization for a child who received an immunization on or after January 1, 2003;
4. A school immunization record from another state;
5. An electronic version of the child's immunization record containing the information in subsection (A)(1)(a) through (f) generated by an immunization registry, and signed and dated by any of the following:
   a. A local health officer,
   b. A school administrator,
   c. A child care administrator,
   d. A WIC administrator,
   e. An immunization registry administrator or immunization registry administrator's designee; or
   f. A physician, physician's designee, practical nurse, or registered nurse;
6. An electronic version of the child's immunization record generated by a school, signed and dated by the school administrator or the school administrator's designee, and containing the information in subsection (A)(1)(a) through (f); or
7. A statement of immunity as described in subsection (B).

B. A physician, the physician's designee, practical nurse, or registered nurse may sign a statement of immunity stating that a child is immune to a disease, but shall not sign a statement of immunity to measles or rubella without obtaining serologic evidence of immunity.

Historical Note

Adopted effective January 28, 1987 (Supp. 87-1). Former Section R9-6-704 renumbered to Section R9-6-304, new Section R9-6-704 renumbered from R9-6-504 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-704 renumbered to R9-6-705; new Section R9-6-704 renumbered from R9-6-703 and amended by final rulemaking at 8 A.A.R. 4274, effective September 16, 2002 (Supp. 02-3). Amended by final rulemaking at 11 A.A.R. 2283, effective June 7, 2005 (Supp. 05-2).

R9-6-705. Responsibilities of Schools and Child Care

A. Except as provided in R9-6-706, a school administrator or a child care administrator shall ensure that an immunization record for each child attending a school or child care is maintained at the school or child care and contains the applicable documentary proof of immunity listed in R9-6-704.

B. If a child does not meet the requirements for immunization according to Table 1 or Table 2 or requirements for exemption from immunization according to R9-6-706, a school administrator shall:
1. Not allow the child to enter the school, or
2. If the child is already attending the school, remove the child from school as authorized by A.R.S. § 15-872.

C. If a child does not meet the requirements for immunization according to Table 1 or Table 2 or requirements for exemption from immunization according to R9-6-706, a child care administrator shall notify the responsible person in writing at the time of entry that:

1. The child may attend the child care for not more than 15 days from the date of the notification; and
2. If the child is not immunized by the 15th day following notification, the child is not permitted to attend the child care.

D. A school administrator or child care administrator shall determine that a child is in compliance with an immunization requirement in this Article for a specific disease if:
1. The child's immunization record contains proof of immunity required in R9-6-704, and the child has received the required immunizations according to Table 1 or Table 2; or
2. A responsible person has submitted to the school or child care documentation of an exemption from immunization according to R9-6-706.

E. At the time of enrollment, if a child's immunization record is not available, does not contain proof of immunity required in R9-6-704, or does not contain proof of an exemption according to R9-6-706, a school administrator or school administrator's designee, or a child care administrator shall notify the responsible person:
1. That the child is not in compliance with immunization requirements;
2. In writing, that:
   a. For the child enrolling in a school, all immunizations are required to be completed according to Table 1 or Table 2 and proof provided to the school before entry; or
   b. For the child enrolling in a child care, all immunizations required in Table 1 or Table 2 are required to be completed and proof provided to the child care within 15 days of the notification; and
3. In writing, that the responsible person is required to send the child to a physician or local health agency to obtain written proof of immunization before entry.

F. If a school administrator or a child care administrator questions the accuracy of a child's immunization record and is unable to verify the accuracy of the immunization record, the school administrator or the child care administrator shall notify, in writing, the responsible person:
1. That the responsible person is required to send the child to a physician or local health agency to review the child's immunization history and provide immunizations as needed;
2. For a child attending a school, that the child is not allowed to return to school until the child's immunization record meets the standards of documentary proof in R9-6-704 and is presented to the school; and
3. For a child attending a child care, that beginning 15 days following the notification, the child is not allowed to attend the child care, unless the child's immunization record meets the standards of documentary proof in R9-6-704 and is presented to the child care.

G. A school administrator or child care administrator shall maintain a list that contains the name of each child who:
1. Is exempt from providing proof of immunity according to R9-6-706, or
2. Has not provided proof of immunity in compliance with R9-6-704.

H. A school administrator or child care administrator shall not allow a child who lacks proof of immunity against a disease listed in R9-6-702(A) to attend the school or child care during an outbreak of the disease for which the child lacks proof of immunity. The Department or local health agency shall determine the start and termination of an outbreak.

Historical Note
Adopted effective January 28, 1987 (Supp. 87-1). Former Section R9-6-705 renumbered to Section R9-6-305, new Section R9-6-705 renumbered from R9-6-505 and amended effective October 19, 1993 (Supp. 93-4). Former Section R9-6-705 renumbered to R9-6-706; new Section R9-6-705 renumbered from R9-6-704 and amended by final rulemaking at 8 A.A.R. 4274, effective September 16, 2002 (Supp. 02-3).

R9-6-706. Exemptions from Immunizations

A. A child who has reached a fifth birthday is exempt from the Hib immunization requirement.

B. A child who is 7 through 10 years of age is exempt from the pertussis immunization requirement.

C. A child:
1. Until September 1, 2011, is exempt from the VAR immunization requirement if the child's responsible person states, verbally or in writing, that the child has had varicella; and
2. After September 1, 2011, is not exempt from the VAR immunization requirement unless the child provides laboratory evidence of immunity to varicella.

D. A child who submits laboratory evidence of immunity to a disease to a school or child care is not required to be immunized against that disease as a condition for school or child care entry.

E. For a child attending a school, a parent or guardian shall submit to the school a written statement of exemption from immunization for personal beliefs as required in A.R.S. § 15-873(A)(1) or written certification of medical exemption as required in A.R.S. § 15-873(A)(2) on a form provided by the Department that contains:
1. The child's name;
2. The child's date of birth;
3. The type of exemption requested;
4. The immunizations from which the parent or guardian is requesting an exemption;
5. Whether the medical exemption is permanent or temporary, if applicable;
6. The date the medical exemption terminates, if applicable;
7. The parent or guardian's signature and the date signed; and
8. The physician's or registered nurse practitioner's signature and the date signed, if applicable.

F. For a child attending a child care, a responsible person shall submit to the child care a written statement of exemption from immunization on a form provided by the Department that includes:
1. The child's name,
2. The child's date of birth,
3. The type of exemption,
4. The immunizations from which the responsible person is requesting an exemption,
5. If a medical exemption, whether the medical exemption is permanent or temporary,
6. If temporary, the date the medical exemption terminates, if applicable,
7. The responsible person's signature and the date signed, and
8. The physician's or registered nurse practitioner's signature and the date signed, if applicable.

G. A child care administrator or school administrator shall:
1. Record an exemption on a child's immunization record,
2. Allow a child with a temporary medical exemption to attend a child care or school until the date the temporary exemption terminates, and

3. Notify a child's responsible person in writing of the date the child is required to complete all immunizations before the temporary medical exemption terminates.

Historical Note

Former Section R9-6-115, Paragraph (3), renumbered and amended as R9-6-706 effective January 28, 1987 (Supp. 87-1). Former Section R9-6-706 renumbered to Section R9-6-306, new Section R9-6-706 renumbered from R9-6-506 and amended effective October 19, 1993 (Supp. 93-4). Amended effective April 4, 1997 (Supp. 97-2). Former Section R9-6-706 renumbered to R9-6-707; new Section R9-6-706 renumbered from R9-6-705 and amended by final rulemaking at 8 A.A.R. 4274, effective September 16, 2002 (Supp. 02-3). Amended by final rulemaking at 11 A.A.R. 2283, effective June 7, 2005 (Supp. 05-2). Amended by final rulemaking at 13 A.A.R. 4106, effective January 5, 2008 (Supp. 07-4).

Table 1. Renumbered

Historical Note

Adopted effective January 20, 1992 (Supp. 92-1). Article 7, Table 1 renumbered from Article 5, Table 1 and amended effective October 19, 1993 (Supp. 93-4). Amended effective April 4, 1997 (Supp. 97-2). Amended by final rulemaking at 5 A.A.R. 496, effective January 19, 1999 (Supp. 99-1). Amended by final rulemaking at 6 A.A.R. 1310, effective March 17, 2000 (Supp. 00-1). Table 1 renumbered to follow R9-6-707 by final rulemaking at 8 A.A.R. 4274, effective September 16, 2002 (Supp. 02-3).

Table 2. Renumbered

Historical Note

Adopted effective January 20, 1992 (Supp. 92-1). Article 7, Table 2 renumbered from Article 5, Table 2 and amended effective October 19, 1993 (Supp. 93-4). Amended effective April 4, 1997 (Supp. 97-2). Amended by final rulemaking at 5 A.A.R. 496, effective January 19, 1999 (Supp. 99-1). Amended by final rulemaking at 6 A.A.R. 1310, effective March 17, 2000 (Supp. 00-1). Table 2 renumbered to follow R9-6-707 by final rulemaking at 8 A.A.R. 4274, effective September 16, 2002 (Supp. 02-3).

R9-6-707. Reporting Requirements

A. By November 15 of each year, a school administrator shall submit a report to the Department or local health agency on a form provided by the Department that contains:
1. The name and address of the school;
2. An identification of whether it is a public school, private school, or charter school;
3. The name, telephone number, and fax number of a contact person;
4. The name and district number of the school district, if applicable;
5. The county the school is located in;
6. Each grade taught at the school;
7. The number of children enrolled at the school in designated grades as of the date of the report;
8. The number of children with documentary proof of immunization status, including the number of children who are in each of the following categories:
   a. Have received each immunization required for their age,
   b. Have a medical exemption,
   c. Are exempt for personal beliefs according to A.R.S. § 15-873, and
   d. Have submitted laboratory evidence of immunity as defined in A.R.S. § 36-671, and
9. The number of doses received per child of each vaccine required in Table 1.

B. If requested by the Department or local health agency, a school administrator or child care administrator shall provide the following outbreak, case, or suspect case information:
1. Immunization information in R9-6-704;
2. Attendance information specifying each date each child was present at the school or child care during the communicable period; and
3. Any other information relating to the outbreak, case, or suspect case that is requested by the Department or local health agency.

C. A school administrator that has an individual authorized by law to administer vaccines and receives vaccines provided by the Department shall:
1. Prepare a report on a form provided by the Department each calendar month that contains:
   a. A VFC PIN number;
   b. The provider name or business name, address, telephone number, and fax number;
   c. The beginning date and end date of the report;
   d. The number of children immunized during the preceding calendar month;
   e. The age and date of birth of each child immunized during the preceding calendar month;
   f. Whether each child immunized during the preceding calendar month is:
      i. Covered by KidsCare;
      ii. Covered by AHCCCS;
      iii. Uninsured;
      iv. A Native American or an Alaskan native;
      v. Underinsured; and
      vi. Non-VFC eligible, if applicable;
   g. The number of doses of each vaccine administered during the preceding calendar month; and
   h. The manufacturer, manufacturer's lot number, and expiration date of each vaccine listed in Table 1 that was administered during the preceding calendar month; and
2. Send the report required in subsection (C)(1) by the fifth day of the following month to:
   a. The local health agency, if the vaccine was provided by the local health agency; or
   b. The Department, if the vaccine was provided by the Department.

D. By November 15 of each year, a child care administrator shall submit to the Department or local health agency a report on a form provided by the Department that contains:
1. The name, mailing address, and telephone number of the child care;
2. The date of the report;
3. The name of a contact person;
4. The Department license or certificate number of the child care, if applicable;
5. The name of the child care administrator;
6. Whether the children are in child care;
7. Whether the children in child care are in a Head Start program;
8. The number of children attending the child care who were less than 5 years of age as of October 1; and
9. The number of children less than five years of age as of October 1 for whom the child care has immunization

records on file specifying the number of children who are in each of the following categories:
a. Have received each immunization required for their age;
b. Have medical exemptions;
c. Are exempt for religious beliefs according to the rules in 9 A.A.C. 5 regulating child care facilities or child care group homes; and
d. Have submitted laboratory evidence of immunity.

E. In addition to the report required in subsection (D), by November 15 of each year, a child care administrator shall submit to the Department or local health agency a report on a form provided by the Department that contains:
1. The information in subsection (D)(1) through (D)(4),
2. The information in subsection (D)(6), and
3. For each child less than 5 years of age as of October 1:
a. The birth date of the child;
b. How many doses of each vaccine listed in Table 1 the child has received;
c. For each vaccine listed in Table 1 except MMR, the month, day, and year of the most recent immunization;
d. For MMR, the month, day, and year of each immunization; and
e. Whether each child has a medical or religious exemption.

F. By March 30 of each year, a local health officer shall forward to the Department the information contained in the reports received by the local health agency according to subsections (A) and (D).

G. A local health officer who receives and distributes vaccine provided by the Department shall submit to the Department the report required in subsection (C) every calendar month.

H. As required by A.R.S. § 36-135, a health care professional shall submit for each vaccine administered to a child the information required in A.R.S. § 36-135(B), the IRMS number, and the VPC PIN number, if applicable, to the Department as follows:
1. If reporting by mail or fax, the health care professional shall use a form provided by the Department.
2. If reporting by telephone, the health care professional shall call a telephone number provided by the Department for this purpose between 8:00 a.m. and 5:00 p.m., Monday through Friday, except state holidays.
3. If reporting electronically, the health care professional shall:
a. Connect to the ASIIS web page through a secure Internet connection and enter the information; or
b. Ensure that the information is submitted in a format that can be imported into ASIIS and:
i. Provide a compact disk or digital video disk that contains the information to the Department; or
ii. Transfer the information to the Department through a secure file transfer protocol.

Historical Note

Former Section R9-6-115, Paragraph (5), renumbered and amended as R9-6-707 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-307 effective October 19, 1993 (Supp. 93-4). Adopted effective April 4, 1997 (Supp. 97-4). Former Section R9-6-707 renumbered to R9-6-708; new Section R9-6-707 renumbered from R9-6-706 and amended by final rulemaking at 8 A.A.R. 4274, effective September 16, 2002 (Supp. 02-3). Amended by final rulemaking at 13 A.A.R. 4106, effective January 5, 2008 (Supp. 07-4).

Table 1. Immunization Requirements for Child Care or School Entry

Age at Entry into a Child Care or School	Number of Doses of Vaccine Required	Special Notes and Exceptions
<2 months	1 Hep B	(See Note 1)
2 through 3 months	1 DTP or DTaP 1 Polio 1 Hib 1 Hep B	 (See Note 1)
4 through 5 months	2 DTP or DTaP 2 Polio 2 Hib 2 Hep B	 (See Note 1)
6 through 11 months	3 DTP or DTaP 2 Polio 3 Hib 2 Hep B	 (Hib exception - See Note 2 for a child 7 months through 59 months of age.) (See Note 1)
12 through 14 months	3 DTP or DTaP 3 Polio 1-4 Hib 1 MMR 3 Hep B 1 Varicella	 (See Note 2) (See Note 3) (See Note 1) (See Note 6)

15 through 59 months	4 DTP or DTaP 3 Polio 1-4 Hib 1-2 MMR 3 Hep B 1 Varicella	 (See Note 2) (See Note 3) (See Note 1) (See Note 8)
1 through 5 years (Only required for Maricopa County child care)	2 Hep A	(See Note 4)
Kindergarten or 1st grade entry 4 through 6 years	5 DTP or DTaP 4 Polio 2 MMR 3 Hep B 1 Varicella	Exception - A 5th dose is not required if the 4th dose of diphtheria-tetanus containing vaccine was received after the 4th birthday. Exception - A 4th dose is not required if the 3rd dose of polio was received after the 4th birthday. (See Note 3) A child entering school shall receive a 2nd dose, 1 month or more after the date of the 1st dose. (See Note 8)
7 years through 10 years	4 Tetanus-diptheria containing vaccines (no pertussis) 4 Polio 2 MMR 3 Hep B 1 Varicella	Exception – A 4th dose is not required if the 1st dose of diphtheria-tetanus containing vaccine was received after 12 months of age. Exception – A 4th dose is not required if the 3rd dose of polio was received after the 4th birthday. (See Note 7) (See Note 3) A child entering school shall receive the Hep B series according to Note 1. (See Note 8)
11 years	1 MV	(See Note 5)

11 years or older	4 Tetanus-diphtheria containing vaccines including 1 Tdap.	(See Note 6) Exception – A 4th dose is not required if the 1st dose of diphtheria-tetanus containing vaccine was received after 12 months of age.
	1 Tdap, in addition to the 4 Tetanus-diphtheria containing vaccines, if 5 years have passed since the date of a child's last dose of tetanus-diphtheria containing vaccine and the child has not received Tdap.	
	1 Tetanus-diphtheria containing vaccine, if 10 years or more have passed since the date of the child's last dose of Tdap or tetanus-diphtheria containing vaccine.	
	4 Polio	Exception – A 4th dose is not required if the 3rd dose of polio was received after the 4th birthday. (See Note 7)
	2 MMR	(See Note 3)
	3 Hep B	A child entering school shall receive the Hep B series according to Note 1.
	1-2 Varicella	(See Note 8)

1. A child shall receive the 1st dose of Hep B no later than 15 days following child care entry. A child shall receive the 2nd dose of Hep B 4 weeks or more after the date of the 1st dose. A child who is 6 months of age or older shall receive the 3rd dose 2-5 months after the date of the 2nd dose and 4 months or more after the date of the 1st dose. For a child 11-15 years of age who receives the optional Merck Recombivax HB Adult Formulation vaccine, only 2 doses are required 4 or more months apart.
2. The recommended schedule for 4 dose Hib vaccine is 2, 4, and 6 months of age with a booster dose at 12-15 months of age. The optimal schedule for 3 dose Hib vaccine is 2 and 4 months of age with a booster dose at 12 -15 months of age. There shall be a minimum interval of 4 weeks between each of the first 3 doses. A child shall receive a booster dose no earlier than 12 months of age and no earlier than 8 weeks after the previous dose. A child who starts the Hib series after 7 months of age may be required to complete a full 3 or 4 dose series. A child who starts Hib at 15 months of age or older shall receive 1 dose at 15-59 months of age.
3. A child who is 12 months of age or older, shall receive measles, mumps, and rubella vaccines as individual antigens or as a combined MMR vaccine. A child shall receive the 1st dose of MMR before school entry, or no later than 15 days following child care entry. A child who is 4 years of age or older and who is entering school shall receive a 2nd dose of MMR 1 month or more after the date of the 1st dose.
4. A child who is 1 through 5 years of age shall receive the 1st dose of hepatitis A vaccine no later than 15 days following child care entry in Maricopa County. A child shall receive a 2nd dose 6 months following the date of the 1st dose.
5. A child shall receive MV according to R9-6-702(C) no later than 15 days following school entry.
6. A child shall receive a dose of Tdap before the 2 doses of tetanus-diphtheria containing vaccine.
7. Polio vaccine is not required for individuals 18 years of age or older.
8. A child shall receive VAR according to R9-6-702(B) no later than 15 days following child care or school entry. A child who receives VAR at 12 months through 12 years of age shall receive one dose. A child who receives the 1st dose of VAR at 13 years of age or older shall receive the 2nd dose if 4 weeks or more have passed since the date of the 1st dose.

Historical Note

Table 1 renumbered from placement after R9-6-706 and amended by final rulemaking at 8 A.A.R. 4274, effective September 16, 2002 (Supp. 02-3). Amended by final rulemaking at 11 A.A.R. 2283, effective June 7, 2005 (Supp. 05-2). Amended by final rulemaking at 13 A.A.R. 4106, effective January 5, 2008 (Supp. 07-4).

Table 2. Catch-up Immunization Schedule for Child Care or School Entry

Vaccine	Dose	Time Intervals, Special Notes, and Exceptions
1. Diphtheria, Tetanus, and Pertussis a. For a Child Younger Than 7 Years of Age: DTP or any combination of DTP or DTaP	1st	A child shall receive the 1st dose before school entry, or no later than 15 days following child care entry.
	2nd	If 4 weeks or more have passed since the date of the 1st dose, a child shall receive the 2nd dose before school entry, or no later than 15 days following child care entry.
	3rd	If 4 weeks or more have passed since the date of the 2nd dose, a child shall receive the 3rd dose before continued attendance at school, or no later than 15 days following continued attendance at child care.
	4th	If 6 months or more have passed since the date of the 3rd dose, a child shall receive the 4th dose before continued attendance at school, or no later than 15 days following continued attendance at child care.
	5th or more	A child shall receive a 5th dose before continued attendance at school, or no later than 15 days following child care entry. Exception - A 5th dose is not required if the child received the 4th dose after the child's 4th birthday.
b. For a Child 7 through 10 Years of Age: Tetanus-diphtheria containing vaccines (no pertussis)	1st	A child shall receive a 1st dose before school entry.
	2nd	If 4 weeks or more have passed since the date of the 1st dose, a child shall receive the 2nd dose before school entry.
	3rd	If 6 months or more have passed since the date of the 2nd dose, a child shall receive the 3rd dose before school entry.
	4th	A 4th dose is not required if the 1st dose of diphtheria-tetanus containing vaccine was received after 12 months of age.
c. For a Child 11 Years of Age and Older: Tetanus-diphtheria containing vaccines including 1 Tdap	1st	(See Note 2 below) A child shall receive a 1st dose before school entry.
	2nd	If 4 weeks or more have passed since the date of the 1st dose, a child shall receive the 2nd dose before school entry.
	3rd	If 6 months or more have passed since the date of the 2nd dose, a child shall receive the 3rd dose before school entry.
	4th	Exception – A 4th dose is not required if the 1st dose of diphtheria-tetanus containing vaccine was received after 12 months of age.
2. Polio	1st	(See Note 3 below.) A child shall receive the 1st dose before school entry, or no later than 15 days following child care entry.

	2nd	If 4 weeks or more have passed since the date of the 1st dose, a child shall receive the 2nd dose before school entry, or no later than 15 days following child care entry.
	3rd	If 4 weeks or more have passed since the date of the 2nd dose, the child shall receive the 3rd dose before school entry, or no later than 15 days following child care entry.
	4th	If 8 weeks or more have passed since the date of the 3rd dose, the child shall receive the 4th dose before school entry. Exception - A 4th dose is not required if the 3rd dose was received after the 4th birthday.
3. MMR – Measles, Mumps, Rubella	1st	A child who is 12 months of age or older shall receive the 1st dose before school entry, or no later than 15 days following child care entry.
	2nd	If 1 month or more has passed since the date of the 1st dose, a child who is 4 years of age or older, entering kindergarten through 12th grade, shall receive the 2nd dose before school entry.
4. Hib - *Haemophilus influenzae* type b (Not required for individuals aged 5 years of age and older.)	1st through 4th	A child who is younger than 5 years of age shall receive a dose no later than 15 days following child care entry. (See Note 4 below.)
5. Hep B – Hepatitis B	1st	A child shall receive the 1st dose before school entry, or no later than 15 days following child care entry.
	2nd	If 4 weeks or more have passed since the date of the 1st dose, a child shall receive the 2nd dose before school entry, or no later than 15 days following child care entry.
	3rd	If 2 months or more have passed since the date of the 2nd dose, and 4 months or more have passed since the date of the 1st dose and the child is at least 6 months of age, a child shall receive the 3rd dose before school entry, or no later than 15 days following child care entry. Exception - A child who is 11 through 15 years of age who is receiving the Merck Recombivax HB Adult Formulation vaccine is not required to receive a 3rd dose.
6. Hep A – Hepatitis A Only required for Maricopa County child care	1st	A child who is 1 through 5 years of age shall receive the 1st dose no later than 15 days following child care entry.
	2nd	If 6 months or more have passed since the date of the 1st dose, a child shall receive the 2nd dose no later than 15 days following child care entry.
7. Varicella	1st	(See Note 5 below.) A child who is 12 months of age through 12 years shall receive one dose before school entry, or no later than 15 days following child care entry.

	2nd	If one month or more has passed since the date of the first dose, a child who is 13 years of age or older shall receive a second dose.
8. Meningococcal	1st	(See Note 1 below) A child who is 11 years old shall receive one dose of MV before school entry.

1. A child shall receive MV according to R9-6-702(C) no later than 15 days following school entry.
2. A child shall receive a dose of Tdap before the 2 doses of tetanus-diphtheria containing vaccine.
3. Polio vaccine is not required for individuals 18 years of age or older.
4. A child who begins the Hib series at 7 months of age or older shall receive Hib according to the following schedule:

Current Age (months)	Prior Immunization History	Recommended Regimen
7-11	1 dose	1 dose at 7-11 months of age and a booster at least 2 months later at 12-15 months of age
7-11	2 doses	1 dose at 7-11 months of age and a booster at least 2 months later at 12-15 months of age
12-14	1 dose before 12 months	2 doses administered at least 2 months apart
12-14	2 doses before 12 months	1 dose
15-59	Any incomplete schedule	1 dose

5. A child shall receive VAR according to R9-6-702(B) no later than 15 days following child care entry.

Historical Note
Table 2 renumbered from placement after R9-6-706 and amended by final rulemaking at 8 A.A.R. 4274, effective September 16, 2002 (Supp. 02-3). Amended by final rulemaking at 11 A.A.R. 2283, effective June 7, 2005 (Supp. 05-2). Amended by final rulemaking at 13 A.A.R. 4106, effective January 5, 2008 (Supp. 07-4).

R9-6-708. Release of Immunization Information

In addition to the persons who have access to immunization information according to A.R.S. § 36-135(D) and consistent with the limitations in A.R.S. § 36-135(E) and (H), the Department may release immunization information to:

1. An authorized representative of a state or local health agency for the control, investigation, analysis, or follow-up of disease;
2. A child care administrator, to determine the immunization status of a child in the child care;
3. An authorized representative of WIC, to determine the immunization status of children enrolled in WIC;
4. An individual or organization authorized by the Department, to conduct medical research to evaluate medical services and health related services, health quality, immunizations data quality, and efficacy; or
5. An authorized representative of an out-of-state agency, including a state health department, local health agency, school, child care, health care provider, or a state agency that has legal custody of a child.

Historical Note
Adopted effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-309 effective October 19, 1993 (Supp. 93-4). New Section R9-6-708 renumbered from R9-6-707 and amended by final rulemaking at 8 A.A.R. 4274, effective September 16, 2002 (Supp. 02-3).

R9-6-709. Renumbered

Historical Note
Former Section R9-6-115, Paragraph (6), renumbered and amended as R9-6-709 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-310 effective October 19, 1993 (Supp. 93-4).

R9-6-710. Renumbered

Historical Note
Former Section R9-115, Paragraph (7), renumbered and amended as R9-6-710 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-311 effective October 19, 1993 (Supp. 93-4).

R9-6-711. Renumbered

Historical Note
Former Section R9-6-115, Paragraph (8), renumbered and amended as R9-6-711 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-313 effective October 19, 1993 (Supp. 93-4).

R9-6-712. Renumbered

Historical Note
Adopted effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-315 effective October 19, 1993 (Supp. 93-4).

R9-6-713. Renumbered

Historical Note
Former Section R9-6-115, Paragraph (9), renumbered and amended as R9-6-713 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-316 effective October 19, 1993 (Supp. 93-4).

R9-6-714. Renumbered

Historical Note
Former Section R9-6-115, Paragraph (10), renumbered and amended as R9-6-714 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-317 effective October 19, 1993 (Supp. 93-4).

R9-6-715. Renumbered

Historical Note
Former Section R9-6-115, Paragraph (11), renumbered and amended as R9-6-715 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-319 effective October 19, 1993 (Supp. 93-4).

R9-6-716. Renumbered

Historical Note
Adopted effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-320 effective October 19, 1993 (Supp. 93-4).

R9-6-717. Renumbered

Historical Note
Former Section R9-6-115, Paragraph (12), renumbered and amended as R9-6-717 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-321 effective October 19, 1993 (Supp. 93-4).

R9-6-718. Renumbered

Historical Note
Former Section R9-6-115, Paragraph (13), renumbered and amended as R9-6-718 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-322 effective October 19, 1993 (Supp. 93-4).

R9-6-719. Renumbered

Historical Note
Adopted effective January 28, 1987 (Supp. 87-1) Renumbered to Section R9-6-323 effective October 19, 1993 (Supp. 93-4).

R9-6-720. Renumbered

Historical Note
Former Section R9-6-115, Paragraph (14), renumbered and amended as R9-6-720 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-324 effective October 19, 1993 (Supp. 93-4).

R9-6-721. Renumbered

Historical Note
Former Section R9-6-115, Paragraph (15), renumbered and amended as R9-6-721 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-325 effective October 19, 1993 (Supp. 93-4).

R9-6-722. Renumbered

Historical Note
Former Section R9-6-115, Paragraph (18), renumbered and amended as R9-6-722 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-327 effective October 19, 1993 (Supp. 93-4).

R9-6-723. Renumbered

Historical Note
Former Section R9-6-115, Paragraph (16), renumbered and amended as R9-6-723 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-330 effective October 19, 1993 (Supp. 93-4).

R9-6-724. Renumbered

Historical Note
Former Section R9-6-115, Paragraph (17), renumbered and amended as R9-6-724 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-331 effective October 19, 1993 (Supp. 93-4).

R9-6-725. Renumbered

Historical Note
Adopted effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-332 effective October 19, 1993 (Supp. 93-4).

R9-6-726. Renumbered

Historical Note
Adopted effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-333 effective October 19, 1993 (Supp. 93-4).

R9-6-727. Renumbered

Historical Note
Adopted effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-334 effective October 19, 1993 (Supp. 93-4).

R9-6-728. Renumbered

Historical Note
Former Section R9-6-115, Paragraph (19), renumbered and amended as R9-6-728 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-335 effective October 19, 1993 (Supp. 93-4).

R9-6-729. Renumbered

Historical Note
Former Section R9-6-115, Paragraph (20), renumbered and amended as R9-6-729 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-336 effective October 19, 1993 (Supp. 93-4).

R9-6-730. Renumbered

Historical Note
Former Section R9-6-115, Paragraph (21), renumbered and amended as R9-6-730 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-337 effective October 19, 1993 (Supp. 93-4).

R9-6-731. Renumbered

Historical Note
Former Section R9-6-115, Paragraph (22), renumbered and amended as R9-6-731 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-338 effective October 19, 1993 (Supp. 93-4).

R9-6-732. Renumbered

Historical Note
Former Section R9-6-115, Paragraph (23), renumbered and amended as R9-6-732 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-339 effective October 19, 1993 (Supp. 93-4).

R9-6-733. Renumbered

Historical Note
Former Section R9-6-115, Paragraph (45), renumbered and amended as R9-6-733 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-340 effective October 19, 1993 (Supp. 93-4).

R9-6-734. Renumbered

Historical Note
Former Section R9-6-115, Paragraph (24), renumbered and amended as R9-6-734 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-341 effective October 19, 1993 (Supp. 93-4).

R9-6-735. Renumbered

Historical Note
Former Section R9-6-115, Paragraph (25), renumbered and amended as R9-6-735 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-342 effective October 19, 1993 (Supp. 93-4).

R9-6-736. Renumbered

Historical Note
Former R9-6-115, Paragraph (26), renumbered and amended as R9-6-736 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-343 effective October 19, 1993 (Supp. 93-4).

R9-6-737. Renumbered

Historical Note
Adopted effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-344 effective October 19, 1993 (Supp. 93-4).

R9-6-738. Renumbered

Historical Note
Former Section R9-6-115, Paragraph (27), renumbered and amended as R9-6-738 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-345 effective October 19, 1993 (Supp. 93-4).

R9-6-739. Renumbered

Historical Note
Adopted effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-346 effective October 19, 1993 (Supp. 93-4).

R9-6-740. Renumbered

Historical Note
Former Section R9-6-115, Paragraph (28), renumbered and amended as R9-6-740 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-347 effective October 19, 1993 (Supp. 93-4).

R9-6-741. Renumbered

Historical Note
Former Section R9-6-115, Paragraph (29), renumbered and amended as R9-6-741 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-348 effective October 19, 1993 (Supp. 93-4).

R9-6-742. Renumbered

Historical Note
Former Section R9-6-115, Paragraph (30), renumbered and amended as R9-6-742 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-349 effective October 19, 1993 (Supp. 93-4).

R9-6-743. Renumbered

Historical Note
Former Section R9-6-115, Paragraph (31), renumbered and amended as R9-6-743 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-350 effective October 19, 1993 (Supp. 93-4).

R9-6-744. Renumbered

Historical Note
Former Section R9-6-115, Paragraph (32), renumbered and amended as R9-6-744 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-351 effective October 19, 1993 (Supp. 93-4).

R9-6-745. Renumbered

Historical Note
Former Section R9-6-115, Paragraph (33), renumbered and amended as R9-6-745 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-352 effective October 19, 1993 (Supp. 93-4).

R9-6-746. Renumbered

Historical Note
Former Section R9-6-115, Paragraph (34.) renumbered and amended as R9-6-746 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-353 effective October 19, 1993 (Supp. 93-4).

R9-6-747. Repealed

Historical Note
Former Section R9-6-115, Paragraph (35), renumbered and amended as R9-6-747 effective January 28, 1987 (Supp. 87-1). Repealed effective October 19, 1993 (Supp. 93-4).

R9-6-748. Renumbered

Historical Note
Former Section R9-6-115, Paragraph (36), renumbered and amended as R9-6-748 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-354 effective October 19, 1993 (Supp. 93-4).

R9-6-749. Renumbered

Historical Note
Former Section R9-6-115, Paragraph (37), renumbered and amended as R9-6-749 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-355 effective October 19, 1993 (Supp. 93-4).

R9-6-750. Renumbered

Historical Note
Former Section R9-6-115, Paragraph (38), renumbered and amended as R9-6-750 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-356 effective October 19, 1993 (Supp. 93-4).

R9-6-751. Renumbered

Historical Note
Former Section R9-6-115, Paragraph (39), renumbered and amended as R9-6-751 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-358 effective October 19, 1993 (Supp. 93-4).

R9-6-752. Renumbered

Historical Note
Adopted effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-359 effective October 19, 1993 (Supp. 93-4).

R9-6-753. Renumbered

Historical Note
Former Section R9-6-115, Paragraph (40), renumbered and amended as R9-6-753 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-360 effective October 19, 1993 (Supp. 93-4).

R9-6-754. Renumbered

Historical Note
Former Section R9-6-115, Paragraph (41), renumbered and amended as R9-6-754 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-361 effective October 19, 1993 (Supp. 93-4).

R9-6-755. Renumbered

Historical Note
Former Section R9-6-115, Paragraph (42), renumbered and amended as R9-6-755 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-362 effective October 19, 1993 (Supp. 93-4).

R9-6-756. Renumbered

Historical Note
Former Section R9-6-115, Paragraph (43), renumbered and amended as R9-6-756 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-363 effective October 19, 1993 (Supp. 93-4).

R9-6-757. Renumbered

Historical Note
Former Section R9-6-115, Paragraph (44), renumbered and amended as R9-6-757 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-364 effective October 19, 1993 (Supp. 93-4).

R9-6-758. Renumbered

Historical Note
Former Section R9-6-115, Paragraph (4), renumbered and amended as R9-6-758 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-365 effective October 19, 1993 (Supp. 93-4).

R9-6-759. Renumbered

Historical Note
Former Section R9-6-115, Paragraph (46), renumbered and amended as R9-6-759 effective January 28, 1987 (Supp. 87-1). Renumbered to Section R9-6-366 effective October 19, 1993 (Supp. 93-4).

ARTICLE 8. ASSAULTS ON PUBLIC SAFETY EMPLOYEES AND VOLUNTEERS

New Article 8, consisting of Sections R9-6-801 through R9-6-803, made by final rulemaking at 8 A.A.R. 5214, effective February 1, 2003 (Supp. 02-4).

R9-6-801. Definitions

In this Article, unless otherwise specified:

1. "Employer" means an individual in the senior leadership position with an agency or entity for which a named public safety employee or volunteer works or that individual's designee.
2. "Named public safety employee or volunteer" means the public safety employee or volunteer who is listed as the assaulted individual in a petition filed under A.R.S. § 13-1210 and granted by a court.
3. "Occupational health provider" means a physician, physician assistant, registered nurse practitioner, or registered nurse, as defined in A.R.S. § 32-1601, who provides medical services for work-related health conditions for an agency or entity for which a named public safety employee or volunteer works.
4. "Public safety employee or volunteer" means the same as in A.R.S. § 13-1210.

Historical Note
Adopted as an emergency effective January 12, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Readopted without change as an emergency effective May 9, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-2). Amended and readopted as an emergency effective August 8, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired. Readopted without change as an emergency effective November 16, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Adopted without change as a permanent rule effective May 22, 1989. Amended as an emergency effective June 26, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Emergency amendment readopted without change effective October 17, 1989 (Supp. 89-4). Amended effective September 19, 1990 (Supp. 90-3). Renumbered to R9-6-401 effective October 19, 1993 (Supp. 93-4). New Section made by final rulemaking at 8 A.A.R. 5214, effective February 1, 2003 (Supp. 02-4). Amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-802. Notice of Test Results

A. Within 10 working days after the date of receipt of a laboratory report for a test ordered by a health care provider as a result of a court order issued under A.R.S. § 13-1210, the ordering health care provider shall:
   1. If the test is conducted on the blood of a court-ordered subject who is incarcerated or detained:
      a. Provide a written copy of the laboratory report to the chief medical officer of the correctional facility in which the court-ordered subject is incarcerated or detained; and
      b. Notify the occupational health provider in writing of the results of the test; and
   2. If the test is conducted on the blood of a court-ordered subject who is not incarcerated or detained:
      a. Unless the court-ordered subject is deceased, notify the court-ordered subject as specified in subsection (D);
      b. If requested by the court-ordered subject, provide a written copy of the laboratory report to the court-ordered subject; and
      c. Notify the occupational health provider in writing of the results of the test.

B. Within five working days after the date of receipt of a laboratory report for a court-ordered subject who is incarcerated or detained, the chief medical officer of the correctional facility in which the court-ordered subject is incarcerated or detained shall:
   1. Notify the court-ordered subject as specified in subsection (D);
   2. If requested by the court-ordered subject, provide a written copy of the laboratory report to the court-ordered subject; and

3. Notify the officer in charge of the correctional facility as specified in subsection (E).

C. Within five working days after an occupational health provider receives written notice of test results as required in subsection (A), the occupational health provider shall notify:
1. The named public safety employee or volunteer as specified in subsection (D); and
2. The employer as specified in subsection (E).

D. An individual who provides notice to a court-ordered subject or named public safety employee or volunteer as required under subsection (A), (B), or (C) shall describe the test results and provide or arrange for the court-ordered subject or named public safety employee or volunteer to receive the following information about each agent for which the court-ordered subject was tested:
1. A description of the disease or syndrome caused by the agent, including its symptoms;
2. A description of how the agent is transmitted to others;
3. The average window period for the agent;
4. An explanation that a negative test result does not rule out infection and that retesting for the agent after the average window period has passed is necessary to rule out infection;
5. Measures to reduce the likelihood of transmitting the agent to others and that it is necessary to continue the measures until a negative test result is obtained after the average window period has passed or until an infection, if detected, is eliminated;
6. That it is necessary to notify others that they may be or may have been exposed to the agent by the individual receiving notice;
7. The availability of assistance from local health agencies or other resources; and
8. The confidential nature of the court-ordered subject's test results.

E. An individual who provides notice to the officer in charge of a correctional facility, as required under subsection (B), or to an employer, as required under subsection (C), shall describe the test results and provide or arrange for the officer in charge of the facility or the employer to receive the following information about each agent for which a court-ordered subject's test results indicate the presence of infection:
1. A description of the disease or syndrome caused by the agent, including its symptoms;
2. A description of how the agent is transmitted to others;
3. Measures to reduce the likelihood of transmitting the agent to others;
4. The availability of assistance from local health agencies or other resources; and
5. The confidential nature of the court-ordered subject's test results.

F. An individual who provides notice under this Section shall not provide a copy of the laboratory report to anyone other than the court-ordered subject and, if the court-ordered subject is incarcerated or detained, the chief medical officer of the correctional facility in which the court-ordered subject is incarcerated or detained.

G. An individual who provides notice under this Section shall protect the confidentiality of the court-ordered subject's personal identifying information and test results.

H. A health care provider who orders a test on the blood of a court-ordered subject who is not incarcerated or detained may, at the time the court-ordered subject is seen by the ordering health care provider, present the court-ordered subject with a telephone number and instruct the court-ordered subject to contact the ordering health care provider after a stated period of time for notification of the test results.

I. A health care provider who orders a test has not satisfied the obligation of the health care provider to notify under subsection (A) if:
1. The health care provider provides a telephone number and instructions, as allowed by subsection (H), for a court-ordered subject to contact the ordering health care provider and receive the information specified in subsection (D); and
2. The court-ordered subject does not contact the ordering health care provider.

J. A health care provider who orders a test on a court-ordered subject's blood shall comply with all applicable reporting requirements contained in this Chapter.

Historical Note

Adopted as an emergency effective January 12, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Readopted without change as an emergency effective May 9, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-2). Amended and readopted as an emergency effective August 8, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired. Readopted without change as an emergency effective November 16, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Adopted without change as a permanent rule effective May 22, 1989 (Supp. 89-2). Amended effective September 19, 1990 (Supp. 90-3). Amended as an emergency effective August 8, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-3). Emergency expired. Emergency amendments re-adopted without change effective November 19, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-4). Emergency expired. Emergency amendments re-adopted without change effective February 28, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-1). Emergency expired. Renumbered to R9-6-402 effective October 19, 1993 (Supp. 93-4). New Section made by final rulemaking at 8 A.A.R. 5214, effective February 1, 2003 (Supp. 02-4). Amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-803. Repealed

Historical Note

Adopted as an emergency effective January 12, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Readopted without change as an emergency effective May 9, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-2). Amended and readopted as an emergency effective August 8, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired. Readopted without change as an emergency effective November 16, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Amended subsection (B) and adopted as a permanent rule effective May 22, 1989 (Supp. 89-2). Amended as an emergency effective August 8, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-3). Emergency expired. Emergency amendments re-adopted without change effective November 19, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-4). Emergency expired. Emergency amendments re-adopted without change effective February 28, 1991, pursuant to

A.R.S. § 41-1026, valid for only 90 days (Supp. 91-1). Emergency expired. Renumbered to R9-6-403 effective October 19, 1993 (Supp. 93-4). New Section made by final rulemaking at 8 A.A.R. 5214, effective February 1, 2003 (Supp. 02-4). Section repealed by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-804. Renumbered

Historical Note

Adopted as an emergency effective January 12, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Readopted without change as an emergency effective May 9, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-2). Amended and readopted as an emergency effective August 8, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired. Readopted as an emergency and subsection (A) corrected effective November 16, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Amended subsection (B) and adopted as a permanent rule effective May 22, 1989 (Supp. 89-2). Renumbered to R9-6-404 effective October 19, 1993 (Supp. 93-4).

R9-6-805. Renumbered

Historical Note

Adopted as an emergency effective January 12, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Readopted without change as an emergency effective May 9, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-2). Amended and readopted as an emergency effective August 8, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired. Readopted as an emergency and subsection (B), Paragraph (2) corrected effective November 16, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Adopted without change as a permanent rule effective May 22, 1989 (Supp. 89-2). Renumbered to R9-6-405 effective October 19, 1993 (Supp. 93-4).

R9-6-806. Renumbered

Historical Note

Adopted as an emergency effective January 12, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Readopted without change as an emergency effective May 9, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-2). Amended and readopted as an emergency effective August 8, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired. Readopted without change as an emergency effective November 16, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Adopted without change as a permanent rule effective May 22, 1989 (Supp. 89-2). Amended effective September 19, 1990 (Supp. 90-3). Renumbered to R9-6-406 effective October 19, 1993 (Supp. 93-4).

R9-6-807. Renumbered

Historical Note

Adopted as an emergency effective January 12, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Readopted without change as an emergency effective May 9, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-2). Emergency not renewed. Former Section R9-6-808 renumbered as Section R9-6-807, amended, and readopted as an emergency effective August 8, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired. Readopted as an emergency and subsection (C) corrected effective November 16, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Adopted without change as a permanent rule effective May 22, 1989 (Supp. 89-2). Renumbered to R9-6-407 effective October 19, 1993 (Supp. 93-4).

R9-6-808. Renumbered

Historical Note

Adopted as an emergency effective January 12, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Readopted without change as an emergency effective May 9, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-2). Former Section R9-6-809 renumbered as Section R9-6-808, amended and readopted as an emergency effective August 8, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired. Readopted without change as an emergency effective November 16, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Adopted without change as a permanent rule effective May 22, 1989 (Supp. 89-2). Renumbered to R9-6-408 effective October 19, 1993 (Supp. 93-4).

ARTICLE 9. HEALTH PROFESSIONAL EXPOSURES

R9-6-901. Definitions

In this Article, unless otherwise specified:

1. "Employer" means an individual in the senior leadership position with the agency or entity for which a health professional works or that individual's designee.
2. "Health professional" means the same as in A.R.S. § 32-3201.
3. "Occupational health provider" means a physician, physician assistant, registered nurse practitioner, or registered nurse, as defined in A.R.S. § 32-1601, who provides medical services for work-related health conditions for an agency or entity for which a health professional works.
4. "Petitioner" means a health professional who petitions a court, under A.R.S. § 32-3207, to order testing of an individual.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Section R9-6-901 recodified to R9-6-1001 at 13 A.A.R. 1745, effective April 27, 2007 (Supp. 07-2). New Section made by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-902. Notice of Test Results

A. Within 10 working days after the date of receipt of a laboratory report for a test ordered by a health care provider as a result of a court order issued under A.R.S. § 32-3207, the ordering health care provider shall:

1. If the test is conducted on the blood of a court-ordered subject who is incarcerated or detained:
   a. Provide a written copy of the laboratory report to the chief medical officer of the correctional facility in

which the court-ordered subject is incarcerated or detained; and
b. Notify the petitioner's occupational health provider in writing of the results of the test; and
2. If the test is conducted on the blood of a court-ordered subject who is not incarcerated or detained:
a. Unless the court-ordered subject is deceased, notify the court-ordered subject as specified in subsection (D);
b. If requested by the court-ordered subject, provide a written copy of the laboratory report to the court-ordered subject; and
c. Notify the petitioner's occupational health provider in writing of the results of the test.

B. Within five working days after the date of receipt of a laboratory report for a court-ordered subject who is incarcerated or detained, the chief medical officer of the correctional facility in which the court-ordered subject is incarcerated or detained shall:
1. Notify the court-ordered subject as specified in subsection (D);
2. If requested by the court-ordered subject, provide a written copy of the laboratory report to the court-ordered subject; and
3. Notify the officer in charge of the correctional facility as specified in subsection (E).

C. Within five working days after the petitioner's occupational health provider receives written notice of test results as required in subsection (A), the petitioner's occupational health provider shall notify the petitioner, as specified in subsection (D), and the petitioner's employer, as specified in subsection (E).

D. An individual who provides notice to a court-ordered subject or petitioner as required under subsection (A), (B) or (C) shall describe the test results and provide or arrange for the court-ordered subject or petitioner to receive the following information about each agent for which the court-ordered subject was tested:
1. A description of the disease or syndrome caused by the agent, including its symptoms;
2. A description of how the agent is transmitted to others;
3. The average window period for the agent;
4. An explanation that a negative test result does not rule out infection and that retesting for the agent after the average window period has passed is necessary to rule out infection;
5. Measures to reduce the likelihood of transmitting the agent to others and that it is necessary to continue the measures until a negative test result is obtained after the average window period has passed or until an infection, if detected, is eliminated;
6. That it is necessary to notify others that they may be or may have been exposed to the agent by the individual receiving notice;
7. The availability of assistance from local health agencies or other resources; and
8. The confidential nature of the court-ordered subject's test results.

E. An individual who provides notice to the officer in charge of a correctional facility, as required under subsection (B), or to the petitioner's employer, as required under subsection (C), shall describe the test results and provide or arrange for the officer in charge of the facility or the employer to receive the following information about each agent for which a court-ordered subject's test results indicate the presence of infection:
1. A description of the disease or syndrome caused by the agent, including its symptoms;
2. A description of how the agent is transmitted to others;
3. Measures to reduce the likelihood of transmitting the agent to others;
4. The availability of assistance from local health agencies or other resources; and
5. The confidential nature of the court-ordered subject's test results.

F. An individual who provides notice under this Section shall not provide a copy of the laboratory report to anyone other than the court-ordered subject and, if the court-ordered subject is incarcerated or detained, the chief medical officer of the correctional facility in which the court-ordered subject is incarcerated or detained.

G. An individual who provides notice under this Section shall protect the confidentiality of the court-ordered subject's personal identifying information and test results.

H. A health care provider who orders a test on the blood of a court-ordered subject who is not incarcerated or detained may, at the time the court-ordered subject is seen by the ordering health care provider, present the court-ordered subject with a telephone number and instruct the court-ordered subject to contact the ordering health care provider after a stated period of time for notification of the test results.

I. A health care provider who orders a test has not satisfied the obligation of the health care provider to notify under subsection (A) if:
1. The health care provider provides a telephone number and instructions, as allowed by subsection (H), for a court-ordered subject to contact the ordering health care provider and receive the information specified in subsection (D); and
2. The court-ordered subject does not contact the ordering health care provider.

J. A health care provider who orders a test on a court-ordered subject's blood shall comply with all applicable reporting requirements contained in this Chapter.

Historical Note
Section renumbered from R9-6-409 and amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Section R9-6-902 recodified to R9-6-1002 at 13 A.A.R. 1745, effective April 27, 2007 (Supp. 07-2). New Section made by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

Exhibit A. Recodified

Historical Note
Exhibit A renumbered from Article 4, Exhibit A and amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Exhibit A recodified to Article 10, Exhibit A at 13 A.A.R. 1745, effective April 27, 2007 (Supp. 07-2).

Exhibit B. Recodified

Historical Note
Exhibit A renumbered from Article 4, Exhibit A and amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002 (Supp. 02-2). Exhibit B recodified to Article 10, Exhibit B at 13 A.A.R. 1745, effective April 27, 2007 (Supp. 07-2).

R9-6-903. Recodified

Historical Note
Section renumbered from R9-6-410 and amended by final rulemaking at 8 A.A.R. 1953, effective April 3, 2002

(Supp. 02-2). Section R9-6-903 recodified to R9-6-1003 at 13 A.A.R. 1745, effective April 27, 2007 (Supp. 07-2).

ARTICLE 10. HIV-RELATED TESTING AND NOTIFICATION

R9-6-1001. Definitions

In this Article, unless otherwise specified:

1. "Governing board" means a group of individuals, elected as specified in A.R.S. Title 15, Chapter 4, Article 2, to carry out the duties and functions specified in A.R.S. Title 15, Chapter 3, Article 3.
2. "Informed consent" means permission to conduct an HIV-related test obtained from a subject who has capacity to consent or an individual authorized by law to consent for a subject without capacity to consent after an explanation that complies with A.R.S. § 36-663(B).
3. "Physician" means an individual licensed as a doctor of:
   a. Allopathic medicine under A.R.S. Title 32, Chapter 13;
   b. Osteopathic medicine under A.R.S. Title 32, Chapter 17; or
   c. Homeopathic medicine under A.R.S. Title 32, Chapter 29.
4. "School district" means the same as in A.R.S. § 15-101.
5. "Superintendent of a school district" means an individual appointed by the governing board of a school district to oversee the operation of schools within the school district.
6. "Works" means materials, such as cotton balls or a spoon, required when preparing or using a drug that requires injection.

Historical Note

New Section recodified from R9-6-901 at 13 A.A.R. 1745, effective April 27, 2007 (Supp. 07-2). Amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-1002. Local Health Agency Requirements

For each HIV-infected individual or suspect case, a local health agency shall comply with the requirements in R9-6-341.

Historical Note

New Section recodified from R9-6-902 at 13 A.A.R. 1745, effective April 27, 2007 (Supp. 07-2). Former R9-6-1002 renumbered to R9-6-1003; new R9-6-1002 made by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-1003. Expired

Historical Note

New Section recodified from R9-6-903 at 13 A.A.R. 1745, effective April 27, 2007 (Supp. 07-2). Former R9-6-1003 renumbered to R9-6-1004; new R9-6-1003 renumbered from R9-6-1002 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Section expired under A.R.S. § 41-1056(J) at 19 A.A.R. 1928, effective April 30, 2013 (Supp. 13-3).

EXHIBIT A. Expired

Historical Note

Exhibit A recodified from Article 9, Exhibit A at 13 A.A.R. 1745, effective April 27, 2007 (Supp. 07-2). Exhibit A repealed; new Exhibit A made by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2). Exhibit A expired under A.R.S. § 41-1056(J) at 19 A.A.R. 1928, effective April 30, 2013 (Supp. 13-3).

EXHIBIT B. Repealed

Historical Note

Exhibit B recodified from Article 9, Exhibit B at 13 A.A.R. 1745, effective April 27, 2007 (Supp. 07-2). Exhibit B repealed by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-1004. Court-ordered HIV-related Testing

A. A health care provider who receives the results of a test, ordered by the health care provider to detect HIV infection and performed as a result of a court order issued under A.R.S. § 13-1210, shall comply with the requirements in 9 A.A.C. 6, Article 8.

B. A health care provider who receives the results of a test, ordered by the health care provider to detect HIV infection and performed as a result of a court order issued under A.R.S. § 32-3207, shall comply with the requirements in 9 A.A.C. 6, Article 9.

C. When a court orders a test under A.R.S. §§ 8-341 or 13-1415 to detect HIV infection, the prosecuting attorney who petitioned the court for the order shall provide to the Department:
   1. A copy of the court order, including an identifying number associated with the court order;
   2. The name and address of the victim; and
   3. The name and telephone number of the prosecuting attorney or the prosecuting attorney's designee.

D. A person who tests a specimen of blood or another body fluid from a subject to detect HIV infection as authorized by a court order issued under A.R.S. §§ 8-341 or 13-1415 shall:
   1. Use a screening test; and
   2. If the test results from a screening test on the specimen indicate a positive result, retest the specimen using a confirmatory test.

E. A person who performs a test described in subsection (D) shall report the test results for each subject to the submitting entity within five working days after obtaining the test results.

F. A submitting entity that receives the results of a test to detect HIV infection that was performed for a subject as a result of a court order issued under A.R.S. §§ 8-341 or 13-1415 shall:
   1. Notify the Department within five working days after receiving the results of the test to detect HIV infection;
   2. Provide to the Department:
      a. A written copy of the court order,
      b. A written copy of the results of the test to detect HIV infection, and
      c. The name and telephone number of the submitting entity or submitting entity's designee; and
   3. Either:
      a. Comply with the requirements in:
         i. R9-6-802(A)(2)(a) and (b), R9-6-802(D), and R9-6-802(F) through (J) for a subject who is not incarcerated or detained; and
         ii. R9-6-802(B), R9-6-802(D) through (G), and R9-6-802(J) for a subject who is incarcerated or detained; or
      b. Provide to the Department or the local health agency in whose designated service area the subject is living:
         i. The name and address of the subject;
         ii. A written copy of the results of the test to detect HIV infection, if not provided as specified in subsection (F)(2)(b); and
         iii. Notice that the submitting entity did not provide notification as specified in subsection (F)(3)(a).

G. If the Department or a local health agency is notified by a submitting entity as specified in subsection (F)(3)(b), the Department or local health agency shall comply with the requirements in:
1. R9-6-802(A)(2)(a) and (b), R9-6-802(D), and R9-6-802(F) through (J) for a subject who is not incarcerated or detained; and
2. R9-6-802(B), R9-6-802(D) through (G), and R9-6-802(J) for a subject who is incarcerated or detained.

H. When the Department receives a written copy of the results of a test to detect HIV infection that was performed for a subject as a result of a court order issued under A.R.S. §§ 8-341 or 13-1415, the Department shall either:
1. Provide to the victim:
   a. A description of the results of the test to detect HIV-infection;
   b. The information specified in R9-6-802(D); and
   c. A written copy of the test results; or
2. Provide to the local health agency in whose designated service area the victim is living:
   a. The name and address of the victim,
   b. A written copy of the results of the test to detect HIV infection, and
   c. Notice that the Department did not provide notification as specified in subsection (H)(1).

I. If a local health agency is notified by the Department as specified in subsection (H)(2), the local health agency shall:
1. Provide to the victim:
   a. A description of the results of the test to detect HIV infection;
   b. The information specified in R9-6-802(D); and
   c. A written copy of the test results; or
2. If the local health agency is unable to locate the victim, notify the Department that the local health agency did not inform the victim of the results of the test to detect HIV infection.

Historical Note
Section R9-6-1004 renumbered from R9-6-1003 and amended by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-1005. Anonymous HIV Testing

A. A local health agency and the Department shall offer anonymous HIV testing to individuals.

B. If an individual requests anonymous HIV testing, the Department or a local health agency shall:
1. Provide to the individual requesting anonymous HIV testing health education about HIV, the meaning of HIV test results, and the risk factors for becoming infected with HIV or transmitting HIV to other individuals;
2. Record in a format specified by the Department information about the individual's risk factors for becoming infected with or transmitting HIV and submit the information to the Department;
3. Collect a specimen of blood from the individual;
4. Record the following information on a form provided by the Department:
   a. The individual's date of birth,
   b. The individual's race and ethnicity,
   c. The individual's gender,
   d. The date and time the blood specimen was collected, and
   e. The name, address, and telephone number of the person collecting the blood specimen; and
5. Before the individual leaves the building occupied by the Department or local health agency:
   a. Test the individual's specimen of blood using a screening test for HIV;
   b. Provide the results of the screening test to the individual;
   c. Record the test results on the form specified in subsection (B)(4); and
   d. If the test results from the screening test on the specimen of blood indicate that the individual may be HIV-infected, submit the specimen of blood to the Arizona State Laboratory for confirmatory testing by:
      i. Assigning to the blood specimen an identification number corresponding to the pre-printed number on the form specified in subsection (B)(4);
      ii. Giving the individual requesting anonymous HIV testing the identification number assigned to the blood specimen and information about how to obtain the results of the confirmatory test; and
      iii. Sending the blood specimen and the form specified in subsection (B)(4) to the Arizona State Laboratory for confirmatory testing.

Historical Note
New Section made by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-1006. Notification

A. The Department or the Department's designee shall confidentially notify an individual reported to be at risk for HIV infection, as required under A.R.S. § 36-664(J), if all of the following conditions are met:
1. The Department receives the report of risk for HIV infection in a document that includes the following:
   a. The name and address of the individual reported to be at risk for HIV infection or enough other identifying information about the individual to enable the individual to be recognized and located,
   b. The name and address of the HIV-infected individual placing the individual named under subsection (A)(1)(a) at risk for HIV infection,
   c. The name and address of the individual making the report, and
   d. The type of exposure placing the individual named under subsection (A)(1)(a) at risk for HIV infection;
2. The individual making the report is in possession of confidential HIV-related information; and
3. The Department determines that the information provided in the report is accurate and contains sufficient detail to:
   a. Indicate that the exposure described as required in subsection (A)(1)(d) constitutes a significant exposure for the individual reported to be at risk for HIV infection, and
   b. Enable the individual reported to be at risk for HIV infection to be recognized and located.

B. As authorized under A.R.S. § 36-136(L), the Department shall notify the superintendent of a school district in a confidential document that a pupil of the school district tested positive for HIV if the Department determines that:
1. The pupil places others in the school setting at risk for HIV infection; and
2. The school district has an HIV policy that includes the following provisions:
   a. That a school shall not exclude a pupil who tested positive for HIV from attending school or school

functions or from participating in school activities solely due to HIV infection;
b. That school district personnel who are informed that a pupil tested positive for HIV shall keep the information confidential; and
c. That the school district shall provide HIV-education programs to pupils, parents or guardians of pupils, and school district personnel through age-appropriate curricula, workshops, or in-service training sessions.

Historical Note
New Section made by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

ARTICLE 11. STD-RELATED TESTING AND NOTIFICATION

R9-6-1101. Definitions

In this Article, unless otherwise specified:
1. "Primary syphilis" means the initial stage of syphilis infection characterized by the appearance of one or more open sores in the genital area, anus, or mouth of an infected individual.
2. "Secondary syphilis" means the stage of syphilis infection occurring after primary syphilis and characterized by a rash that does not itch, fever, swollen lymph glands, and fatigue in an infected individual.
3. "Sexually transmitted diseases" means the same as in A.R.S. § 13-1415.
4. "STD" means a sexually transmitted disease or other disease that may be transmitted through sexual contact.

Historical Note
New Section made by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-1102. Health Care Provider Requirements

When a laboratory report for a test ordered by a health care provider for a subject indicates that the subject is infected with an STD, the ordering health care provider or the ordering health care provider's designee shall:
1. Describe the test results to the subject;
2. Provide or arrange for the subject to receive the following information about the STD for which the subject was tested:
   a. A description of the disease or syndrome caused by the STD, including its symptoms;
   b. Treatment options for the STD and where treatment may be obtained;
   c. A description of how the STD is transmitted to others;
   d. A description of measures to reduce the likelihood of transmitting the STD to others and that it is necessary to continue the measures until the infection is eliminated;
   e. That it is necessary for the subject to notify individuals who may have been infected by the subject that the individuals need to be tested for the STD;
   f. The availability of assistance from local health agencies or other resources; and
   g. The confidential nature of the subject's test results;
3. Report the information required in R9-6-202 to a local health agency; and
4. If the subject is pregnant and is a syphilis case, inform the subject of the requirement in R9-6-375 that the subject obtain serologic testing for syphilis three months, six months, and one year after initiating treatment for syphilis.

Historical Note
New Section made by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-1103. Local Health Agency Requirements

A. For each STD case, a local health agency shall:
1. Comply with the requirements in:
   a. R9-6-313(A)(1) and (2) for each chancroid case reported to the local health agency, and
   b. R9-6-375(A)(2)(a) through (c) for each syphilis case reported to the local health agency;
2. Offer or arrange for treatment for each STD case that seeks treatment from the local health agency for symptoms of:
   a. Chancroid,
   b. Chlamydia infection,
   c. Gonorrhea, or
   d. Syphilis;
3. Provide information about the following to each STD case that seeks treatment from the local health agency:
   a. A description of the disease or syndrome caused by the applicable STD, including its symptoms;
   b. Treatment options for the applicable STD;
   c. A description of measures to reduce the likelihood of transmitting the STD to others and that it is necessary to continue the measures until the infection is eliminated; and
   d. The confidential nature of the STD case's test results; and
4. Inform the STD case that:
   a. A chlamydia or gonorrhea case must notify each individual, with whom the chlamydia or gonorrhea case has had sexual contact within 60 days preceding the onset of chlamydia or gonorrhea symptoms up to the date the chlamydia or gonorrhea case began treatment for chlamydia or gonorrhea infection, of the need for the individual to be tested for chlamydia or gonorrhea; and
   b. The Department or local health agency will notify, as specified in subsection (B), each contact named by a chancroid or syphilis case.

B. For each contact named by a chancroid or syphilis case, the Department or a local health agency shall:
1. Notify the contact named by a chancroid or syphilis case of the contact's exposure to chancroid or syphilis and of the need for the contact to be tested for:
   a. Chancroid, if the chancroid case has had sexual contact with the contact within 10 days preceding the onset of chancroid symptoms up to the date the chancroid case began treatment for chancroid infection; or
   b. Syphilis, if the syphilis case has had sexual contact with the contact within:
      i. 90 days preceding the onset of symptoms of primary syphilis up to the date the syphilis case began treatment for primary syphilis infection;
      ii. Six months preceding the onset of symptoms of secondary syphilis up to the date the syphilis case began treatment for secondary syphilis infection; or
      iii. 12 months preceding the date the syphilis case was diagnosed with syphilis if the syphilis case cannot identify when symptoms of primary or secondary syphilis began;
2. Offer or arrange for each contact named by a chancroid or syphilis case to receive testing and, if appropriate, treatment for chancroid or syphilis; and

3. Provide information to each contact named by a chancroid or syphilis case about:
   a. The characteristics of the applicable STD,
   b. The syndrome caused by the applicable STD,
   c. Measures to reduce the likelihood of transmitting the applicable STD, and
   d. The confidential nature of the contact's test results.

C. For each contact of a chlamydia or gonorrhea case who seeks treatment from a local health agency for symptoms of chlamydia or gonorrhea, the local health agency shall:
1. Offer or arrange for treatment for chlamydia or gonorrhea;
2. Provide information to each contact of a chlamydia or gonorrhea case about:
   a. The characteristics of the applicable STD,
   b. The syndrome caused by the applicable STD,
   c. Measures to reduce the likelihood of transmitting the applicable STD, and
   d. The confidential nature of the contact's test results.

Historical Note
New Section made by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

R9-6-1104. Court-ordered STD-related Testing

A. A health care provider who receives the results of a test, ordered by the health care provider to detect an STD and performed as a result of a court order issued under A.R.S. § 13-1210, shall comply with the requirements in 9 A.A.C. 6, Article 8.

B. A health care provider who receives the results of a test, ordered by the health care provider to detect an STD and performed as a result of a court order issued under A.R.S. § 32-3207, shall comply with the requirements in 9 A.A.C. 6, Article 9.

C. When a court orders a test under A.R.S. § 13-1415 to detect a sexually-transmitted disease, the prosecuting attorney who petitioned the court for the order shall provide to the Department:
1. A copy of the court order, including an identifying number associated with the court order;
2. The name and address of the victim; and
3. The name and telephone number of the prosecuting attorney or the prosecuting attorney's designee.

D. A person who tests a specimen of blood or another body fluid from a subject to detect a sexually-transmitted disease as authorized by a court order issued under A.R.S. § 13-1415 shall:
1. Be a certified laboratory, as defined in A.R.S. § 36-451;
2. Use a test approved by the U.S. Food and Drug Administration for use in STD-related testing; and
3. Report the test results for each subject to the submitting entity within five working days after obtaining the test results.

E. A submitting entity that receives the results of a test to detect a sexually-transmitted disease that was performed as a result of a court order issued under A.R.S. § 13-1415 shall:
1. Notify the Department within five working days after receiving the results of the test to detect a sexually-transmitted disease;
2. Provide to the Department:
   a. A written copy of the court order,
   b. A written copy of the results of the test to detect a sexually-transmitted disease, and
   c. The name and telephone number of the submitting entity or submitting entity's designee; and
3. Either:
   a. Comply with the requirements in:
      i. R9-6-802(A)(2)(a) and (b), R9-6-802(D), and R9-6-802(F) through (J) for a subject who is not incarcerated or detained; and
      ii. R9-6-802(B), R9-6-802(D) through (G), and R9-6-802(J) for a subject who is incarcerated or detained; or
   b. Provide to the Department or the local health agency in whose designated service area the subject is living:
      i. The name and address of the subject;
      ii. A written copy of the results of the test to detect a sexually-transmitted disease, if not provided as specified in subsection (E)(2)(b); and
      iii. Notice that the submitting entity did not provide notification as specified in subsection (E)(3)(a).

F. If the Department or a local health agency is notified by a submitting entity as specified in subsection (E)(3)(b), the Department or local health agency shall comply with the requirements in:
1. R9-6-802(A)(2)(a) and (b), R9-6-802(D), and R9-6-802(F) through (J) for a subject who is not incarcerated or detained; and
2. R9-6-802(B), R9-6-802(D) through (G), and R9-6-802(J) for a subject who is incarcerated or detained.

G. When the Department receives the results of a test to detect a sexually-transmitted disease that was performed for a subject as a result of a court order issued under A.R.S. § 13-1415, the Department shall:
1. Provide to the victim:
   a. A description of the results of the test to detect the sexually-transmitted disease,
   b. The information specified in R9-6-802(D), and
   c. A written copy of the test results for the sexually-transmitted disease; or
2. Provide to the local health agency in whose designated service area the victim is living:
   a. The name and address of the victim,
   b. A written copy of the results of the test to detect the sexually-transmitted disease, and
   c. Notice that the Department did not provide notification as specified in subsection (G)(1).

H. If a local health agency is notified by the Department as specified in subsection (G)(2), the local health agency shall:
1. Provide to the victim:
   a. A description of the results of the test to detect the sexually-transmitted disease;
   b. The information specified in R9-6-802(D); and
   c. A written copy of the test results for the sexually-transmitted disease; or
2. If the local health agency is unable to locate the victim, notify the Department that the local health agency did not inform the victim of the results of the test to detect the sexually-transmitted disease.

Historical Note
New Section made by final rulemaking at 14 A.A.R. 1502, effective April 1, 2008 (Supp. 08-2).

ARTICLE 12. TUBERCULOSIS CONTROL

R9-6-1201. Definitions

In addition to the definitions in A.R.S. § 36-711, the following definitions apply in this Article, unless otherwise specified:
1. "Inmate" means an individual who is incarcerated in a correctional facility.

2. "Latent tuberculosis infection" means the presence of *Mycobacterium tuberculosis*, as evidenced by a positive result from an approved test for tuberculosis, in an individual who:
   a. Has no symptoms of active tuberculosis,
   b. Has no clinical signs of tuberculosis other than the positive result from the approved test for tuberculosis, and
   c. Is not infectious to others.
3. "Symptoms suggestive of tuberculosis" means any of the following that cannot be attributed to a disease or condition other than tuberculosis:
   a. A productive cough that has lasted for at least three weeks;
   b. Coughing up blood; or
   c. A combination of at least three of the following:
      i. Fever,
      ii. Chills,
      iii. Night sweats,
      iv. Fatigue,
      v. Chest pain, and
      vi. Weight loss.

Historical Note
Section R9-6-1201 renumbered from R9-6-601 by final rulemaking at 13 A.A.R. 4106, effective January 5, 2008 (Supp. 07-4).

R9-6-1202. Local Health Agency Reporting Requirements

A. Within 30 days after receiving information, a local health agency shall report to the Department regarding:
1. Each individual in its jurisdiction who has been diagnosed with active tuberculosis,
2. Each individual in its jurisdiction who is suspected of having active tuberculosis, and
3. Each individual in its jurisdiction who is believed to have been exposed to an individual with infectious active tuberculosis.

B. Each report made under subsection (A) shall consist of completed Centers for Disease Control and Prevention, U.S. Department of Health and Human Services, Form CDC 72.9A and B, "Report of Verified Case of Tuberculosis" (January 2003), which is incorporated by reference in R9-6-373, or a completed electronic equivalent to Form CDC 72.9A and B provided by the Department.

Historical Note
Section R9-6-1202 renumbered from R9-6-602 by final rulemaking at 13 A.A.R. 4106, effective January 5, 2008 (Supp. 07-4).

R9-6-1203. Tuberculosis Control in Correctional Facilities

A. An administrator of a correctional facility shall ensure that:
1. Each new inmate in the correctional facility undergoes a symptom screening for tuberculosis while processing into the correctional facility;
2. An inmate in whom symptoms suggestive of tuberculosis are detected during screening:
   a. Is immediately:
      i. Placed in airborne infection isolation, or
      ii. Required to wear a surgical mask and retained in an environment where exposure to the general inmate population is minimal and the inmate can be observed at all times to be wearing the mask;
   b. If not immediately placed in airborne infection isolation, is within 24 hours after screening:
      i. Given a medical evaluation for active tuberculosis, or
      ii. Transported to a health care institution to be placed in airborne infection isolation; and
   c. Is given a medical evaluation for active tuberculosis before being released from airborne infection isolation or permitted to stop wearing a surgical mask and released from the environment described in subsection (A)(2)(a)(ii).
3. Except as provided in subsection (A)(6), each new inmate who does not have a documented history of a positive result from an approved test for tuberculosis or who has not received an approved test for tuberculosis within the previous 12 months is given an approved test for tuberculosis within seven days after processing into the correctional facility;
4. Except as provided in subsection (A)(5), each new inmate who has a positive result from an approved test for tuberculosis or who has a documented history of a positive result from an approved test for tuberculosis is given a chest x-ray and a medical evaluation, within 14 days after processing into the correctional facility, to determine whether the inmate has active tuberculosis;
5. If an inmate has had a documented negative chest x-ray after a positive result from an approved test for tuberculosis, the inmate is not required to have another chest x-ray unless the inmate has signs or symptoms of active tuberculosis;
6. Each new inmate who is HIV-positive, in addition to receiving an approved test for tuberculosis, is given a chest x-ray and a medical evaluation within seven days after processing into the correctional facility, to determine whether the inmate has active tuberculosis;
7. Each inmate who has a negative result from an approved test for tuberculosis when tested during processing has a repeat approved test for tuberculosis after 12 months of incarceration and every 12 months thereafter during the inmate's term of incarceration;
8. Each inmate with active tuberculosis is:
   a. Provided medical treatment that meets accepted standards of medical practice, and
   b. Placed in airborne infection isolation until no longer infectious; and
9. All applicable requirements in 9 A.A.C. 6, Articles 2 and 3 are complied with.

B. The requirements of subsection (A) apply to each correctional facility that houses inmates for 14 days or longer and to each inmate who will be incarcerated for 14 days or longer.

C. An administrator of a correctional facility, either personally or through a representative, shall:
1. Unless unable to provide prior notification because of security concerns, notify the local health agency at least one working day before releasing a tuberculosis case or suspect case;
2. If unable to provide prior notification because of security concerns, notify the local health agency within 24 hours after releasing a tuberculosis case or suspect case; and
3. Provide a tuberculosis case or suspect case or an inmate being treated for latent tuberculosis infection the name and address of the local health agency before the case, suspect case, or inmate is released.

Historical Note
Section R9-6-1203 renumbered from R9-6-603 by final rulemaking at 13 A.A.R. 4106, effective January 5, 2008 (Supp. 07-4).

R9-6-1204. Standards of Medical Care

A health care provider caring for an afflicted person shall comply with the recommendations for treatment of tuberculosis in *American Thoracic Society/Centers for Disease Control and Prevention/ Infectious Diseases Society of America: Treatment of Tuberculosis* (October 2002), published in 167 *American Journal of Respiratory and Critical Care Medicine* 603-662 (February 15, 2003), which is incorporated by reference, on file with the Department, and available from the American Thoracic Society, 61 Broadway, New York, NY 10006-2747 or at www.atsjournals.org, unless the health care provider believes, based on the health care provider's professional judgment, that deviation from the recommendations is medically necessary. If a health care provider caring for an afflicted person deviates from the recommendations for treatment of tuberculosis in *American Thoracic Society/Centers for Disease Control and Prevention/Infectious Diseases Society of America: Treatment of Tuberculosis* (October 2002), the health care provider shall, upon request, explain to the Department or a local health agency the rationale for the deviation. If the tuberculosis control officer determines that deviation from the recommendations for treatment of tuberculosis in *American Thoracic Society/Centers for Disease Control and Prevention/Infectious Diseases Society of America: Treatment of Tuberculosis* (October 2002), is inappropriate and that the public health and welfare require intervention, the tuberculosis control officer may take charge of the afflicted person's treatment as authorized under A.R.S. § 36-723(C).

Historical Note

Section R9-6-1204 renumbered from R9-6-604 by final rulemaking at 13 A.A.R. 4106, effective January 5, 2008 (Supp. 07-4).

ARTICLE 13. IMMUNIZATIONS OR VACCINES REQUIRING PRESCRIPTIONS FOR PHARMACIST ADMINISTRATION

R9-6-1301. Immunizations or Vaccines Requiring a Prescription Order for Pharmacist Administration

A. In this Section, unless otherwise specified, the following definitions apply:
1. "Certified pharmacist" means an individual licensed under A.R.S. Title 32, Chapter 18, who is authorized under A.A.C. R4-23-411 to administer immunizations or vaccines to adults.
2. "Immunization" has the same meaning as in A.R.S. § 36-671.
3. "Prescription order" has the same meaning as in A.R.S. § 32-1901.
4. "Vaccine" has the same meaning as "biological product" defined in 21 CFR 600.3 (April 1, 2008).

B. The following immunizations or vaccines require a prescription order before the immunization or vaccine may be administered under A.A.C. R4-23-411 by a certified pharmacist:
1. Japanese Encephalitis vaccine,
2. Rabies vaccine,
3. Typhoid vaccines, and
4. Yellow fever vaccine.

Historical Note

New Section made by exempt rulemaking at 15 A.A.R. 1793, effective October 5, 2009 (Supp. 09-4).

36-132. Department of health services; functions; contracts

A. The department shall, in addition to other powers and duties vested in it by law:

1. Protect the health of the people of the state.

2. Promote the development, maintenance, efficiency and effectiveness of local health departments or districts of sufficient population and area that they can be sustained with reasonable economy and efficient administration, provide technical consultation and assistance to local health departments or districts, provide financial assistance to local health departments or districts and services that meet minimum standards of personnel and performance and in accordance with a plan and budget submitted by the local health department or districts to the department for approval, and recommend the qualifications of all personnel.

3. Collect, preserve, tabulate and interpret all information required by law in reference to births, deaths and all vital facts, and obtain, collect and preserve information relating to the health of the people of the state and the prevention of diseases as may be useful in the discharge of functions of the department not in conflict with the provisions of chapter 3 of this title, and sections 36-693, 36-694 and 39-122.

4. Operate such sanitariums, hospitals or other facilities assigned to the department by law or by the governor.

5. Conduct a statewide program of health education relevant to the powers and duties of the department, prepare educational materials and disseminate information as to conditions affecting health, including basic information for the promotion of good health on the part of individuals and communities, and prepare and disseminate technical information concerning public health to the health professions, local health officials and hospitals. In cooperation with the department of education, the department of health services shall prepare and disseminate materials and give technical assistance for the purpose of education of children in hygiene, sanitation and personal and public health, and provide consultation and assistance in community organization to counties, communities and groups of people.

6. Administer or supervise a program of public health nursing, prescribe the minimum qualifications of all public health nurses engaged in official public health work, and encourage and aid in coordinating local public health nursing services.

7. Encourage and aid in coordinating local programs concerning control of preventable diseases in accordance with statewide plans that shall be formulated by the department.

8. Encourage and aid in coordinating local programs concerning maternal and child health, including midwifery, antepartum and postpartum care, infant and preschool health and the health of school children, including special fields such as the prevention of blindness and conservation of sight and hearing.

9. Encourage and aid in the coordination of local programs concerning nutrition of the people of the state.

10. Encourage, administer and provide dental health care services and aid in coordinating local programs concerning dental public health, in cooperation with the Arizona dental association. The

department may bill and receive payment for costs associated with providing dental health care services and shall deposit the monies in the oral health fund established by section 36-138.

11. Establish and maintain adequate serological, bacteriological, parasitological, entomological and chemical laboratories with qualified assistants and facilities necessary for routine examinations and analyses and for investigations and research in matters affecting public health.

12. Supervise, inspect and enforce the rules concerning the operation of public bathing places and public and semipublic swimming pools adopted pursuant to section 36-136, subsection H, paragraph 10.

13. Take all actions necessary or appropriate to ensure that bottled water sold to the public and water used to process, store, handle, serve and transport food and drink are free from filth, disease-causing substances and organisms and unwholesome, poisonous, deleterious or other foreign substances. All state agencies and local health agencies involved with water quality shall provide to the department any assistance requested by the director to ensure that this paragraph is effectuated.

14. Enforce the state food, caustic alkali and acid laws in accordance with chapter 2, article 2 of this title, chapter 8, article 1 of this title and chapter 9, article 4 of this title, and collaborate in the enforcement of the federal food, drug and cosmetic act of 1938 (52 Stat. 1040; 21 United States Code sections 1 through 905).

15. Recruit and train personnel for state, local and district health departments.

16. Conduct continuing evaluations of state, local and district public health programs, study and appraise state health problems and develop broad plans for use by the department and for recommendation to other agencies, professions and local health departments for the best solution of these problems.

17. License and regulate health care institutions according to chapter 4 of this title.

18. Issue or direct the issuance of licenses and permits required by law.

19. Participate in the state civil defense program and develop the necessary organization and facilities to meet wartime or other disasters.

20. Subject to the availability of monies, develop and administer programs in perinatal health care, including:

(a) Screening in early pregnancy for detecting high risk conditions.

(b) Comprehensive prenatal health care.

(c) Maternity, delivery and postpartum care.

(d) Perinatal consultation, including transportation of the pregnant woman to a perinatal care center when medically indicated.

(e) Perinatal education oriented toward professionals and consumers, focusing on early detection and adequate intervention to avert premature labor and delivery.

21. License and regulate the health and safety of group homes for persons with developmental disabilities. The department shall issue a license to an accredited facility for a period of the accreditation, except that no licensing period shall be longer than three years. The department is authorized to conduct an inspection of an accredited facility to ensure that the facility meets health and safety licensure standards. The results of the accreditation survey shall be public information. A copy of the final accreditation report shall be filed with the department of health services. For the purposes of this paragraph, "accredited" means accredited by a nationally recognized accreditation organization.

B. The department may accept from the state or federal government, or any agency of the state or federal government, and from private donors, trusts, foundations or eleemosynary corporations or organizations grants or donations for or in aid of the construction or maintenance of any program, project, research or facility authorized by this title, or in aid of the extension or enforcement of any program, project or facility authorized, regulated or prohibited by this title, and enter into contracts with the federal government, or an agency of the federal government, and with private donors, trusts, foundations or eleemosynary corporations or organizations, to carry out such purposes. All monies made available under this section are special project grants. The department may also expend these monies to further applicable scientific research within this state.

C. The department, in establishing fees authorized by this section, shall comply with title 41, chapter 6. The department shall not set a fee at more than the department's cost of providing the service for which the fee is charged. State agencies are exempt from all fees imposed pursuant to this section.

D. The department may enter into contracts with organizations that perform nonrenal organ transplant operations and organizations that primarily assist in the management of end stage renal disease and related problems to provide, as payors of last resort, prescription medications necessary to supplement treatment and transportation to and from treatment facilities. The contracts may provide for department payment of administrative costs it specifically authorizes.

36-136. Powers and duties of director; compensation of personnel; rules

A. The director shall:

1. Be the executive officer of the department of health services and the state registrar of vital statistics but shall not receive compensation for services as registrar.

2. Perform all duties necessary to carry out the functions and responsibilities of the department.

3. Prescribe the organization of the department. The director shall appoint or remove personnel as necessary for the efficient work of the department and shall prescribe the duties of all personnel. The director may abolish any office or position in the department that the director believes is unnecessary.

4. Administer and enforce the laws relating to health and sanitation and the rules of the department.

5. Provide for the examination of any premises if the director has reasonable cause to believe that on the premises there exists a violation of any health law or rule of the state.

6. Exercise general supervision over all matters relating to sanitation and health throughout the state. When in the opinion of the director it is necessary or advisable, a sanitary survey of the whole or of any part of the state shall be made. The director may enter, examine and survey any source

and means of water supply, sewage disposal plant, sewerage system, prison, public or private place of detention, asylum, hospital, school, public building, private institution, factory, workshop, tenement, public washroom, public restroom, public toilet and toilet facility, public eating room and restaurant, dairy, milk plant or food manufacturing or processing plant, and any premises in which the director has reason to believe there exists a violation of any health law or rule of the state that the director has the duty to administer.

7. Prepare sanitary and public health rules.

8. Perform other duties prescribed by law.

B. If the director has reasonable cause to believe that there exists a violation of any health law or rule of the state, the director may inspect any person or property in transportation through the state, and any car, boat, train, trailer, airplane or other vehicle in which that person or property is transported, and may enforce detention or disinfection as reasonably necessary for the public health if there exists a violation of any health law or rule.

C. The director may deputize, in writing, any qualified officer or employee in the department to do or perform on the director's behalf any act the director is by law empowered to do or charged with the responsibility of doing.

D. The director may delegate to a local health department, county environmental department or public health services district any functions, powers or duties that the director believes can be competently, efficiently and properly performed by the local health department, county environmental department or public health services district if:

1. The director or superintendent of the local health agency, environmental agency or public health services district is willing to accept the delegation and agrees to perform or exercise the functions, powers and duties conferred in accordance with the standards of performance established by the director.

2. Monies appropriated or otherwise made available to the department for distribution to or division among counties or public health services districts for local health work may be allocated or reallocated in a manner designed to ensure the accomplishment of recognized local public health activities and delegated functions, powers and duties in accordance with applicable standards of performance. Whenever in the director's opinion there is cause, the director may terminate all or a part of any delegation and may reallocate all or a part of any funds that may have been conditioned on the further performance of the functions, powers or duties conferred.

E. The compensation of all personnel shall be as determined pursuant to section 38-611.

F. The director may make and amend rules necessary for the proper administration and enforcement of the laws relating to the public health.

G. Notwithstanding subsection H, paragraph 1 of this section, the director may define and prescribe emergency measures for detecting, reporting, preventing and controlling communicable or infectious diseases or conditions if the director has reasonable cause to believe that a serious threat to public health and welfare exists. Emergency measures are effective for no longer than eighteen months.

H. The director, by rule, shall:

1. Define and prescribe reasonably necessary measures for detecting, reporting, preventing and controlling communicable and preventable diseases. The rules shall declare certain diseases reportable. The rules shall prescribe measures, including isolation or quarantine, that are reasonably required to prevent the occurrence of, or to seek early detection and alleviation of, disability, insofar as possible, from communicable or preventable diseases. The rules shall include reasonably necessary measures to control animal diseases transmittable to humans.

2. Define and prescribe reasonably necessary measures, in addition to those prescribed by law, regarding the preparation, embalming, cremation, interment, disinterment and transportation of dead human bodies and the conduct of funerals, relating to and restricted to communicable diseases and regarding the removal, transportation, cremation, interment or disinterment of any dead human body.

3. Define and prescribe reasonably necessary procedures that are not inconsistent with law in regard to the use and accessibility of vital records, delayed birth registration and the completion, change and amendment of vital records.

4. Except as relating to the beneficial use of wildlife meat by public institutions and charitable organizations pursuant to title 17, prescribe reasonably necessary measures to ensure that all food or drink, including meat and meat products and milk and milk products sold at the retail level, provided for human consumption is free from unwholesome, poisonous or other foreign substances and filth, insects or disease-causing organisms. The rules shall prescribe reasonably necessary measures governing the production, processing, labeling, storing, handling, serving and transportation of these products. The rules shall prescribe minimum standards for the sanitary facilities and conditions that shall be maintained in any warehouse, restaurant or other premises, except a meat packing plant, slaughterhouse, wholesale meat processing plant, dairy product manufacturing plant or trade product manufacturing plant. The rules shall prescribe minimum standards for any truck or other vehicle in which food or drink is produced, processed, stored, handled, served or transported. The rules shall provide for the inspection and licensing of premises and vehicles so used, and for abatement as public nuisances of any premises or vehicles that do not comply with the rules and minimum standards. The rules shall provide an exemption relating to food or drink that is:

(a) Served at a noncommercial social event such as a potluck.

(b) Prepared at a cooking school that is conducted in an owner-occupied home.

(c) Not potentially hazardous and prepared in a kitchen of a private home for occasional sale or distribution for noncommercial purposes.

(d) Prepared or served at an employee-conducted function that lasts less than four hours and is not regularly scheduled, such as an employee recognition, an employee fund-raising or an employee social event.

(e) Offered at a child care facility and limited to commercially prepackaged food that is not potentially hazardous and whole fruits and vegetables that are washed and cut on site for immediate consumption.

(f) Offered at locations that sell only commercially prepackaged food or drink that is not potentially hazardous.

(g) Baked and confectionary goods that are not potentially hazardous and that are prepared in a kitchen of a private home for commercial purposes if packaged with a label that clearly states the address of the maker, includes contact information for the maker, lists all the ingredients in the product and discloses that the product was prepared in a home. The label must be given to the final consumer of the product. If the product was made in a facility for individuals with developmental disabilities, the label must also disclose that fact. The person preparing the food or supervising the food preparation must obtain a food handler's card or certificate if one is issued by the local county and must register with an online registry established by the department pursuant to paragraph 13 of this subsection. For the purposes of this subdivision, "potentially hazardous" means baked and confectionary goods that meet the requirements of the food code published by the United States food and drug administration, as modified and incorporated by reference by the department by rule.

(h) A whole fruit or vegetable grown in a public school garden that is washed and cut on-site for immediate consumption.

5. Prescribe reasonably necessary measures to ensure that all meat and meat products for human consumption handled at the retail level are delivered in a manner and from sources approved by the Arizona department of agriculture and are free from unwholesome, poisonous or other foreign substances and filth, insects or disease-causing organisms. The rules shall prescribe standards for sanitary facilities to be used in identity, storage, handling and sale of all meat and meat products sold at the retail level.

6. Prescribe reasonably necessary measures regarding production, processing, labeling, handling, serving and transportation of bottled water to ensure that all bottled drinking water distributed for human consumption is free from unwholesome, poisonous, deleterious or other foreign substances and filth or disease-causing organisms. The rules shall prescribe minimum standards for the sanitary facilities and conditions that shall be maintained at any source of water, bottling plant and truck or vehicle in which bottled water is produced, processed, stored or transported and shall provide for inspection and certification of bottled drinking water sources, plants, processes and transportation and for abatement as a public nuisance of any water supply, label, premises, equipment, process or vehicle that does not comply with the minimum standards. The rules shall prescribe minimum standards for bacteriological, physical and chemical quality for bottled water and for the submission of samples at intervals prescribed in the standards.

7. Define and prescribe reasonably necessary measures governing ice production, handling, storing and distribution to ensure that all ice sold or distributed for human consumption or for the preservation or storage of food for human consumption is free from unwholesome, poisonous, deleterious or other foreign substances and filth or disease-causing organisms. The rules shall prescribe minimum standards for the sanitary facilities and conditions and the quality of ice that shall be maintained at any ice plant, storage and truck or vehicle in which ice is produced, stored, handled or transported and shall provide for inspection and licensing of the premises and vehicles, and for abatement as public nuisances of ice, premises, equipment, processes or vehicles that do not comply with the minimum standards.

8. Define and prescribe reasonably necessary measures concerning sewage and excreta disposal, garbage and trash collection, storage and disposal, and water supply for recreational and summer camps, campgrounds, motels, tourist courts, trailer coach parks and hotels. The rules shall prescribe minimum standards for preparation of food in community kitchens, adequacy of excreta disposal, garbage and trash collection, storage and disposal and water supply for recreational and summer camps, campgrounds, motels, tourist courts, trailer coach parks and hotels and shall provide for inspection of these premises and for abatement as public nuisances of any premises or facilities that do not comply with the rules. Primitive camp and picnic grounds offered by this state or a political

subdivision of this state are exempt from rules adopted pursuant to this paragraph but are subject to approval by a county health department under sanitary regulations adopted pursuant to section 36-183.02. For the purposes of this paragraph, "primitive camp and picnic grounds" means camp and picnic grounds that are remote in nature and without accessibility to public infrastructure such as water, electricity and sewer.

9. Define and prescribe reasonably necessary measures concerning the sewage and excreta disposal, garbage and trash collection, storage and disposal, water supply and food preparation of all public schools. The rules shall prescribe minimum standards for sanitary conditions that shall be maintained in any public school and shall provide for inspection of these premises and facilities and for abatement as public nuisances of any premises that do not comply with the minimum standards.

10. Prescribe reasonably necessary measures to prevent pollution of water used in public or semipublic swimming pools and bathing places and to prevent deleterious health conditions at these places. The rules shall prescribe minimum standards for sanitary conditions that shall be maintained at any public or semipublic swimming pool or bathing place and shall provide for inspection of these premises and for abatement as public nuisances of any premises and facilities that do not comply with the minimum standards. The rules shall be developed in cooperation with the director of the department of environmental quality and shall be consistent with the rules adopted by the director of the department of environmental quality pursuant to section 49-104, subsection B, paragraph 12.

11. Prescribe reasonably necessary measures to keep confidential information relating to diagnostic findings and treatment of patients, as well as information relating to contacts, suspects and associates of communicable disease patients. In no event shall confidential information be made available for political or commercial purposes.

12. Prescribe reasonably necessary measures regarding human immunodeficiency virus testing as a means to control the transmission of that virus, including the designation of anonymous test sites as dictated by current epidemiologic and scientific evidence.

13. Establish an online registry of food preparers that are authorized to prepare food for commercial purposes pursuant to paragraph 4 of this subsection.

I. The rules adopted under the authority conferred by this section shall be observed throughout the state and shall be enforced by each local board of health or public health services district, but this section does not limit the right of any local board of health or county board of supervisors to adopt ordinances and rules as authorized by law within its jurisdiction, provided that the ordinances and rules do not conflict with state law and are equal to or more restrictive than the rules of the director.

J. The powers and duties prescribed by this section do not apply in instances in which regulatory powers and duties relating to public health are vested by the legislature in any other state board, commission, agency or instrumentality, except that with regard to the regulation of meat and meat products, the department of health services and the Arizona department of agriculture within the area delegated to each shall adopt rules that are not in conflict.

K. The director, in establishing fees authorized by this section, shall comply with title 41, chapter 6. The department shall not set a fee at more than the department's cost of providing the service for which the fee is charged. State agencies are exempt from all fees imposed pursuant to this section.

L. After consultation with the state superintendent of public instruction, the director shall prescribe the criteria the department shall use in deciding whether or not to notify a local school district that a

pupil in the district has tested positive for the human immunodeficiency virus antibody. The director shall prescribe the procedure by which the department shall notify a school district if, pursuant to these criteria, the department determines that notification is warranted in a particular situation. This procedure shall include a requirement that before notification the department shall determine to its satisfaction that the district has an appropriate policy relating to nondiscrimination of the infected pupil and confidentiality of test results and that proper educational counseling has been or will be provided to staff and pupils.

M. Until the department adopts exemptions by rule as required by subsection H, paragraph 4, subdivision (f) of this section, food and drink are exempt from the rules prescribed in subsection H of this section if offered at locations that sell only commercially prepackaged food or drink that is not potentially hazardous, without a limitation on its display area.

N. Until the department adopts exemptions by rule as required by subsection H, paragraph 4, subdivision (h) of this section, a whole fruit or vegetable grown in a public school garden that is washed and cut on-site for immediate consumption is exempt from the rules prescribed in subsection H of this section.

DEPARTMENT OF HEALTH SERVICES
Title 9, Chapter 25, Article 13, Trauma Center Designation; Article 14, Trauma Registry: Trauma System Quality Assurance

Amend:	Article 13; R9-25-1301; R9-25-1302; R9-25-1303; R9-25-1304; R9-25-1305; R9-25-1307; R9-25-1308; R9-25-1310
New Section:	R9-25-1303.01; R9-25-1306; Table 13.1; R9-25-1309
Renumber:	R9-25-1303; R9-25-1304; R9-25-1305; R9-25-1306; R9-25-1307; R9-25-1308; R9-25-1309; R9-25-1310; R9-25-1312; R9-25-1313; R9-25-1406
Repeal:	R9-25-1305; R9-25-1306; R9-25-1307; Table 1; Exhibit 1; R9-25-1310; R9-25-1311; R9-25-1315; Article 14; R9-25-1401; R9-25-1402; Table 1; R9-25-1403; R9-25-1405

GOVERNOR'S REGULATORY REVIEW COUNCIL
M E M O R A N D U M

MEETING DATE: September 6, 2017 **AGENDA ITEM: D-11**

TO: Members of the Governor's Regulatory Review Council

FROM: Shama Thathi, Staff Attorney

DATE: August 23, 2017

SUBJECT: **DEPARTMENT OF HEALTH SERVICES (R-17-0901)**
Title 9, Chapter 25, Article 13, Trauma Center Designation; Article 14, Trauma Registry: Trauma System Quality Assurance

Amend: Article 13; R9-25-1301; R9-25-1302; R9-25-1303; R9-25-1304; R9-25-1305; R9-25-1307; R9-25-1308; R9-25-1310

Renumber: R9-25-1303; R9-25-1304; R9-25-1305; R9-25-1306; R9-25-1307; R9-25-1308; R9-25-1309; R9-25-1310; R9-25-1312; R9-25-1313; R9-25-1406

New Section: R9-25-1303.01; R9-25-1306; Table 13.1; R9-25-1309

Repeal: R9-25-1305; R9-25-1306; R9-25-1307; Table 1; Exhibit 1; R9-25-1310; R9-25-1311; R9-25-1315; Article 14; R9-25-1401; R9-25-1402; Table 1; R9-25-1403; R9-25-1405

Purpose of the Agency and Summary of What the Rulemaking Does

The Department of Health Services (Department) is amending one article and eight rules; renumbering 11 rules; creating three rules and one table; and repealing one article, two tables, one exhibit, and ten rules in A.A.C. Title 9, Chapter 25, Article 13 and 14 related to trauma center designations and registries.

Article 13 specifies the processes by which a health care institution can voluntarily request designation. Any hospital that meets applicable state standards specified in rule or standards of the American College of Surgeons may be granted a designation of Level I, II, or III trauma center. Any health care institution that meets applicable state standards may be granted a designation of Level IV trauma center.

Article 14 requires all trauma centers to report to the trauma registry using an International Classification of Diseases (ICD)-9 codes. However, all Arizona hospitals are required by the Centers for Medicare and Medicaid Services to use ICD-10 codes for billing services. This duplicative reporting requirement is expensive and burdensome for hospitals. Also, several issues have arisen with the current system for provisional designation as a trauma center. The Department is proposing to repeal Article 14.

Overall, in this rulemaking, the Department is addressing the concerns mentioned above, updating application and other requirements, removing obsolete requirements and improving effectiveness of the rules.

Proposed Action

The following is a non-exhaustive summary of changes proposed by the Department:

- Article 13: The title is amended to "Trauma Centers and Trauma Registries."
- Section 1301: Definitions are removed, added, or amended to improve clarity.
- Section 1302: The rule is amended to clarify the eligibility requirements for trauma centers to be designated as Level I, Level II, Level III, or Level IV.
- Section 1303: The application and designation process, formerly found in Section 1304, is being made more concise. To reduce confusion, more specificity is being provided in the rule.
- Section 1303.01: The rule lays out requirements for a health care institution with provisional designation.
- Section 1304: The requirements for an owner of a trauma center to report changes affecting designation status, formerly found in Section 1308, are being clarified.
- Section 1305: The application process for modifying a designation, formerly found in Section 1309, is being made more clear.
- Section 1306: The rule outlines the process in the instances when the Department inspects a health care institution applying for a trauma center designation.
- Section 1307: The processes for designation and de-designation are being clarified. The rule outlines the application requirements for Level I, Level I Pediatric, Level II, Level II Pediatric, Level III, and Level IV trauma center designations for health care institutions. In addition, timelines are established as to when the Department shall review the applications and respond to the owners.
- Section 1308: The rule establishes responsibilities of the owners and trauma centers based on the different levels of designation.
- Table 1: The table, related to application processing time periods, is being repealed.
- Exhibit 1: The exhibit, related to Arizona trauma center standards, is being repealed.
- Table 13.1: The new table and a key establish the updated Arizona trauma center standards for each level of designation.
- Section 1309: The rule outlines the information that should be included in the record of patient's episode of care, in regards to the trauma registry data.
- Section 1310: The process to ensure the completeness and accuracy of trauma registry reporting, formerly found in Section 1406, is being made more clear and concise.

- Section 1311: The rule is being repealed.
- Section 1312: The rule is renumbered to Section 1307.
- Section 1313: The rule is renumbered to Section 1308.
- Section 1315: The rule is being repealed.
- Article 14: The article is being repealed.
- Section 1401: The rule is being repealed.
- Section 1402: The rule is being repealed.
- Table 1: The table is being repealed.
- Section 1403: The rule is being repealed.
- Section 1405: The rule is being repealed.
- Section 1406: The rule is being renumbered.

Exemption or Request and Approval for Exception from the Moratorium

The Department received an exception from the moratorium on May 17, 2016.

Substantive or Procedural Concerns

None.

1. Are the rules legal, consistent with legislative intent, and within the agency's statutory authority?

Yes. As general authority for the rules, the Department cites to statutes that include A.R.S. § 36-136(F), under which the Department "may make and amend rules necessary for the proper administration and enforcement of the laws relating to the public health." As for specific authority, the Department cites to A.R.S. §§ 36-2208(A), 36-2221, and 36-2225. In particular, A.R.S. § 36-2225 requires the Department to adopt rules to establish standards for a statewide emergency medical services and trauma system.

2. Are the rules written in a manner that is clear, concise, and understandable to the general public?

Yes. The rules are clear, concise, and understandable.

3. Does the agency adequately address the comments on the proposed rules and any supplemental proposals?

Yes. The Department indicates that it received two comments and one clarifying question regarding the rulemaking. The comments and question, as well as the Department's responses, are summarized in the Notice of Final Rulemaking on pages 10-11. Council staff believes the Department adequately addressed the comments on the proposed rules.

4. Are the final rules a substantial change, considered as a whole, from the proposed rules and any supplemental proposals?

No. In response to stakeholder comment, the Department amended R9-25-1308(B)(7)(f) to clarify the types of issues the policies and procedures to address. The Department also amended requirements related to the renewal of one-year designation by separating requirements set out in R9-25-1307(F) into two separate subsections, R9-25-1307(F) and (G), and made corresponding changes to cross-references. In addition, at the request of Council staff, the Department made several technical and grammatical changes. Council staff does not believe the amendments are substantive in nature.

5. Does the preamble disclose a reference to any study relevant to the rules that the agency reviewed and either did or did not rely on in the agency's evaluation of or justification for the rules?

No. The Department indicates that it did not review or rely upon any study for the rulemaking.

6. Are the rules more stringent than corresponding federal law and, if so, is there statutory authority that allows the agency to exceed the requirements of federal law?

The Department indicates that the rules do not correspond to any federal law.

7. Do the rules require a permit or license and if so, does the agency use a general permit or is any exception applicable under A.R.S. § 41-1037?

No. The rules require no permit or license.

8. Do the rules establish a new fee or contain a fee increase?

No. The rules do not establish a new fee or contain a fee increase.

9. Conclusion

The Department requests an effective date of January 1, 2018 for the rules, to allow sufficient time for the Department and stakeholders to implement the rules. This analyst recommends approval of the rules.

GOVERNOR'S REGULATORY REVIEW COUNCIL
M E M O R A N D U M

MEETING DATE: September 6, 2017 **AGENDA ITEM: D-11**

TO: Members of the Governor's Regulatory Review Council

FROM: GRRC Economic Team

DATE : August 23, 2017

SUBJECT: **DEPARTMENT OF HEALTH SERVICES (R-17-0901)**
Title 9, Chapter 25, Article 13, Trauma Center Designation; Article 14, Trauma Registry: Trauma System Quality Assurance

Amend: Article 13; R9-25-1301; R9-25-1302; R9-25-1303; R9-25-1304; R9-25-1305; R9-25-1307; R9-25-1308; R9-25-1310

Renumber: R9-25-1303; R9-25-1304; R9-25-1305; R9-25-1306; R9-25-1307; R9-25-1308; R9-25-1309; R9-25-1310; R9-25-1312; R9-25-1313; R9-25-1406

New Section: R9-25-1303.01; R9-25-1306; Table 13.1; R9-25-1309

Repeal: R9-25-1305; R9-25-1306; R9-25-1307; Table 1; Exhibit 1; R9-25-1310; R9-25-1311; R9-25-1315; Article 14; R9-25-1401; R9-25-1402; Table 1; R9-25-1403; R9-25-1405

The economic analysis team has reviewed the economic, small business, and consumer impact statement (EIS) and makes the following comments. These comments are made to assist the Council in its review and may be used as the Council determines.

In this rulemaking, the Arizona Department of Health Services (Department) is proposing to amend the rules in Article 13 and repeal the rules in Article 14. The rules in Articles 13 and 14 establish the procedures involved in the statewide trauma system plan. This plan designates trauma centers and codifies requirements for data submission to the trauma registry. The Department currently licenses 11 Level I trauma centers, zero Level II trauma centers, seven Level III trauma centers, and 23 Level IV trauma centers.

Key stakeholders are the Department, designated trauma centers, health care institutions, health care providers, health insurance plans, the American College of Surgeons Committee on

Trauma (ACS), and the general public. The Department does not anticipate the need to hire full-time employees as a result of this rulemaking.

1. <u>Costs and Benefits for:</u>

a. The implementing agency:

The Department anticipates that the rulemaking will only impose minimal costs on the Department and the Arizona Health Care Cost Containment System (AHCCCS). The new, clearer rules will significantly benefit both the Department and AHCCCS.

b. Political subdivisions:

Two of the hospitals designated as trauma centers are administered by political subdivisions: the Maricopa County Special Health Care District and Central Yavapai Hospital District. These political subdivisions will be impacted in the same manner as businesses listed below. Sixty-one of the 121 ambulance services in Arizona are administered by political subdivisions including municipalities, fire districts, and a county. These political subdivisions will be impacted in the same manner as businesses listed below.

c. Businesses:

Health care institutions, ambulance services, health insurance firms, and health care providers are the businesses that will be impacted. Health care institutions that want trauma center designation will have an additional avenue to pursue designation. Currently, ACS is the only national organization that can designate a health care institution as a trauma center. This rulemaking creates an alternative path for designation through the Department. This alternative designation process through the Department should cost less and require less time than designation through ACS.

Aside from health care institutions, all other stakeholder businesses will benefit from these rules because they increase clarity. Any costs imposed on businesses will be minimal or nonexistent. The benefits of increased clarity and current rules will provide moderate to significant benefits to these businesses.

d. Small businesses:

Level IV trauma centers can currently receive designation by submitting an assessment to the Department instead of ACS. These rules expand this option to health care institutions applying for Level III trauma center designation.

e. Consumers directly affected by the rulemaking:

Clearer rules will benefit patients through better health care and trauma service outcomes. Better information for health care providers will improve the level of service that patients

receive. Increased access to trauma centers through a less burdensome designation process will also increase trauma service outcomes.

2. Do the probable benefits outweigh the probable costs?

The Department notes that the costs associated with this rulemaking will be minimal. The benefits that stakeholders receive from these improvements will be substantial. The benefits outweigh the costs.

3. Analysis of methods to reduce the small business impact:

The Department has provided an alternative option for health care facilities seeking Level III or Level IV trauma centers to obtain this designation.

4. The probable effect on state revenues:

The Department does not anticipate that this rulemaking will impact state revenues in a noticeable manner.

5. Analysis of any less intrusive or less costly alternative methods:

The Department states that these rules predominantly reduce burdens on the regulated community by eliminating duplicative coding and increasing access to data. Less intrusive alternatives do not exist.

6. Whether an analysis was submitted to the agency regarding the rule's impact on the competitiveness of businesses in this state as compared to the competitiveness of businesses in other states:

No analysis was submitted that compares the rule’s impact of the competitiveness of businesses in this state to the impact on businesses in other states.

7. A description of any data on which a rule is based with an explanation of how the data was obtained and why the data is acceptable data, and the methods used by the agency to evaluate the costs and benefits in the EIS.

No empirical or quantitative data were submitted for use in the EIS.

8. Conclusion:

The submitted economic, small business, and consumer impact statement is generally accurate, and contains the information required for compliance with ARS §§ 41-1035, 41-1052(D)(1-3), and 41-1055. This analyst recommends that the proposed rule amendments be approved.

ARIZONA DEPARTMENT
OF HEALTH SERVICES

POLICY & INTERGOVERNMENTAL AFFAIRS

June 22, 2017

Nicole O. Colyer, Esq., Chair
Governor's Regulatory Review Council
Arizona Department of Administration
100 N. 15th Avenue, Suite 305
Phoenix, AZ 85007

RE: 9 A.A.C. 25, Articles 13 and 14 Department of Health Services – Emergency Medical Services

Dear Ms. Colyer:

Enclosed are the administrative rules identified above which I am submitting, as the Designee of the Director of the Department of Health Services, for approval by the Governor's Regulatory Review Council under A.R.S. § 41-1052.

The following information is provided for your use in reviewing the enclosed rule package pursuant to A.R.S. § 41-1052 and A.A.C. R1-6-104:

1. The close of record:
   The close of record was June 15, 2017. Submission of the rules is within the 120 days allowed for Final Rulemaking.

2. Procedures followed:
   As required by the Administrative Procedure Act, a Notice of Rulemaking Docket Opening was filed with the Office of the Secretary of State and published in the *Arizona Administrative Register* on June 17, 2016. A Notice of Proposed Rulemaking was filed with the Office of the Secretary of State and published in the *Arizona Administrative Register* on May 12, 2017. The Department held one oral proceeding on June 15, 2017. The Department received two written comments about the proposed rules and no oral comments.

3. Whether the rulemaking relates to a five-year-review report and, if applicable, the date the report was approved by the Council:
   The rulemaking for 9 A.A.C. 25, Articles 13 and 14 relates to a five-year-review report approved by the Council on September 11, 2012.

4. Whether the rule contains a new fee and, if it does, citation of the statute expressly authorizing the new fee:
   The rulemaking does not contain a fee.

5. Whether the rule contains a fee increase:
The rulemaking does not contain a fee increase.

6. Whether an immediate effective date is requested for the rule under A.R.S. § 41-1032:
The Department is requesting an effective date for this rulemaking of January 1, 2018.

7. A list of all items enclosed:
   a. Notice of Final Rulemaking, including the Preamble, Table of Contents, and text of the rule;
   b. Economic, Small Business, and Consumer Impact Statement; and
   c. Written comments.

The Department is requesting that the rules be heard at the Council meeting on September 6, 2017.

I certify that the Preamble of this rulemaking discloses a reference to any study relevant to the rule that the Department reviewed and either did or did not rely on in its evaluation of or justification for the rule.

I certify that the Department, as the preparer of the economic, small business, and consumer impact statement, has notified the Joint Legislative Budget Committee that no new full-time employees are necessary to implement and enforce the rules.

Sincerely,

Robert Lane
Director's Designee

RL:rms

Enclosures

NOTICE OF FINAL RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 25. DEPARTMENT OF HEALTH SERVICES

EMERGENCY MEDICAL SERVICES

PREAMBLE

1.	Article, Part, or Section Affected (as applicable)	Rulemaking Action
	Article 13	Amend
	R9-25-1301	Amend
	R9-25-1302	Amend
	R9-25-1303	Renumber
	R9-25-1303	Amend
	R9-25-1303.01	New Section
	R9-25-1304	Renumber
	R9-25-1304	Amend
	R9-25-1305	Repeal
	R9-25-1305	Renumber
	R9-25-1305	Amend
	R9-25-1306	Repeal
	R9-25-1306	Renumber
	R9-25-1306	New Section
	R9-25-1307	Repeal
	R9-25-1307	Renumber
	R9-25-1307	Amend
	R9-25-1308	Renumber
	R9-25-1308	Amend
	Table 1	Repeal
	Exhibit I	Repeal
	Table 13.1	New Section
	R9-25-1309	Renumber
	R9-25-1309	New Section
	R9-25-1310	Repeal
	R9-25-1310	Renumber
	R9-25-1310	Amend

R9-25-1311	Repeal
R9-25-1312	Renumber
R9-25-1313	Renumber
R9-25-1315	Repeal
Article 14	Repeal
R9-25-1401	Repeal
R9-25-1402	Repeal
Table 1	Repeal
R9-25-1403	Repeal
R9-25-1405	Repeal
R9-25-1406	Renumber

2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):

Authorizing statutes: A.R.S. §§ 36-132(A)(1), 36-136(F), and 36-2202(A)(4)

Implementing statutes: A.R.S. §§ 36-2208(A), 36-2221, and 36-2225

3. The effective date of the rules:

The Arizona Department of Health Services (Department) requests an effective date of January 1, 2018, to provide sufficient time for the Department and stakeholders to implement the new rules.

4. Citations to all related notices published in the *Register* as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:

Notice of Rulemaking Docket Opening: 22 A.A.R. 1612, June 17, 2016

Notice of Proposed Rulemaking: 23 A.A.R. 1067, May 12, 2017

5. The agency's contact person who can answer questions about the rulemaking:

Name: Terry Mullins, Bureau Chief

Address: Arizona Department of Health Services
Bureau of Emergency Medical Services and Trauma System
150 N. 18th Ave., Suite 540
Phoenix, AZ 85007-3248

Telephone: (602) 364-3150

Fax: (602) 364-3568

E-mail: Terry.Mullins@azdhs.gov

or

Name: Robert Lane, Chief

Address: Arizona Department of Health Services

Office of Administrative Counsel and Rules
150 N. 18th Ave., Suite 200
Phoenix, AZ 85007
Telephone: (602) 542-1020
Fax: (602) 364-1150
E-mail: Robert.Lane@azdhs.gov

6. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:

Arizona Revised Statutes (A.R.S.) § 36-2225 requires the Department to develop and administer a statewide emergency medical services and trauma system to implement the Arizona emergency medical services and trauma system plan, required under A.R.S. § 36-2208. A.R.S. § 36-2225 further requires the Department to adopt rules for the designation of trauma centers and to require trauma centers to submit data to the trauma registry established by the Department under A.R.S. § 36-2208. The Department has implemented these statutes in Arizona Administrative Code (A.A.C.) Title 9, Chapter 25, Articles 13 and 14. In 9 A.A.C. 25, Article 13, the Department specifies the processes by which a health care institution may voluntarily request designation. Any hospital in Arizona that meets applicable standards of the American College of Surgeons Committee on Trauma (ACS) or standards specified in the rule (state standards) may apply for and receive a designation as a Level I, II, or III trauma center. Any health care institution in Arizona that meets applicable state standards may apply for and receive a designation as a Level IV trauma center. A.R.S. § 36-2225 allows three methods to become a trauma center, but the rules only specify two methods. According to 9 A.A.C. 25, Article 14, all trauma centers are required to report to the trauma registry using ICD-9 codes. At the same time, all Arizona hospitals are required by the Centers for Medicare and Medicaid Services to use ICD-10 codes when billing for services. This may result in an expensive duplicate reporting system for hospitals. In addition, several issues have arisen with the current system for provisional designation as a trauma center. For example, the rules appear to limit submission to less than 12 consecutive months of data. This is problematic since the Department encourages the submission of data by hospitals that are not trauma centers to obtain a more complete view of trauma services in the state and to enable the Department to provide technical assistance to a hospital that may seek designation as a trauma center in the future. After receiving an exception from the Governor's rulemaking moratorium established by Executive Order 2016-03, the Department is revising the rules to address these concerns, update application and other requirements, remove obsolete requirements, and improve the effectiveness of the rules. The changes will conform to

rulemaking format and style requirements of the Governor's Regulatory Review Council and the Office of the Secretary of State.

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

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

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

Not applicable

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

This analysis covers costs and benefits associated with the rule changes and does not describe effects imposed by statutes. No new FTEs will be required due to this rulemaking. Annual cost/revenue changes are designated as minimal when more than $0 and $5,000 or less, moderate when between $5,000 and $30,000, and substantial when $30,000 or greater in additional costs or revenues. A cost is listed as significant when meaningful or important, but not readily subject to quantification. The Department anticipates that persons affected by the rulemaking include the Department; designated trauma centers or health care institutions that may seek designation in the future; health insurance providers, including AHCCCS; tribal or federal agencies operating a hospital or other health care institution under federal or tribal law; ambulance services and other EMS providers, as well as their emergency medical care technicians (EMCTs); physicians and other health care providers; the American College of Surgeons Committee on Trauma (ACS); trauma patients and their families, and the general public.

The Department anticipates that changes to update and make the rules clearer and easier to understand may remove the need for three substantive policy statements and provide the Department with as much as a minimal benefit through reducing the number of questions the Department receives to interpret the rules and being able to rescind the substantive policy statements. Additional information being collected as part of an application may provide the Department with a significant benefit. Clarifying and updating requirements related to inspections, requirements related to designation and dedesignation, and requirements related to trauma registry data quality and usefulness may provide a significant benefit to the Department while causing at most minimal costs to the Department. The new rules allow a health care

institution to request designation as a Level III trauma center through Department assessment, with no review by a national verification organization, and add the safety-net process the Department has been providing for health care institutions that had applied for review by a national verification organization. The Department may receive a significant benefit from having a process included in rule for state assessment for more than Level IV trauma centers and incur a moderate cost for developing inspection and review criteria for Level III trauma centers and for formalizing the safety-net process for Level I and Level II trauma centers.

Since the new rules were developed to improve the trauma system within Arizona and, thus, the outcomes for patients suffering an injury due to trauma, the changes in the new rules may allow patients who would otherwise have died of their injuries to survive. The changes in the new rules may also reduce disability and lengths of stay for patients who would have survived the trauma, regardless of changes made to the rules. Therefore, the rules changes may cause a health insurance company or health plan to incur up to substantial cost increases for hospitalization and rehabilitation costs for patients who would otherwise have died and receive up to substantial cost reductions from patients who would otherwise have had poorer outcomes and required longer lengths of stay.

ACS is specified in the current rule as the only means to designation for Level I, Level II, and Level III trauma centers, either through verification or through ACS stating that the health care institution meets the standards specified in rule. Under the new rules, a health care institution seeking designation as a Level III trauma center will no longer be required to apply for review through ACS or another national verification organization. Nor is ACS specified as the only national verification organization that may provide verification for any Level. The Department anticipates that ACS may incur a moderate-to-substantial revenue loss due to the rule changes, depending on how many current trauma centers, or other health care institutions seeking initial designation, choose a route to designation other than through ASC assessment.

Of the 41 hospitals designated as trauma centers, two are publically owned. As mentioned above, currently all health care institutions wanting to be designated as a Level I trauma center, Level II trauma center, or Level III trauma center are required by rule to apply to ACS for verification and obtain either verification or documentation issued by ACS stating that the health care institution meets the state standards for the specific Level of trauma center. However, a health care institution applying for designation as a Level IV trauma center is assessed by the Department. Under the new rules, a health care institution may continue to obtain designation as a Level III trauma center based on verification by a national verification organization but may also achieve designation through a Department assessment, without ACS

review. Conversely, a health care institution applying for designation as a Level IV trauma center may obtain designation as a Level IV trauma center based on assessment by a national verification organization as well as through Department assessment. The new rules also ensure that the Department may serve as a safety net for Arizona's Level I and Level II trauma centers, providing requirements for the use of this process similar to those currently being used by the Department. The Department anticipates that these changes may provide a health care institution with up to a substantial benefit, depending on the decisions made by the health care institution. In the unlikely possibility that a health care institution plans to pursue designation as a Level IV trauma center through verification, the health care institution could incur up to a substantial cost increase. The Department anticipates that a requirement that verification or assessment of compliance with state standards be dated within six months before the date of an application for designation may impose up to a substantial burden on a health care institution by requiring the health care institution to submit an application to ACS (or another national verification organization) earlier than had been the practice under the current rules. However, the requirement may also provide up to a substantial benefit to a health care institution since earlier scheduling would give the health care institution time to receive documentation of verification or denial of verification before the date of application and allow the health care institution to apply based on assessment of compliance with state standards if necessary.

At the request of stakeholders, the Department added categories and associated requirements for Level I Pediatric trauma centers and Level II Pediatric trauma centers to the rules, consistent with requirements used by ACS for verification of hospitals as these categories of trauma facilities. If a hospital were designated as a Level I Pediatric trauma center or Level II Pediatric trauma center, the hospital might expect to receive more critically injured pediatric patients, resulting in up to a substantial increase in revenue for the hospital. Although the Department believes that a health care institution would not seek designation as a Level I Pediatric trauma center or Level II Pediatric trauma center if the health care institution did not already comply with these requirements, compliance would cause a substantial cost to an unprepared health care institution. Clarifying that an outpatient treatment center authorized to provide emergency room services is eligible to become a Level IV trauma center may provide up to a substantial benefit to an outpatient treatment center that becomes designated, since it may receive more patients requiring trauma care. Although seeking to obtain designation is at the discretion of a health care institution and is not required by the rules, an outpatient treatment center authorized to provide emergency services that is seeking designation may incur up to substantial costs to comply with requirements in the rules.

The Department anticipates that updated requirements in an application for initial designation or to renew designation may cause a minimal cost to a health care institution applying for designation. This includes the requirement that a health care institution not licensed by the Department would need to provide, as part of an application, documentation demonstrating that the health care institution is operating as an administrative unit of the U.S. government or a sovereign tribal nation. In addition, having to undergo a review of the health care institution's capabilities and staffing, rather than just attesting to meeting the requirements for provisional designation, as in the current rules, may cause up to a substantial burden on a health care institution seeking designation that does not have the requisite capabilities. However, changes phasing out provisional designation, rather than removing it totally as of the effective date of the rules, could provide a health care institution with as much as a substantial benefit, depending on whether the health care institution has provisional designation and whether it can meet standards specified in rule or for verification by a national verification organization by the effective date.

The Department anticipates that changes made in the new R9-25-1306 may provide a significant benefit to a health care institution in knowing how and under what circumstances an inspection may be made and from the Department's flexibility in determining whether an inspection is necessary. The changes may also cause up to a substantial cost to a health care institution that may not be in compliance at the time a random announced inspection is scheduled. Similarly, the clarifications made in R9-25-1307, reduction in the time to process an application, and changes in the term for a modified designation should provide a significant benefit to a health care institution.

Reorganizing requirements that had been in Exhibit I or its footnotes into R9-25-1308, removing the footnotes, and specifying which requirements apply to all trauma centers and which only apply to a trauma center whose designation is not based on verification may improve clarity and provide a significant benefit to a trauma center or a health care institution considering designation. The Department believes that changes requiring a health care institution to develop policies and procedures for operating rooms and operating room teams may cause a heath care institution to incur minimal-to-moderate costs, but that a health care institution will receive up to a substantial benefit from not having a requirement that an operating room team in a Level I trauma center is on the premises at all times, as long as the team is present within 15 minutes after notification or patient arrival, whichever is later. Similarly, a surgeon on the trauma team of a Level I trauma center is required by the new rules to be present in the emergency department within 15 minutes after notification or at the time the patient arrives in the emergency department, whichever is later. In both cases, response times and patient outcomes are required to be

monitored through the performance improvement program. The new rules also require a patient transfer plan rather than a patient transfer agreement, due to difficulties experienced by some tribal health care institutions in complying with the requirement for a patient transfer agreement, and may provide a significant benefit to a health care institution. As requested by stakeholders, the Department is allowing health care institutions under the same governing authority to establish a single, centralized trauma registry and submit consolidated information from the trauma registry to the Department if specific requirements are met. A health care institution meeting these requirements may receive up to a substantial benefit from having a centralized trauma registry.

The Department believes that replacing the requirement for ATLS, defined in the current R9-25-1301, with a requirement for a "trauma critical care course," as defined in the new R9-25-1301, may provide a health care institution with as much as a moderate benefit. Requirements in Exhibit I related to the availability of blood products were clarified in the new rules, with policies and procedures being required in R9-25-1308 for the availability of blood products, consistent with the Level of trauma center, which may cause a trauma center to incur minimal costs in developing these policies and procedures if they have not already been developed and implemented. Some requirements that had been listed in Exhibit I and were moved into R9-25-1308 unchanged may be clearer in the new rules, providing a significant benefit to a health care institution. Other elements of Exhibit I were retained in Table 13.1, with unnecessary requirements removed. These changes may provide a significant benefit to a health care institution due to the improved clarity of the rules.

Some requirements that are now standards of care were added to Table 13.1 to improve patient health and safety. The Department estimates that these additions could cause a health care institution that does not meet these requirements and plans to seek designation as a trauma center to incur substantial costs. However, the health care institution could also receive a substantial benefit from compliance with these standards and from receiving a designation. The Department also anticipates that the clarification of what information from a health care institution's trauma registry is required to be submitted may provide a significant benefit to a submitting health care institution. Some additional information is being required to be submitted, but health care institutions have already been voluntarily providing much of this information. The Department anticipates that a health care institution that had not been submitting this additional information may incur at most a moderate increased cost. Since health care institutions use information from the trauma registry to assess the performance of staff, determine opportunities for improvement in trauma care, and the need for education or outreach in the community, the Department anticipates

that the addition of this information and the removal of requirements for hard-to-collect information may provide a significant benefit to a health care institution.

The Department anticipates that having rules to follow that are clearer and easier to understand may provide a significant benefit to physicians and other health care providers working in a trauma center. Physicians and other health care providers may incur a minimal cost to participate in monitoring trauma care parameters as part of the trauma center's performance improvement program. They may also receive a significant benefit from being able to assess what treatment strategies worked better than others to enable them to provide better clinical care to their patients. Being required to be present in the emergency department within 15 minutes after notification or at the time the patient arrives in the emergency department, whichever is later, rather than being on the premises at all times may also provide a significant benefit to a physician who is a surgeon or other member of a trauma team in a Level I trauma center. Making a more general requirement for training consistent with the ATLS course may also provide a significant benefit to a physician. Since the use of physician assistants and registered nurse practitioners was not as extensive when the current rules were adopted as it is today, there are few requirements specific to these health care providers in the current rules. Requirements in the new rules for these health care providers to obtain and maintain current certification in a trauma critical care course may cause a physician assistant or registered nurse practitioner to incur none-to-minimal costs for the course. The new rules may also provide up to a substantial benefit to a physician assistant or registered nurse practitioner if the rules encourage a trauma center to employ more physician assistants or registered nurse practitioners.

EMS providers and ambulance services provide a trauma center with information about treatment provided to a patient during transport. Some of this information is included in the trauma center's trauma registry and is submitted to the Department. The Department believes that an EMS provider or ambulance service may receive a significant benefit from the clarification of what information is required to be provided to a trauma center. Updating requirements related to trauma registry data to improve data quality and usefulness may also provide a significant benefit to an EMS provider or ambulance service, as well as to an EMCT. Providing additional information to a trauma center, such as the incident number, country of injury, activity that the patient was engaged in at the time of the injury, and type of vehicle involved in the injury, if applicable, may impose up to a minimal burden on an EMS provider or ambulance service, as well as on an EMCT.

The Department believes that clarifying and updating requirements related to providing a trauma service are expected to improve the care of trauma patients and may provide a significant

benefit to trauma patients and their families. The Department anticipates that the general public will receive a significant benefit from the rules changes, which were developed to improve trauma service and patient outcomes.

10. A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:

Based on a stakeholder comment, R9-25-1308(B)(7)(f) was changed to clarify the types of issues the policies and procedures should address. The Department also clarified requirements related to the renewal of a one-year designation by separating requirements that had been in R9-25-1307(F) into revised R9-25-1307(F) and (G), renumbering subsequent subsections in R9-25-1307, and making corresponding changes to cross-references. Minor grammatical changes were also made at the request of Council staff. The Department does not believe these are substantive changes.

11. An agency's summary of the public stakeholder comments made about the rulemaking and the agency response to the comments:

The Department received two written comments during the public comment period. The Department thanks the stakeholders for their comments. The Department held an oral proceeding for the proposed rules on June 15, 2017, which two stakeholders/members of the public attended but at which no oral comments were provided. A summary of the concerns expressed in the written comments are shown below, along with the Department's responses.

Comment	Department's Response
A comment was made by the Arizona Hospital and Healthcare Association (AzHHA) asking why a "corrective action pathway" to designation does not exist for Level III or Level IV trauma centers and asking that Level III and Level IV trauma centers be included in R9-25-1302(C).	R9-25-1302(C) provides the "safety-net" pathway for Level I and Level II trauma centers, which cannot otherwise apply for designation based on the Department's assessment. A "corrective action pathway" to designation already exists in the new rules for Level III or Level IV trauma centers. A hospital is eligible for designation as a Level III trauma center, according to R9-25-1302(A)(2)(c)(iii), and a health care institution is eligible for designation as a Level IV trauma center, according to R9-25-1302(B)(2)(b), based on the Department's assessment against standards in R9-25-1308 and Table 13.1. As part of the Department's assessment of an applicant's compliance with requirements in statute or rule, the Department may conduct an inspection of the facility according to R9-25-1306 and may accept a corrective action plan submitted according to R9-25-1306(E). According to R9-25-1307(E)(2), the Department may designate a health care institution as a trauma center if the trauma center is in substantial compliance with applicable requirements in the Article and the Department has accepted a corrective action plan submitted according to R9-25-1306(E). No change will be made to the rule.

A comment was made by AzHHA stating that a facility might not be "able to anticipate and include in its performance improvement policies and procedures every type of issue that might arise and necessitate a corrective action plan." AzHHA asked that the Department remove R9-25-1308(B)(7)(f).	The Department agrees that a health care institution cannot anticipate every type of situation that may arise and include them in policies and procedures, and the rules do not require that level of specificity. However, the Department believes that policies and procedures should include the process by which the health care institution would address an issue, which is what is being required in R9-25-1308(B)(7)(f). To clarify the types of issues that the policies and procedures should cover, the Department is changing the subsection to read: "If an issue related to trauma care or to trauma care parameters is identified." The Department does not believe this is a substantive change.
A question was asked by a hospital "about NPs or PAs having ATLS" when there is always a board-certified physician in the emergency department.	R9-25-1308(F)(10)9a)(iii) requires current certification in a trauma critical care course (a more generic description of the Advanced Trauma Life Support (ATLS) course developed by ACS, allowing for other equivalent training to satisfy the requirement) for "[e]ach physician assistant or registered nurse practitioner who is responsible for patients in an emergency department in the absence of an emergency physician;". The intent is to ensure that a health care provider with adequate skills is immediately available to begin treatment of a patient who enters an emergency department until an emergency physician or trauma surgeon can take over the patient's care. If there is always a board-certified physician in the emergency department of the hospital, then the hospital's physician assistants and registered nurse practitioners would not be required to have this certification. No change will be made to the rule.

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

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

The rules do not require a permit, but allow for designation. A health care institution may provide the same services with or without designation.

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

Not applicable

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

No business competitiveness analysis was received by the Department.

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

Not applicable

14. Whether the rule was previously made, amended or repealed as an emergency rule. If so, cite the notice published in the *Register* as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:

Not applicable

15. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

CHAPTER 25. DEPARTMENT OF HEALTH SERVICES

EMERGENCY MEDICAL SERVICES

ARTICLE 13. TRAUMA ~~CENTER DESIGNATION~~ CENTERS AND TRAUMA REGISTRIES

R9-25-1301. Definitions (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

R9-25-1302. Eligibility for Designation (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

~~R9-25-1304.~~R9-25-1303. ~~Initial~~ Application and Designation Process (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

R9-25-1303.01. Health Care Institutions with Provisional Designation (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

~~R9-25-1305. Eligibility for Provisional Designation; Provisional Designation Process (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))~~

~~R9-25-1306. Designation Renewal Process (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))~~

~~R9-25-1307. Term of Designation (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))~~

~~R9-25-1308.~~R9-25-1304. Changes Affecting Designation Status (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4)

~~R9-25-1309.~~R9-25-1305. Modification of Designation (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

~~R9-25-1310. On-Site Survey for Designation as a Level IV Trauma Center Based on Meeting the State Standards (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))~~

R9-25-1306. Inspections (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

~~R9-25-1312.~~R9-25-1307. ~~Denial or Revocation of~~ Designation and Dedesignation (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

~~R9-25-1313.~~R9-25-1308. Trauma Center Responsibilities (A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2221, and 36-2225(A)(4), (5), and (6))

Table 1. ~~Application Processing Time Periods (in days) (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))~~ Repealed

Exhibit I. ~~Arizona Trauma Center Standards (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))~~ Repealed

Table 13.1. Arizona Trauma Center Standards (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

R9-25-1309. Trauma Registry Data (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2221, and 36-2225(A)(5) and (6))

~~R9-25-1406.~~R9-25-1310. Trauma Registry Data Quality Assurance (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2220(A), 36-2221, and 36-2225(A)(5) and (6))

R9-25-1311. ~~Investigations (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4) and (5))~~ Repealed

R9-25-1312. Renumbered

R9-25-1313. Renumbered

R9-25-1315. ~~Application Processing Time Periods (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))~~ Repealed

ARTICLE 14. ~~TRAUMA REGISTRY; TRAUMA SYSTEM QUALITY ASSURANCE~~ REPEALED

Section

R9-25-1401. ~~Definitions (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2221, and 36-2225(A)(5) and (6))~~ Repealed

R9-25-1402. ~~Data Submission Requirements (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2221, and 36-2225(A)(5) and (6))~~ Repealed

Table 1. ~~Trauma Registry Data Set (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2221, and 36-2225(A)(5) and (6))~~ Repealed

R9-25-1403. ~~Trauma System Data Reports; Requests for Trauma Registry Reports (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2220(A), 36-2221, and 36-2225(A)(5) and (6))~~ Repealed

R9-25-1405. ~~Confidentiality and Retention of Trauma System Quality Assurance Data (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2220(A), 36-2221, 36-2222(E)(3), 36-2225(A)(5) and (6), 36-2403(A), and 36-2404)~~ Repealed

R9-25-1406. ~~Trauma Registry Data Quality Assurance (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2220(A), 36-2221, and 36-2225(A)(5) and (6))~~ Renumbered

ARTICLE 13. TRAUMA ~~CENTER DESIGNATION~~ CENTERS AND TRAUMA REGISTRIES

R9-25-1301. Definitions (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

In addition to the definitions in A.R.S. § 36-2201 and R9-25-101, the ~~The~~ following definitions apply in this Article, unless otherwise specified:

~~1. "ACS" means the American College of Surgeons Committee on Trauma.~~

~~2. "ACS site visit" means an on-site inspection of a trauma facility conducted by ACS for the purpose of determining compliance with ACS trauma facilities criteria, or ACS trauma facilities criteria and state standards, at the Level of designation sought.~~

~~3. "Administrative completeness time period" means the number of days from the Department's receipt of an application until the Department determines that the application contains all of the items of information required by rule to be submitted with an application.~~

~~4. "ATLS" means the ACS Advanced Trauma Life Support Course.~~

~~5. "Available" means accessible for use.~~

1. "Admitted" means when a patient is either:
   a. Held for observation of a trauma-related injury; or
   b. Considered an inpatient, as defined in A.A.C. R9-10-201.

2. "Business day" means a Monday, Tuesday, Wednesday, Thursday, or Friday that is not a state holiday.

~~6. "Chief administrative officer" means an individual assigned to control and manage the day-to-day operations of a health care institution on behalf of the owner or the body designated by the owner to govern and manage the health care institution.~~

~~7. "CME" means continuing medical education courses for physicians.~~

~~8. "Comply with" means to satisfy the requirements of a stated provision.~~

~~9. "CT" means computed tomography.~~

~~10. "Current" means up-to-date and extending to the present time.~~

~~11. "CVP" means central venous pressure.~~

~~12. "Department" means the Arizona Department of Health Services.~~

~~13.~~3. "Designation" means a formal determination by the Department that a health care institution ~~has the resources and capabilities necessary to provide trauma services at~~ complies with requirements in A.R.S. § 36-2225 and this Article for providing a particular Level ~~and is a~~ of trauma ~~center~~ service.

4. "Emergency department" means a designated area of a hospital that provides emergency services, as defined in A.A.C. R9-10-201, as an organized service, 24 hours per day, seven days per week, to individuals who present for immediate medical services.

~~14. "EMS" means emergency medical services.~~

~~15. "Health care institution" has the same meaning as in A.R.S. § 36-401.~~

~~16. "Hospital" has the same meaning as in A.A.C. R9-10-201.~~

5. "ICD-code" means an International Classification of Diseases code, a set of numbers or letters or a combination of letters and numbers that specify a disease, condition, or injury; the location of the disease, condition, or injury; or the circumstances under which a patient may have incurred the disease, condition, or injury, which is used by a health care institution for billing purposes.

~~17. "ICU" means intensive care unit.~~

~~18. "In compliance with" means satisfying the requirements of a stated provision.~~

~~19. "In-house" means on the premises at the health care institution.~~

~~20. "ISS" means injury severity score, the sum of the squares of the abbreviated injury scale scores of the three most severely injured body regions.~~

6. "Level I Pediatric trauma center" means a Level I trauma center that has a trauma service specifically intended to meet the needs of children requiring trauma care.

7. "Level II Pediatric trauma center" means a Level II trauma center that has a trauma service specifically intended to meet the needs of children requiring trauma care.

~~21. "Major resuscitation" means a patient:~~

~~a. If an adult, with a confirmed blood pressure < 90 at any time or, if a child, with confirmed age-specific hypotension;~~

~~b. With respiratory compromise, respiratory obstruction, or intubation, if the patient is not transferred from another health care institution;~~

~~c. Who is transferred from another hospital and is receiving blood to maintain vital signs;~~

~~d. Who has a gunshot wound to the abdomen, neck, or chest;~~

~~e. Who has a Glasgow Coma Scale score < 8 with a mechanism attributed to trauma; or~~

~~f. Who is determined by an emergency physician to be a major resuscitation.~~

8. "Medical services" means the services pertaining to the "practice of medicine," as defined in A.R.S. § 32-1401, or "medicine," as defined in A.R.S. § 32-1800, performed at the direction of a physician.

~~22. "Meet the ACS standards," "meeting the ACS standards," or "meets the ACS standards" means be operated, being operated, or is operated in compliance with each applicable criterion for verification as required by ACS for verification.~~

~~23. "Meet the state standards," "meeting the state standards," or "meets the state standards" means be operated, being operated, or is operated in compliance with each applicable criterion listed in Exhibit I at least as frequently or consistently as required by the minimum threshold stated for the criterion in Exhibit I or at least 95% of the time, whichever is less.~~

9. "National verification organization" has the same meaning as in A.R.S. § 36-2225.

10. "Nursing services" means services that pertain to the curative, restorative, and preventive aspects of "registered nursing," as defined in A.R.S. § 32-1601, performed:

   a. At the direction of a physician; and

   b. By or under the supervision of a registered nurse licensed:

      i. According to Title 32, Chapter 15; or

      ii. When performed in a health care institution operating under federal or tribal law as an administrative unit of the U.S. government or a sovereign tribal nation, by a similar licensing board in another state.

~~24.~~11. "On-call" means assigned to respond and, if necessary, come to a health care institution when ~~called~~ notified by a personnel member of the health care institution ~~personnel~~.

12. "Organized service" has the same meaning as in A.A.C. R9-10-201.

~~25.~~13. "Owner" means one of the following:

   a. For a health care institution licensed under 9 A.A.C. 10, the licensee;

   b. For a health care institution operated under federal or tribal laws, the administrative unit of the U.S. government or sovereign tribal nation operating the health care institution.

~~26. "Person" means:~~

   ~~a. An individual;~~

   ~~b. A business organization such as an association, cooperative, corporation, limited liability company, or partnership; or~~

   ~~c. An administrative unit of the U.S. government, state government, or a political subdivision of the state.~~

~~27.~~14. "Personnel member" means an individual providing medical services, nursing services, or health-related services, as defined in A.R.S. § 36-401, to a patient.

~~28. "PGY" means postgraduate year, a classification for residents in postgraduate training~~

~~indicating the year that they are in during their post-medical-school residency program.~~

15. "Physician" means an individual licensed:

    a. According to A.R.S. Title 32, Chapter 13 or 17; or

    b. When working in a health care institution operating under federal or tribal law as an administrative unit of the U.S. government or a sovereign tribal nation, by a similar licensing board in another state.

~~29. "Self-designated Level I trauma facility" means a health care institution that as of July 1, 2004, met the definition of a Level I trauma center under A.A.C. R9-22-2101(F)(1).~~

~~30. "SICU" means surgical intensive care unit.~~

~~31.~~16. "Signature" means:

    a. A handwritten or stamped representation of an individual's name or a symbol intended to represent an individual's name, or

    b. An "electronic signature" as defined in A.R.S. § 44-7002.

17. "Substantial compliance" has the same meaning as in A.R.S. § 36-401.

~~32. "Substantive review time period" means the number of days after completion of the administrative completeness time period during which the Department determines whether an application and owner comply with all substantive criteria required by rule for issuance of an approval.~~

18. "Transport" means the conveyance of a patient by ground ambulance or air ambulance from one location to another location.

~~33. "Transfer agreement" means a written contract between the owners of two health care institutions in which one owner agrees to have its health care institution receive a patient from the other owner's health care institution if the patient falls within specified criteria related to diagnosis, acuity, or treatment needs.~~

19. "Trauma care" means medical services and nursing services provided to a patient suffering from a sudden physical injury.

~~34.~~20. "Trauma center" has the same meaning as in A.R.S. § 36-2225.

21. "Trauma critical care course" means a multidisciplinary class or series of classes consisting of interactive tutorials, skills teaching, and simulated patient management scenarios of trauma care, consistent with training recognized by the American College of Surgeons.

22. "Trauma facility" means a health care institution that provides trauma care to a patient as an organized trauma service.

23. "Trauma service" means designated personnel members, equipment, and area within a

health care institution and the associated policies and procedures for the personnel members to follow when providing trauma care to a patient.

24. "Trauma team" means a group of personnel members with defined roles and responsibilities in providing trauma care to a patient.

25. "Trauma team activation" means a notification to respond that is sent to trauma team personnel members in reaction to triage information received concerning a patient with injury or suspected injury.

~~35. "Valid" means that a license, certification, or other form of authorization is in full force and effect and not suspended or otherwise restricted.~~

~~36.~~26. "Verification" means formal confirmation by ~~ACS~~ a national verification organization that a health care institution ~~has the resources and capabilities necessary to provide~~ meets the national verification organization's standards for providing trauma ~~services as~~ care at a ~~Level I, Level II, Level III, or Level IV~~ specific Level of trauma ~~facility~~ service.

~~37. "Working day" means the period between 8:00 a.m. and 5:00 p.m. on a Monday, Tuesday, Wednesday, Thursday, or Friday that is not a state holiday.~~

R9-25-1302. Eligibility for Designation (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

~~**A.** To be eligible to obtain designation for a health care institution, an owner shall:~~

~~1. If applying for designation as a Level I trauma center:~~

~~a. Comply with one of the following:~~

~~i. Hold a current and valid regular license for the health care institution to operate as a hospital, issued by the Department under 9 A.A.C. 10, Article 2; or~~

~~ii. Be an administrative unit of the U.S. government or a sovereign tribal nation operating the health care institution as a hospital under federal or tribal law; and~~

~~b. Comply with one of the following:~~

~~i. Hold current verification for the health care institution as a Level I trauma facility; or~~

~~ii. Have current documentation issued by ACS stating that the health care institution meets the state standards for a Level I trauma center;~~

~~2. If applying for designation as a Level II trauma center:~~

~~a. Comply with one of the following:~~

~~i. Hold a current and valid regular license for the health care institution to~~

~~operate as a hospital, issued by the Department under 9 A.A.C. 10, Article 2; or~~

~~ii. Be an administrative unit of the U.S. government or a sovereign tribal nation operating the health care institution as a hospital under federal or tribal law; and~~

~~b. Comply with one of the following:~~

~~i. Hold current verification for the health care institution as a Level II trauma facility; or~~

~~ii. Have current documentation issued by ACS stating that the health care institution meets the state standards for a Level II trauma center;~~

~~3. If applying for designation as a Level III trauma center:~~

~~a. Comply with one of the following:~~

~~i. Hold a current and valid regular license for the health care institution to operate as a hospital, issued by the Department under 9 A.A.C. 10, Article 2; or~~

~~ii. Be an administrative unit of the U.S. government or a sovereign tribal nation operating the health care institution as a hospital under federal or tribal law; and~~

~~b. Comply with one of the following:~~

~~i. Hold current verification for the health care institution as a Level III trauma facility; or~~

~~ii. Have current documentation issued by ACS stating that the health care institution meets the state standards for a Level III trauma center; and~~

~~4. If applying for designation as a Level IV trauma center:~~

~~a. Comply with one of the following:~~

~~i. Hold a current and valid regular license for the health care institution to operate, issued by the Department under 9 A.A.C. 10; or~~

~~ii. Be an administrative unit of the U.S. government or a sovereign tribal nation operating the health care institution under federal or tribal law; and~~

~~b. Comply with one of the following:~~

~~i. Hold current verification for the health care institution as a Level IV trauma facility; or~~

~~ii. Demonstrate, during an on-site survey of the health care institution~~

~~conducted by the Department as described in R9-25-1310, that the health care institution meets the state standards for a Level IV trauma center.~~

~~**B.** To be eligible to retain designation for a health care institution, an owner shall:~~

~~1. Maintain a current and valid regular license for the health care institution to operate, if applicable; and~~

~~2. Comply with the trauma center responsibilities in R9-25-1313.~~

A. A health care institution is eligible for designation as a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, Level II Pediatric trauma center, or Level III trauma center if the health care institution:

1. Is either:
   - a. Licensed by the Department under 9 A.A.C. 10 to operate as a hospital; or
   - b. Operating as a hospital under federal or tribal law as an administrative unit of the U.S. government or a sovereign tribal nation; and
2. For designation as a:
   - a. Level I trauma center:
     - i. Holds verification, issued within the six months before the date of designation, as a Level I trauma facility;
     - ii. Has documentation issued by a national verification organization, within the six months before the date of designation, stating that the health care institution meets the standards specified in R9-25-1308 and Table 13.1 for a Level I trauma center; or
     - iii. Meets the requirements in subsection (C);
   - b. Level I Pediatric trauma center:
     - i. Holds verification, issued within the six months before the date of designation, as a Level I Pediatric trauma facility;
     - ii. Has documentation issued by a national verification organization, within the six months before the date of designation, stating that the health care institution meets the standards specified in R9-25-1308 and Table 13.1 for a Level I Pediatric trauma center; or
     - iii. Meets the requirements in subsection (C);
   - c. Level II trauma center:
     - i. Holds verification, issued within the six months before the date of designation, as a Level II trauma facility; or
     - ii. Has documentation issued by a national verification organization, within

the six months before the date of designation, stating that the health care institution meets the standards specified in R9-25-1308 and Table 13.1 for a Level II trauma center; or

iii. Meets the requirements in subsection (C);

d. Level II Pediatric trauma center:

i. Holds verification, issued within the six months before the date of designation, as a Level II Pediatric trauma facility;

ii. Has documentation issued by a national verification organization, within the six months before the date of designation, stating that the health care institution meets the standards specified in R9-25-1308 and Table 13.1 for a Level II Pediatric trauma center; or

iii. Meets the requirements in subsection (C); or

e. Level III trauma center:

i. Holds verification, issued within the six months before the date of designation, as a Level III trauma facility; or

ii. Has documentation issued by a national verification organization or the Department, within the six months before the date of designation, stating that the health care institution meets the standards specified in R9-25-1308 and Table 13.1 for a Level III trauma center.

B. A health care institution is eligible for designation as a Level IV trauma center if the health care institution:

1. Is either:

a. Licensed by the Department under 9 A.A.C. 10 to operate as:

i. A hospital; or

ii. An outpatient treatment center authorized to provide emergency room services, as defined in A.A.C. R9-10-1001, according to A.A.C. R9-10-1019; or

b. Operating as a hospital or an outpatient treatment center providing emergency services under federal or tribal law as an administrative unit of the U.S. government or a sovereign tribal nation; and

2. Either:

a. Holds verification, issued within the six months before the date of designation, as a Level IV trauma facility; or

b. Has documentation issued by a national verification organization or the

Department, within the six months before the date of designation, stating that the health care institution meets the standards specified in R9-25-1308 and Table 13.1 for a Level IV trauma center.

C. A health care institution is eligible for designation as a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, or Level II Pediatric trauma center based on assessment by the Department that the health care institution meets the standards specified in R9-25-1308 and Table 13.1 for the Level of trauma center for which designation is requested if the health care institution:

1. Applies for verification from a national verification organization;
2. Informs the Department, at least 30 calendar days before, of the dates the national verification organization will be on the premises of the health care institution to assess the health care institution for compliance with the national verification organization's standards for verification;
3. Invites the Department to review the facility and documentation of capabilities of the health care institution during the national verification organization's assessment in subsection (C)(2);
4. Is not issued verification from the national verification organization at the Level of designation sought;
5. Does not receive the documentation required in subsection (A)(2)(a)(ii), (b)(ii), (c)(ii), or (d)(ii), as applicable; and
6. Receives the documentation specified in R9-25-1306(G) and, if applicable, submits to the Department a written plan in R9-25-1306(H), acceptable to the Department, to correct instances of non-compliance.

D. A health care institution is eligible to retain designation as a specific Level of trauma center if the health care institution complies with the applicable requirements in this Article for the specific Level of trauma center.

~~R9-25-1304.~~R9-25-1303. ~~Initial~~ Application and Designation Process (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

~~**A.** An owner applying for initial designation shall submit to the Department an application including:~~

~~1. An application form provided by the Department containing:~~

~~a. The name, address, and main telephone number of the health care institution for which the owner seeks designation;~~

~~b. The owner's name, address, and telephone number and, if available, fax number~~

~~and e-mail address;~~

~~c. The name and telephone number and, if available, fax number and e-mail address of the chief administrative officer for the health care institution for which the owner seeks designation;~~

~~d. The designation Level for which the owner is applying;~~

~~e. If the owner holds verification for the health care institution for which designation is sought, the Level of verification held and the effective and expiration dates of the verification;~~

~~f. The asserted basis for designation:~~

~~i. The owner holds verification for the health care institution,~~

~~ii. The owner's health care institution meets the state standards, or~~

~~iii. The owner is eligible for the grace period under R9-25-1303;~~

~~g. Unless the owner is an administrative unit of the U.S. government or a sovereign tribal nation, the hospital or health care institution license number for the health care institution for which designation is sought;~~

~~h. If applying for designation as a Level I, Level II, or Level III trauma center, the name and telephone number and, if available, fax number and e-mail address of the health care institution's trauma medical director;~~

~~i. The name, title, address, and telephone number of the owner's statutory agent or the individual designated by the owner to accept service of process and subpoenas;~~

~~j. Attestation that the owner knows all applicable requirements in A.R.S. Title 36, Chapter 21.1 and this Article;~~

~~k. Attestation that the information provided in the application, including the information in the documents attached to the application form, is accurate and complete; and~~

~~l. The dated signature of:~~

~~i. If the owner is an individual, the individual;~~

~~ii. If the owner is a corporation, an officer of the corporation;~~

~~iii. If the owner is a partnership, one of the partners;~~

~~iv. If the owner is a limited liability company, a manager or, if the limited liability company does not have a manager, a member of the limited liability company;~~

~~v. If the owner is an association or cooperative, a member of the governing~~

~~board of the association or cooperative;~~

~~vi. If the owner is a joint venture, one of the individuals signing the joint venture agreement;~~

~~vii. If the owner is a governmental agency, the individual in the senior leadership position with the agency or an individual designated in writing by that individual; and~~

~~viii. If the owner is a business organization type other than those described in subsections (A)(1)(l)(ii) through (vi), an individual who is a member of the business organization;~~

~~2. Unless the owner is an administrative unit of the U.S. government or a sovereign tribal nation, a copy of the current regular hospital or health care institution license issued by the Department for the health care institution for which designation is sought;~~

~~3. If applying for designation based on verification, documentation issued by ACS establishing that the owner holds current verification for the health care institution at the Level of designation sought and showing the effective and expiration dates of the verification; and~~

~~4. If applying for designation as a Level I, Level II, or Level III trauma center based on meeting the state standards, current documentation issued by ACS establishing that the owner's health care institution meets the state standards listed in Exhibit I for the Level of designation sought.~~

~~**B.** The Department shall process an application as provided in R9-25-1315.~~

~~**C.** The Department shall approve designation if the Department determines that an owner is eligible for designation as described in R9-25-1302.~~

A. An owner applying for initial designation or to renew designation for a health care institution shall submit to the Department an application including:

1. The following information, in a Department-provided format:

   a. The name, address, and telephone number of the health care institution for which the owner is requesting designation;

   b. The owner's name, address, e-mail address, telephone number, and, if available, fax number;

   c. The name, e-mail address, telephone number, and, if available, fax number of the chief administrative officer, as defined in A.A.C. R9-10-101, for the health care institution for which the owner is requesting designation;

   d. The designation Level for which the owner is applying;

e. Whether the owner is requesting designation for the health care institution based on:

i. Verification, or

ii. Meeting the applicable standards specified in R9-25-1308 and Table 13.1;

f. If the owner is requesting designation for the health care institution based on verification:

i. The name of the national verification organization;

ii. The name, telephone number, and e-mail address for a representative of the national verification organization;

iii. The Level of verification held;

iv. The effective date of the verification, and

v. The expiration date of the verification;

g. If the owner is requesting designation for the health care institution based on the health care institution meeting the applicable standards specified in R9-25-1308 and Table 13.1:

i. Whether:

(1) A national verification organization has assessed the health care institution, or

(2) The Department will be assessing the health care institution;

ii. If a national verification organization has assessed the health care institution:

(1) The name of the national verification organization;

(2) The name, telephone number, and e-mail address for a representative of the national verification organization; and

(3) The date the national verification organization assessed the health care institution; and

iii. If the Department will be assessing the health care institution, the date the health care institution will be ready for the Department to assess the health care institution;

h. Unless the owner is an administrative unit of the U.S. government or a sovereign tribal nation, the license number, issued by the Department, for the health care institution for which designation is being requested;

i. The name, e-mail address, telephone number, and, if available, fax number of the

health care institution's trauma program manager;

j. Whether the health care institution's trauma registry will be located at the health care institution or be part of a centralized trauma registry;

k. The name, e-mail address, telephone number, and, if available, fax number of the health care institution's trauma registrar;

l. If applying for designation as a Level IV trauma center, whether the health care institution plans to submit, in addition to the information required in R9-25-1309(A), the information specified in R9-25-1309(B);

m. If not already submitting trauma registry information to the Department, the time period for which the health care institution plans to begin submitting trauma registry information;

n. Except for a health care institution applying for designation as a Level IV trauma center, the name, e-mail address, telephone number, and, if available, fax number of the health care institution's trauma medical director;

o. The name, title, address, and telephone number of the owner's statutory agent or the individual designated by the owner to accept service of process and subpoenas;

p. Attestation that:

i. The owner will comply with all applicable requirements in A.R.S. Title 36, Chapter 21.1 and this Article; and

ii. The information and documents provided as part of the application are accurate and complete; and

q. The dated signature of the applicable individual according to R9-25-102;

2. If applicable, documentation demonstrating that the health care institution is operating as a hospital or an outpatient treatment center providing emergency services under federal or tribal law as an administrative unit of the U.S. government or a sovereign tribal nation; and

3. One of the following:

a. Documentation from the national verification organization, identified according to subsection (A)(1)(f)(i), establishing that the owner holds verification for the health care institution at the Level of designation being requested and showing the effective date and expiration date of the verification;

b. Documentation from the national verification organization, identified according to subsection (A)(1)(g)(ii)(1), demonstrating that the health care institution meets

the applicable standards specified in R9-25-1308 and Table 13.1; or

c. The information and documents required in R9-25-1307(C), (D), or (F), as applicable.

B. An owner applying to renew designation for a health care institution shall submit the application in subsection (A) to the Department at least 60 calendar days and no more than 90 calendar days before the expiration of the current designation.

C. Within 30 calendar days after receiving an application submitted according to subsection (A), the Department shall review the application submitted for completeness, and, if the application is:

1. Incomplete, provide to the owner a written notice listing each missing item and the information or items needed to complete the application; and
2. Complete and based on:
   a. Verification, comply with R9-25-1307(A);
   b. A national verification organization assessing the health care institution's meeting the applicable standards specified in R9-25-1308 and Table 13.1, comply with R9-25-1307(B); or
   c. The Department assessing the health care institution's meeting the applicable standards specified in R9-25-1308 and Table 13.1, assess compliance with applicable requirements in A.R.S. Title 36, Chapter 21.1 and this Article according to R9-25-1307(E) or (G).

D. The Department shall consider an application withdrawn if an owner:

1. Fails to submit to the Department all of the information or items listed in a notice of missing items within 60 calendar days after the date on the notice of missing items, unless the Department and the owner agree to an extension of this time; or
2. Submits a written request withdrawing the application.

E. If an owner submits an application for renewal of designation for a health care institution according to subsection (A) before the expiration date of the current designation, the designation of the health care institution remains in effect until the:

1. Department has determined whether or not to issue a renewal of the designation, or
2. Application is withdrawn.

R9-25-1303.01. Health Care Institutions with Provisional Designation (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

A. A health care institution that held provisional designation before the effective date of the rules in this Article may retain the provisional designation until the expiration date of the provisional designation.

B. At least 60 calendar days and no more than 90 calendar days before the expiration of a provisional designation, an owner of a health care institution with a provisional designation shall submit to the Department an application for initial designation according to R9-25-1303(A).

C. If an owner of a health care institution with a provisional designation does not submit an application for initial designation according to subsection (B), the health care institution is no longer designated as a trauma center, as of the expiration date of the provisional designation.

~~**R9-25-1305. Eligibility for Provisional Designation; Provisional Designation Process (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))**~~

~~**A.** The owner of a health care institution may apply for one 18-month provisional designation as a Level I, Level II, or Level III trauma center if:~~

~~1. When the owner applies for provisional designation, the owner's health care institution has not produced at least 12 consecutive months of data related to trauma services provided at the health care institution; and~~

~~2. The owner cannot comply with R9-25-1302(A)(1)(b), (A)(2)(b), or (A)(3)(b).~~

~~**B.** To be eligible to obtain provisional designation for a health care institution, an owner shall:~~

~~1. Comply with one of the following:~~

~~a. Hold a current and valid regular license for the health care institution to operate as a hospital, issued by the Department under 9 A.A.C. 10, Article 2; or~~

~~b. Be an administrative unit of the U.S. government or a sovereign tribal nation operating the health care institution as a hospital under federal or tribal law; and~~

~~2. Make the attestations described in subsection (C)(2).~~

~~**C.** An owner applying for provisional designation shall submit to the Department an application including:~~

~~1. An application form that contains the information and items listed in R9-25-1304(A)(1)(a) through (A)(1)(d), (A)(1)(g) through (A)(1)(l), and (A)(2); and~~

~~2. Attestation that:~~

~~a. The owner's health care institution has the resources and capabilities necessary to meet the state standards for the Level of designation sought and will meet the state standards for the Level of designation sought during the term of the provisional designation; and~~

~~b. During the term of the provisional designation, the owner will:~~

~~i. Ensure that the trauma center meets the state standards;~~

~~ii. Apply for verification for the trauma center; and~~

~~iii. Provide to the Department, within 30 days after applying for verification,~~

~~documentation issued by ACS establishing that the owner has applied for verification.~~

~~**D.** The Department shall process an application submitted under this Section as provided in R9-25-1315.~~

~~**E.** The Department shall approve provisional designation if the Department determines that an owner is eligible for provisional designation as described in subsection (B).~~

~~**F.** To be eligible to retain provisional designation for a health care institution, an owner shall:~~

~~1. Comply with subsection (B)(1)(a) or (b);~~

~~2. Comply with the trauma center responsibilities in R9-25-1313;~~

~~3. Apply for verification for the trauma center; and~~

~~4. Provide to the Department, within 30 days after applying for verification, documentation issued by ACS establishing that the owner has applied for verification.~~

~~**G.** An owner who holds provisional designation and who desires to retain designation shall, before the expiration date of the provisional designation:~~

~~1. If the owner can comply with R9-25-1302(A)(1)(b), (A)(2)(b), or (A)(3)(b), apply for initial designation under R9-25-1304; or~~

~~2. If the owner cannot comply with R9-25-1302(A)(1)(b), (A)(2)(b), or (A)(3)(b), apply for an extension of the provisional designation under subsection (H).~~

~~**H.** An owner who holds provisional designation and who will not be able to comply with R9-25-1302(A)(1)(b), (A)(2)(b), or (A)(3)(b) on the expiration date of the provisional designation may apply to the Department, on a form provided by the Department, for one 180-day extension of the provisional designation and shall include with the application documentation issued by ACS showing the owner's progress in obtaining an ACS site visit.~~

~~**I.** The Department shall grant an extension if an owner provides documentation issued by ACS:~~

~~1. Establishing that the owner has applied for verification; and~~

~~2. Showing the owner's progress in obtaining an ACS site visit.~~

~~**J.** The Department may:~~

~~1. Investigate, as provided under R9-25-1311, a trauma center that is the subject of a provisional designation; and~~

~~2. Revoke, as provided under R9-25-1312, a provisional designation.~~

~~**R9-25-1306. Designation Renewal Process (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))**~~

~~**A.** At least 60 days before the expiration date of a current designation, an owner who desires to obtain renewal of designation shall submit to the Department an application including:~~

~~1. An application form that contains the information listed in R9-25-1304(A)(1);~~

~~2. If applying for renewal of designation as a Level I, Level II, or Level III trauma center based on meeting the state standards, one of the following:~~

~~a. Documentation issued by ACS no more than 60 days before the date of application establishing that the owner's trauma center meets the state standards listed in Exhibit I for the Level of designation sought; or~~

~~b. Documentation issued by ACS establishing that the owner has applied for verification for the trauma center, at the Level corresponding to the Level of designation sought, for the three-year period directly following the expiration of the owner's current designation; and~~

~~3. If applying for renewal of designation based on verification, documentation issued by ACS establishing that the owner:~~

~~a. Holds verification for the trauma center, at the Level corresponding to the Level of designation sought, for the three-year period directly following the expiration of the owner's current verification and designation; or~~

~~b. Has applied for verification for the trauma center, at the Level corresponding to the Level of designation sought, for the three-year period directly following the expiration of the owner's current verification and designation.~~

~~**B.** The Department shall process an application as provided in R9-25-1315.~~

~~**C.** The Department shall renew designation if the Department determines that the owner is eligible to retain designation as described in R9-25-1302(B).~~

~~**D.** The Department shall not renew designation based on verification or ACS's determination that a trauma center meets the state standards until the Department receives documentation that complies with subsection (A)(2)(a) or (A)(3)(a).~~

~~**R9-25-1307. Term of Designation (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))**~~

~~**A.** The Department shall issue initial designation or renewal of designation:~~

~~1. When based on verification, with a term beginning on the date of issuance and ending on the expiration date of the verification upon which designation is based; and~~

~~2. When based on meeting the state standards or eligibility under R9-25-1303, with a term beginning on the date of issuance and ending three years later.~~

~~**B.** The Department shall issue a provisional designation with a term beginning on the date of issuance and ending 18 months later and an extension of provisional designation with a term beginning on the expiration date of the provisional designation and ending 180 days later.~~

~~**C.** The Department shall issue a modified designation with a term beginning on the date of issuance~~

~~and ending on the expiration date of the designation issued before the application for modification of designation under R9-25-1309.~~

~~**D.**~~ ~~If an owner submits an application for renewal of designation as described in R9-25-1306 before the expiration date of the current designation, or submits an application for extension of provisional designation as described in R9-25-1305 before the expiration date of the provisional designation, the current designation does not expire until the Department has made a final determination on the application for renewal of designation or extension of provisional designation.~~

~~R9-25-1308.~~R9-25-1304. Changes Affecting Designation Status (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

~~**A.**~~ ~~At least 30 days before the date of a change in a trauma center's name, the owner of the trauma center shall send the Department written notice of the name change.~~

~~**B.**~~ ~~At least 90 days before a trauma center ceases to offer trauma services, the owner of the trauma center shall send the Department written notice of the intention to cease offering trauma services and the desire to relinquish designation.~~

~~**C.**~~ ~~Within 30 days after the date of receipt of a notice described in subsection (A) or (B), the Department shall:~~

~~1.~~ ~~For a notice described in subsection (A), issue an amended designation that incorporates the name change but retains the expiration date of the current designation; or~~

~~2.~~ ~~For a notice described in subsection (B), send the owner written confirmation of the voluntary relinquishment of designation, with an effective date consistent with the written notice.~~

~~**D.**~~ ~~An owner of a trauma center shall notify the Department in writing within three working days after:~~

~~1.~~ ~~The trauma center's hospital or health care institution license expires or is suspended, revoked, or changed to a provisional license;~~

~~2.~~ ~~A change in the trauma center's verification status; or~~

~~3.~~ ~~A change in the trauma center's ability to meet the state standards or, if designation is based on verification, to meet the ACS standards, that is expected to last for more than one week.~~

~~**E.**~~ ~~An owner of a trauma center who obtains verification for the trauma center during a term of designation based on meeting the state standards may obtain a new initial designation based on verification, with a designation term based on the dates of the verification, by submitting an initial application as provided in R9-25-1304.~~

A. An owner of a trauma center shall:

1. Notify the Department, in writing or in a Department-provided format, no later than 60 calendar days after the date of a change in the health care institution's:
   a. Name,
   b. Trauma program manager, or
   c. If applicable, trauma medical director; and
2. Provide the effective date of the change and, as applicable, the:
   a. Current and new name of the health care institution, or
   b. Name of the new trauma program manager or trauma medical director.

B. An owner of a trauma center shall notify the Department in writing within three business days after:

1. The trauma center's health care institution license expires or is suspended or revoked;
2. The trauma center's health care institution license is changed to a provisional license under A.R.S. § 36-425;
3. The trauma center no longer holds verification; or
4. A change, which is expected to last for more than seven consecutive calendar days, in the trauma center's ability to meet:
   a. The applicable standards specified in R9-25-1308 and Table 13.1, or
   b. If designation is based on verification, the national verification organization's standards for verification.

C. At least 90 calendar days before a trauma center ceases to provide a trauma service, the owner of the trauma center shall notify the Department, in writing or in a Department-provided format, of the owner's intention to cease providing the trauma service and to relinquish designation, including the effective date.

D. The Department shall, upon receiving a notice described in:

1. Subsection (A), issue an amended designation that incorporates the name change but retains the expiration date of the current designation;
2. Subsection (B)(1), send the owner a written notice stating that the health care institution no longer meets the definition of a trauma center and that the Department intends to dedesignate the health care institution, according to R9-25-1307(J)(2);
3. Subsection (B)(2), evaluate the restrictions on the provisional license to determine if the trauma service was affected and may send the owner a written notice of the Department's intention to:
   a. Dedesignate the health care institution, according to R9-25-1307(J) through (M);

b. Require a modification of the health care institution's designation within 15 calendar days after the date of the notice, according to R9-25-1305; or

c. Require a corrective action plan to address issues of compliance with the applicable standards specified in R9-25-1308 and Table 13.1, according to R9-25-1306(E);

4. Subsection (B)(3), send the owner written notice that the owner is required, within 15 calendar days after the date of the notice, to submit to the Department:

a. An application for designation at a specific Level of trauma center, according to R9-25-1303, based on meeting the applicable standards specified in R9-25-1308 and Table 13.1; or

b. Written notification of the owner's intention to relinquish designation;

5. Subsection (B)(4), send the owner written notice that the owner is required, within 15 calendar days after the date of the notice, to submit to the Department:

a. An application for modification of the health care institution's designation, according to R9-25-1305;

b. A corrective action plan to address issues of compliance with the applicable standards specified in R9-25-1308 and Table 13.1, according to R9-25-1306(E); or

c. Written notification of the owner's intention to relinquish designation; or

6. Subsection (C), (D)(4)(b), or (D)(5)(c), send the owner written confirmation of the voluntary relinquishment of designation.

E. An owner of a trauma center, who obtains verification for the trauma center during a term of designation that was based on the trauma center meeting the applicable standards specified in R9-25-1308 and Table 13.1, may obtain a new initial designation based on verification, with a designation term based on the dates of the verification, by submitting an application according to R9-25-1303.

~~R9-25-1309.~~R9-25-1305. Modification of Designation (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

~~**A.** An owner of a trauma center who desires to obtain a designation that requires fewer resources and capabilities than the trauma center's current designation shall, at least 30 days before ceasing to provide trauma services consistent with the current designation, send the Department an application for modification of the trauma center's designation, including:~~

~~1. The name, address, and main telephone number of the trauma center for which the owner seeks modification of designation;~~

~~2. The owner's name, address, and telephone number and, if available, fax number and e-mail address;~~

~~3. A list of the applicable ACS or state criteria for the current designation with which the owner no longer intends to comply;~~

~~4. An explanation of the changes being made in the trauma center's resources or operations related to each criterion listed under subsection (A)(3);~~

~~5. The state Level of designation requested;~~

~~6. Attestation that the owner knows the state standards for the Level of designation requested and will ensure that the trauma center meets the state standards if modified designation is issued;~~

~~7. Attestation that the information provided in the application is accurate and complete; and~~

~~8. The dated signature of the owner, as prescribed in R9-25-1304(A)(1)(l).~~

~~**B.** The Department shall process an application as provided in R9-25-1315.~~

~~**C.** The Department shall issue a modified designation if the Department determines that, with the changes being made in the trauma center's resources and operations, the trauma center will meet the state standards for the Level of designation requested.~~

~~**D.** An owner who obtains modified designation shall, during the term of the modified designation, ensure that the owner's trauma center meets the state standards that were the subject of the owner's attestation described in subsection (A)(6).~~

~~**E.** The Department may:~~

~~1. Investigate, as provided under R9-25-1311, a trauma center that is the subject of a modified designation; and~~

~~2. Revoke, as provided under R9-25-1312, a modified designation.~~

~~**F.** An owner who holds modified designation shall, before the expiration date of the modified designation:~~

~~1. If the owner desires to retain designation based on the trauma center's meeting the state standards at the Level of the modified designation, apply for renewal of designation under R9-25-1306; or~~

~~2. If the owner desires to obtain designation based on verification or based on the trauma center's meeting the state standards at a Level other than the Level of the modified designation, apply for initial designation under R9-25-1304.~~

A. Except as provided in R9-25-1304(D)(3)(b) and (5)(a), at least 30 calendar days before ceasing to provide a trauma service consistent with a trauma center's current designation, an owner of a trauma center may request a designation that requires fewer resources and capabilities than the

trauma center's current designation by submitting to the Department an application for modification of the trauma center's designation, in a Department-provided format, that includes:

1. The name and address of the trauma center for which the owner is requesting modification of designation;
2. A list of the criteria for the current designation with which the owner no longer intends to comply;
3. An explanation of the changes being made in the trauma center's resources or operations, related to each criterion specified according to subsection (A)(2), to ensure the health and safety of a patient;
4. The Level of designation being requested;
5. An attestation that:
   a. The owner will be in compliance with all applicable requirements in A.R.S. Title 36, Chapter 21.1 and this Article for the Level of designation requested if modified designation is issued; and
   b. The information provided in the application is accurate and complete; and
6. The dated signature of the applicable individual according to R9-25-102.

B. The Department shall review the application submitted according to R9-25-1307(I) to determine whether, with the changes being made in the trauma center's resources and operations, the trauma center will be in substantial compliance based the applicable standards specified in R9-25-1308 and Table 13.1 for the Level of designation requested.

C. To retain trauma center designation for a health care institution, an owner who holds modified designation shall, before the expiration date of the modified designation:

1. Apply for renewal of designation according to R9-25-1303, based on the health care institution's meeting the applicable standards specified in R9-25-1308 and Table 13.1, for the Level of the modified designation; or
2. Apply for initial designation according to R9-25-1303, based on the health care institution meeting the applicable standards specified in R9-25-1308 and Table 13.1, for a Level other than the Level of the modified designation.

~~**R9-25-1310. On-Site Survey for Designation as a Level IV Trauma Center Based on Meeting the State Standards (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))**~~

~~**A.** Before issuing initial or renewal designation to an owner applying for designation as a Level IV trauma center based on meeting the state standards, the Department shall complete an announced on-site survey of the owner's health care institution that includes:~~

~~1. Reviewing equipment and the physical plant;~~

~~2. Interviewing personnel; and~~

~~3. Reviewing:~~

~~a. Medical records;~~

~~b. Patient discharge summaries;~~

~~c. Patient care logs;~~

~~d. Personnel rosters and schedules;~~

~~e. Performance-improvement-related documents other than peer review documents privileged under A.R.S. §§ 36-445.01 and 36-2403, including reports prepared as required under R9-10-204(B)(2) and the supporting documentation for the reports; and~~

~~f. Other documents relevant to the provision of trauma services as a Level IV trauma center and that are not privileged under federal or state law.~~

~~**B.** A Department surveyor shall make a verbal report of findings to an owner upon completion of an on-site survey.~~

~~**C.** Within 30 days after completing an on-site survey, the Department shall send to an owner a written report of the Department's findings, including a list of any deficiencies identified during the on-site survey and a request for a written corrective action plan.~~

~~**D.** Within 10 days after receiving a request for a written corrective action plan, an owner shall submit to the Department a written corrective action plan that includes for each identified deficiency:~~

~~1. A description of how the deficiency will be corrected, and~~

~~2. A date of correction for the deficiency.~~

~~**E.** The Department shall accept a written corrective action plan if it:~~

~~1. Describes how each identified deficiency will be corrected, and~~

~~2. Includes a date for correcting each deficiency as soon as practicable based upon the actions necessary to correct the deficiency.~~

~~**R9-25-1311. Investigations (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4) and (5))**~~

~~**A.** If the Department determines based upon Trauma Registry data collected by the Department or receives a complaint alleging that a trauma center is not meeting the state standards or, if designation is based on verification, is not meeting the ACS standards, the Department shall conduct an investigation of the trauma center.~~

~~1. The Department may conduct an announced or unannounced onsite survey as part of an investigation.~~

~~2. Within 30 days after completing an investigation, the Department shall send to the owner~~

~~of the trauma center investigated a written report of the Department's findings, including a list of any deficiencies identified during the investigation and a request for a written corrective action plan.~~

~~**B.** Within 10 days after receiving a request for a written corrective action plan, an owner shall submit to the Department a written corrective action plan that includes for each identified deficiency:~~

~~1. A description of how the deficiency will be corrected, and~~

~~2. A date of correction for the deficiency.~~

~~**C.** The Department shall accept a written corrective action plan if it:~~

~~1. Describes how each identified deficiency will be corrected, and~~

~~2. Includes a date for correcting each deficiency as soon as practicable based upon the actions necessary to correct the deficiency.~~

R9-25-1306. Inspections (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

A. When the Department inspects a health care institution applying for a trauma center designation or a health care institution designated as a trauma center to determine compliance with the applicable requirements in this Article, the Department:

1. Shall use criteria for assessing compliance developed using recommendations from the State Trauma Advisory Board, according to A.R.S. § 36-2222(E)(1); and

2. May:

a. Evaluate the health care institution's equipment and physical plant;

b. Interview the health care institution's personnel members, including any individuals providing trauma care; and

c. Review any of the following:

i. Medical records;

ii. Patient discharge summaries;

iii. Patient care logs;

iv. Rosters and schedules of personnel members and individuals who provide trauma care as part of the trauma service;

v. Performance-improvement-related documents, including quality management program documents required in A.A.C. R9-10-204 or R9-10-1004 as applicable; and

vi. Other documents relevant to the provision of trauma care as part of the trauma service.

B. The Department shall determine whether there is a need for an inspection of a health care

institution and which components in subsection (A)(2) to include in an inspection, based on the health care institution's application; previous inspections, if applicable; and the operating history of the health care institution and may conduct an announced inspection of the identified components:

1. Before issuing an initial, renewal, or modified designation to an owner applying for designation of a health care institution as a trauma center;
2. If an owner of a health care institution designated as a trauma center has submitted a corrective action plan under subsection (E); or
3. A health care institution designated as a trauma center is randomly selected to receive an inspection.

C. If the Department has reason to believe that a trauma center is not complying with applicable requirements in A.R.S. Title 36, Chapter 21.1 and this Article, the Department may conduct an announced or unannounced inspection of the trauma center according to subsection (A).

D. Within 30 calendar days after completing an inspection, the Department shall send to an owner a written report of the Department's findings, including, if applicable, a list of any instances of non-compliance identified during the inspection and a request for a written corrective action plan.

E. Within 15 calendar days after receiving a request for a written corrective action plan, an owner shall submit to the Department a written corrective action plan that includes for each identified instance of non-compliance:

1. A description of how the instance of non-compliance will be corrected and reoccurrence prevented, and
2. A date of correction for the instance of non-compliance.

F. The Department shall accept a written corrective action plan if the corrective action plan:

1. Describes how each identified instance of non-compliance will be corrected and reoccurrence prevented, and
2. Includes a date for correcting each instance of non-compliance that is appropriate to the actions necessary to correct the instance of non-compliance.

G. If the Department reviews a health care institution's facility and documentation of capabilities during a national verification organization's assessment according to R9-25-1302(C)(3) and the health care institution is not issued verification from the national verification organization at the Level of designation sought, the Department shall send to an owner of the health care institution, within 30 calendar days after the review, a written report of the Department's findings, including, if applicable, a list of any instances of non-compliance with requirements in R9-25-1308 and Table 13.1 identified during the review.

H. A health care institution receiving a written report in subsection (G) containing a list of instances of non-compliance with requirements in R9-25-1308 and Table 13.1 identified during a review of the health care institution's facility and documentation of capabilities may submit to the Department a written plan to correct instances of non-compliance that includes:

1. A description of how the health care institution will correct each instance of non-compliance and prevent the reoccurrence, and
2. A date by which the health care institution plans to correct each instance of non-compliance.

~~R9-25-1312.~~R9-25-1307. ~~Denial or Revocation of~~ Designation and Dedesignation (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

~~**A.** The Department may deny or revoke designation if an owner:~~

~~1. Has provided false or misleading information to the Department;~~

~~2. Is not eligible for designation under R9-25-1302(A) or (B) or, if applicable, R9-25-1305(B) or (F);~~

~~3. Fails to submit to the Department all of the information requested in a written request for additional information within the time prescribed in R9-25-1315 and Table 1;~~

~~4. Fails to submit a written corrective action plan as requested and required under R9-25-1310 or R9-25-1311;~~

~~5. Fails to comply with a written corrective action plan accepted by the Department under R9-25-1310 or R9-25-1311;~~

~~6. Fails to allow the Department to enter the premises of the owner's health care institution, to interview personnel, or to review documents that are not documents privileged under federal or state law; or~~

~~7. Fails to comply with any applicable provision in A.R.S. Title 36, Chapter 21.1 or this Article.~~

~~**B.** In determining whether to deny or revoke designation, the Department shall consider:~~

~~1. The severity of each violation relative to public health and safety;~~

~~2. The number of violations;~~

~~3. The nature and circumstances of each violation;~~

~~4. Whether each violation was corrected, the manner of correction, and the duration of the violation; and~~

~~5. Whether the violations indicate a lack of commitment to having the trauma center meet the state standards or, if applicable, the ACS standards.~~

~~**C.** If the Department denies or revokes designation, the Department shall send to the owner a written~~

~~notice setting forth the information required under A.R.S. § 41-1092.03.~~

~~1. An owner may file a written notice of appeal with the Department within 30 days after receiving a notice of denial or revocation, as provided in A.R.S. § 41-1092.03.~~

~~2. An appeal shall be conducted according to A.R.S. Title 41, Chapter 6, Article 10.~~

A. For designation of a health care institution based on verification, the Department shall, within 45 calendar days after receiving a complete application from an owner:

1. If the application complies with the applicable requirements in this Article, issue a designation for the health care institution that is valid for the duration of the verification; or
2. If the application does not comply with the applicable requirements in this Article, provide a written notice that complies with A.R.S. Title 41, Chapter 6, Article 10 that the Department intends to decline to issue a designation for the health care institution.

B. Except as provided in subsection (F), for designation of a health care institution based on an assessment by a national verification organization, the Department shall, within 60 calendar days after receiving a complete application from an owner, review the application and, if the Department determines that:

1. The application and the health care institution comply with the applicable requirements in this Article, issue a designation for the health care institution that is valid for three years from the issue date;
2. The application complies with the applicable requirements in this Article, the health care institution is in substantial compliance with the applicable requirements in this Article, and the Department has accepted a written corrective action plan submitted according to R9-25-1306(E), issue a designation for the health care institution that is valid for one year from the issue date; or
3. The application or the health care institution does not comply with the applicable requirements in this Article, provide a written notice that complies with A.R.S. Title 41, Chapter 6, Article 10 that the Department intends to decline to issue a designation for the health care institution.

C. Except as provided in subsection (F) for renewal of a one-year designation, for designation of a health care institution as a Level III trauma center or a Level IV trauma center based on an assessment by the Department, an owner shall include as part of the application required in R9-25-1303(A):

1. The following information in a Department-provided format:
    a. The name of the health care institution for which the owner is requesting

designation;

b. The services the health care institution is providing or plans to provide as part of the trauma service;

c. The name and title of the liaison to the trauma service from each of the services listed according to subsection (C)(1)(b);

d. If applicable, the name, e-mail address, telephone number, and, if available, fax number of the health care institution's emergency department physician director;

e. If applicable, the name, e-mail address, telephone number, and, if available, fax number of the health care institution's surgical director or co-director;

f. If a multidisciplinary peer review committee is required according to Table 13.1 for the Level of the trauma center, the name and title of each member of the multidisciplinary peer review committee;

g. If the health care institution's trauma registry will be part of a centralized trauma registry, a description of the training provided to the trauma program manager to enable the trauma program manager to comply with R9-25-1308(D)(2);

h. If applicable, for an application for initial designation, a description of the health care institution's plans for the continuing education activities related to trauma care, required in R9-25-1308(G)(4);

i. For renewal of designation, a description of the continuing education activities conducted during the term of the designation;

j. If applicable, the name, e-mail address, telephone number, and, if available, fax number of the health care institution's injury prevention coordinator;

k. A description of the methods by which trauma team personnel members communicate with EMS personnel;

l. A description of the trauma-related training received by registered nurses in the intensive care unit;

m. An attestation that the owner of the health care institution will prohibit:

i. The trauma medical director from serving as trauma medical director for another health care institution; and

ii. A physician on-call for general surgery, neurosurgery, or orthopedic surgery to be on-call or on a back-up call list at another health care institution; and

n. The dated signature of the applicable individual according to R9-25-102;

2. A copy of the policies and procedures required in R9-25-1308(B)(6) for the health care

institution's trauma registry;

3. A copy of the policies and procedures required in R9-25-1308(B)(7) for the health care institution's performance improvement program;

4. A copy of the policies and procedures required in R9-25-1308(F)(2) for the health care institution's trauma service;

5. If applicable, a copy of the policies and procedures required in R9-25-1308(F)(9) for operating rooms;

6. A copy of the applicable policies and procedures required in R9-25-1308(H)(4);

7. A copy of the health care institution's clinical practice guidelines, describing the health care institution's capability to resuscitate, stabilize, and transfer pediatric patients;

8. If applicable, a copy of the bylaws of the health care institution's multidisciplinary peer review committee;

9. Copies of the job descriptions for the health care institution's:

   a. Trauma program manager;

   b. Trauma registrar; and

   c. If applicable, injury prevention coordinator;

10. A list of the trauma care parameters the health care institution is or will be monitoring as part of the performance improvement program;

11. A list of trauma team members, including:

   a. Name,

   b. Title, and

   c. Role on the trauma team;

12. If required for an individual listed according to subsection (C)(11), a copy of documentation of the individual's:

   a. Board certification or board eligibility,

   b. Most recent certification in a trauma critical care course,

   c. Pediatric-specific credentials, and

   d. Other trauma-related training; and

13. If the trauma medical director is not a member of the trauma team, the applicable documentation required in subsection (C)(12) for the trauma medical director.

D. Except as provided in subsection (F) for renewal of a one-year designation, for designation of a health care institution as a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, or Level II Pediatric trauma center based on an assessment by the Department under R9-25-1302(C), an owner shall include as part of the application required in R9-25-1303(A):

1. A copy of the documentation submitted to the national verification organization as part of an application for verification;

2. If not included in the documentation in subsection (D)(1):

   a. Any information or documents required in subsection (C);

   b. For an application for initial designation, a description of the health care institution's plans for:

      i. Injury prevention activities, required in R9-25-1308(G)(5)(a); and

      ii. Educational outreach activities, required in R9-25-1308(G)(5)(b); and

   c. For an application for renewal of designation, a description of the injury prevention activities and educational outreach activities conducted during the term of the designation;

3. A copy of the national verification's organization's written report to the health care institution describing the results of the national verification organization's assessment of the health care organization;

4. A copy of the written report in R9-25-1306(G); and

5. If applicable, the written plan to correct instances of non-compliance in R9-25-1306(H).

E. Except as provided in subsection (G) for renewal of a one-year designation, for designation of a health care institution based on an assessment by the Department, the Department shall, within 90 calendar days after receiving a complete application from an owner, review the application, inspect the health care institution, if applicable, and, if the Department determines that:

1. The application and the health care institution comply with the applicable requirements in this Article, issue a designation for the health care institution that is valid for three years from the issue date;

2. The application complies with the applicable requirements in this Article, the health care institution is in substantial compliance with the applicable requirements in this Article, and the Department has accepted the document submitted according to R9-25-1306(E) or subsection (D)(5), issue a designation for the health care institution that is valid for one year from the issue date; or

3. The application or the health care institution does not comply with the applicable requirements in this Article, provide a written notice that complies with A.R.S. Title 41, Chapter 6, Article 10 that the Department intends to decline to issue a designation for the health care institution.

F. For renewal, at the same Level of trauma center, of a one-year designation issued according to subsection (B)(2) or (E)(2), an owner shall include, as part of the application required in R9-25-

1303(A), documentation related to the completion of the plan specified in the document accepted by the Department in subsection (B)(2) or (E)(2).

G. Except as specified in subsection (H), the Department shall, within 60 calendar days after receiving from an owner an application submitted according to subsection (F), review the information and documentation, inspect the health care institution if applicable, and:

1. Issue a designation for the health care institution that is valid for two years from the issue date if the Department determines that:
   a. The application and the health care institution comply with the applicable requirements in this Article; and
   b. The owner has completed the plan specified in the document accepted by the Department in subsection (B)(2) or (E)(2), as applicable; or
2. Provide a written notice that complies with A.R.S. Title 41, Chapter 6, Article 10 that the Department intends to decline to issue a designation for the health care institution if the Department determines that:
   a. The application or the health care institution do not comply with the applicable requirements in this Article; or
   b. The owner has not completed all of the components of the plan specified in the document accepted by the Department in subsection (B)(2) or (E)(2), as applicable.

H. The Department shall review according to R9-25-1303(C) and subsection (A), (B), or (E), as applicable, an application for renewal of designation submitted by the owner of a trauma center that:

1. Had been issued a one-year designation according to subsection (B)(2) or (E)(2); and
2. Has not completed all of the components of the plan specified in the document accepted by the Department in subsection (B)(2) or (E)(2), as applicable.

I. For modification of a designation according to R9-25-1305, the Department shall, within 30 calendar days after receiving a complete application for modification in R9-25-1305(A) from an owner, review the application, inspect the health care institution, if applicable, and:

1. Issue a modified designation for the Level of designation requested for the health care institution that is valid for the duration of the original designation or one year from the issue date, whichever is longer, if the Department determines that:
   a. The application and the health care institution comply with the applicable requirements in this Article for the Level of designation requested; or
   b. The application complies with the applicable requirements in this Article, the

health care institution is in substantial compliance with the applicable requirements in this Article for the Level of designation requested, and the Department has accepted a written corrective action plan submitted according to R9-25-1306(E);

2. Issue a modified designation for a lower Level of designation than the Level of designation requested for the health care institution that is valid for the duration of the original designation or one year from the issue date, whichever is longer, if the Department determines that:

a. The application and the health care institution comply with the applicable requirements in this Article for the lower Level of designation and the health care institution:

i. Does not comply with the applicable requirements in this Article for the Level of designation requested; or

ii. Is in substantial compliance with the applicable requirements in this Article for the Level of designation requested, and the Department has not accepted a written corrective action plan submitted according to R9-25-1306(E); or

b. The application complies with the applicable requirements in this Article, the health care institution is in substantial compliance with the applicable requirements in this Article for the lower Level of designation, and the Department has accepted a written corrective action plan according to R9-25-1306(E); or

3. Provide a written notice that complies with A.R.S. Title 41, Chapter 6, Article 10 that the Department intends to decline to issue a modified designation for the health care institution if the Department determines that the application or the health care institution does not comply with the applicable requirements in this Article.

J. The Department may dedesignate a health care institution as a trauma center if an owner:

1. Has provided false or misleading information to the Department;

2. Is not eligible for designation under R9-25-1302(A) or (B); or

3. Fails to comply with an applicable requirement in A.R.S. Title 36, Chapter 21.1 or this Article.

K. In determining whether to dedesignate a health care institution as a trauma center, the Department shall consider:

1. The severity of each instance relative to public health and safety;

2. The number of instances;

3. The nature and circumstances of each instance;

4. Whether each instance was corrected, the manner of correction, and the duration of the instance; and

5. Whether the instances indicate a lack of commitment to having the trauma center meet the verification standards of a national verification organization or, if applicable, the standards specified in R9-25-1308 and Table 13.1.

L. If the Department intends to dedesignate a health care institution, the Department shall send to the owner a written notice that complies with A.R.S. Title 41, Chapter 6, Article 10.

M. An owner who receives a written notice in subsection (A)(2), (B)(3), (E)(3), (G)(2), (I)(3), or (J) may file a written notice of appeal with the Department that complies with A.R.S. Title 41, Chapter 6, Article 10.

~~R9-25-1313.~~R9-25-1308. Trauma Center Responsibilities (A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2221, and 36-2225(A)(4), (5), and (6))

~~The owner of a trauma center shall ensure that:~~

~~1. The trauma center meets the state standards or, if designation is based on verification, meets the ACS standards;~~

~~2. Data related to the trauma services provided at the trauma center are submitted to the Department's Trauma Registry as required by the Department;~~

~~3. The owner and the trauma center staff comply with the applicable provisions of A.R.S. Title 36, Chapter 21.1 and this Article; and~~

~~4. The owner and the trauma center staff comply with all applicable federal and state laws relating to confidentiality of information.~~

A. The owner of a trauma center shall ensure that:

1. If designation is based on:

   a. Verification, the trauma center meets the applicable standards of the verifying national verification organization; or

   b. Meeting the applicable standards specified in this Section and Table 13.1, the trauma center meets the applicable standards for the Level of trauma center for which designation has been issued;

2. The trauma center complies with a written corrective action plan accepted by the Department according to R9-25-1306(F); and

3. The Department has access to:

   a. The trauma center and to personnel members present in the trauma center; and

b. Documents that are requested by the Department and not confidential under A.R.S. Title 36, Chapter 4, Article 4 or 5, within two hours after the Department's request.

B. The owner of a trauma center shall ensure that the trauma center:

1. Except as provided in subsection (D), establishes a trauma registry of patients receiving trauma care who meet the criteria specified in subsection (C)(1) that contains the information required in R9-25-1309, as applicable for the specific Level of the trauma center;
2. Appoint an individual to act as trauma registrar to coordinate trauma registry activities;
3. If necessary to comply with subsections (C)(2) and (3), provides sufficient additional individuals to assist with trauma registry activities;
4. Establishes a performance improvement program for the trauma service to develop and implement processes to improve trauma care parameters;
5. If required according to Table 13.1 for the Level of the trauma center, establishes as part of the performance improvement program, established according to subsection (B)(4), a multidisciplinary peer review committee to review the quality of trauma care provided by the trauma center, including information from the trauma registry, and suggest methods to improve the quality of trauma care;
6. Establishes, documents, and implements policies and procedures for the trauma registry established according to subsection (B)(1) that include:
   a. Ensuring that individuals responsible for collecting, entering, or reviewing information in the trauma registry have received training in gaining access to, and retrieving information from, the trauma registry;
   b. Collection of the information required in R9-25-1309 about the patients specified in subsection (C)(1) receiving trauma care;
   c. Submission to the Department of the information required in subsection (C)(2);
   d. Review of information in the trauma center's trauma registry; and
   e. Performance improvement activities required in R9-25-1310; and
7. Establishes, documents, and implements policies and procedures for the performance improvement program established according to subsection (B)(4), including:
   a. A list of the positions of personnel members who have defined roles in the performance improvement program and, if applicable, a list of positions that are dedicated to performance improvement activities for patients receiving trauma care from the trauma center;

b. The qualifications, skills, and knowledge required of the personnel members in the positions specified according to subsection (B)(6)(a);

c. The role each personnel member specified according to subsection (B)(6)(a) plays in the performance improvement program;

d. The trauma care parameters to be reviewed as part of the performance improvement program;

e. The frequency of review of trauma care parameters;

f. If an issue related to trauma care or to trauma care parameters is identified:

i. How a plan to address the issue is developed to reduce the chance of the issue recurring in the future;

ii. How the plan is documented;

iii. The mechanism and criteria by which the plan is reviewed and approved;

iv. How the plan is implemented; and

v. How implementation of the plan and future recurrences are monitored;

g. If applicable, the composition, duties, responsibilities, and frequency of meetings of the multidisciplinary peer review committee established according to subsection (B)(5);

h. If applicable, how the multidisciplinary peer review committee collaborates with the trauma center's quality management program; and

i. How changes proposed by the performance improvement program are reviewed by the trauma center's quality management program.

C. The owner of a trauma center shall ensure that:

1. The trauma registry, established according to subsection (B)(1), includes the information required in R9-25-1309 for each patient with whom the trauma center had contact who meets one or more of the following criteria:

a. A patient with injury or suspected injury who is:

i. Transported from a scene to a trauma center or an emergency department based on the responding emergency medical services provider's or ambulance service's triage protocol required in R9-25-201(E)(2)(b), or

ii. Transferred from one health care institution to another health care institution by an emergency medical services provider or ambulance service;

b. A patient with injury or suspected injury for whom a trauma team activation occurs; or

c. A patient with injury, who is admitted as a result of the injury or who dies as a result of the injury, and whose medical record includes one or more of specific ICD-codes indicating that:

i. At the initial encounter with the patient, the patient had:

(1) An injury or injuries to specific body parts,

(2) Unspecified multiple injuries,

(3) Injury of an unspecified body region,

(4) A burn or burns to specific body parts,

(5) Burns assessed through Total Body Surface Area percentages, or

(6) Traumatic Compartment Syndrome; and

ii. The patient's injuries or burns were not only:

(1) An isolated distal extremity fracture from a same-level fall,

(2) An isolated femoral neck fracture from a same-level fall,

(3) Effects resulting from an injury or burn that developed after the initial encounter,

(4) A superficial injury or contusion, or

(5) A foreign body entering through an orifice;

2. The following information is submitted to the Department, in a Department-provided format, according to subsection (C)(3):

a. The name and physical address of the trauma center;

b. The date the trauma registry information is being submitted to the Department;

c. The total number of patients whose trauma registry information is being submitted;

d. The quarter and year for which the trauma registry information is being submitted;

e. The range of emergency department or hospital arrival dates for the patients for whom trauma registry information is being submitted;

f. The name, title, e-mail address, telephone number, and, if available, fax number of the trauma center's point of contact for the trauma registry information;

g. Any special instructions or comments to the Department from the trauma center's point of contact;

h. The information from the trauma registry for patients identified during the quarter specified according to subsection (C)(2)(d); and

i. Updated information for any patients identified during the previous quarter,

including the patient's name, medical record number, and admission date; and

3. The information required in subsection (C)(2) is submitted:

a. For patients identified between January 1 and March 31, so that the information in subsections (C)(2)(a) through (h) is received by the Department by July 1 of the same calendar year;

b. For patients identified between April 1 and June 30, so that the information in subsections (C)(2)(a) through (h) is received by the Department by October 1 of the same calendar year;

c. For patients identified between July 1 and September 30, so that the information in subsections (C)(2)(a) through (h) is received by the Department by January 2 of the following calendar year; and

d. For patients identified between October 1 and December 31, so that the information in subsections (C)(2)(a) through (h) is received by the Department by April 1 of the following calendar year.

D. Trauma centers under the same governing authority, as defined in A.R.S. § 36-401, may establish a single, centralized trauma registry and submit to the Department consolidated information from the trauma registry, according to subsections (C)(2) and (3), if:

1. The information submitted to the Department specifies for each patient in the trauma registry the trauma center that had contact with the patient, and

2. Each trauma center contributing information to the centralized trauma registry is able to:

a. Access, edit, and update the information contributed by the trauma center to the centralized trauma registry; and

b. Use the information contributed by the trauma center to the centralized trauma registry when complying with performance improvement program requirements in this Section.

E. As part of the performance improvement program, the owner of a trauma center shall ensure that the trauma program manager and, if applicable, trauma medical director periodically, according to policies and procedures:

1. Review the information in the trauma center's trauma registry; and

2. Monitor at least the following trauma care parameters, as applicable, for patients in the trauma registry:

a. EMS received by a patient;

b. Length of stay longer than two hours in the emergency department before transfer;

c. Instances of trauma team activation to determine if trauma team activation was timely and appropriate;

d. Instances where trauma care was provided to a patient but trauma team activation did not occur;

e. Time from notification of a surgeon on the trauma team that a patient described in subsection (H)(6)(b)(i) is in the emergency department to when the surgeon arrives in the emergency department;

f. Documentation of the nursing services provided to a patient;

g. Instances and reasons for transfer of a patient;

h. Instances and reasons for transfer to a hospital not designated as a trauma center;

i. For a hospital designated as a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, or Level II Pediatric trauma center, instances and reasons for diversion, as defined in A.A.C. R9-10-201, of a patient requiring trauma care;

j. Instances of and circumstances related to the death of a patient;

k. Other patient outcomes;

l. Trauma care parameters for pediatric patients, including pediatric-specific measures; and

m. The completeness and timeliness of trauma data submission.

F. In addition to the requirements in subsections (A) through (E), the owner of a trauma center designated based on meeting the applicable standards specified in this Section and Table 13.1 shall:

1. Ensure that a trauma service is established if required by Table 13.1;

2. Ensure that policies and procedures for the trauma service are established, documented, and implemented that include:

a. The composition of the trauma team;

b. The qualifications, skills, and knowledge required of each personnel member of the trauma team;

c. Continuing education or continuing medical education requirements for each personnel member of the trauma team;

d. The roles and responsibilities of each personnel member of the trauma team;

e. Under what circumstances the trauma team is activated; and

f. How the trauma team is activated;

3. Ensure that the personnel members on the trauma team have the qualifications, skills, and

knowledge required in the policies and procedures;

4. If the trauma center is required according to Table 13.1 to have a trauma medical director, appoint a board-certified or board-eligible surgeon as trauma medical director;

5. Prohibit a physician from serving as trauma medical director for the trauma center if the physician is serving as trauma medical director for another health care institution;

6. Ensure that the trauma medical director completes:

   a. If the trauma center's designation is for a three-year period, at least 48 hours of external trauma-related continuing medical education during the term of the designation;

   b. If the trauma center's designation is for a one-year period, at least 16 hours of external trauma-related continuing medical education during the term of the designation; and

   c. If the trauma center is designated as a Level I Pediatric trauma center or Level II Pediatric trauma center, at least 12 of the 48 hours required in subsection (F)(6)(a) or four of the 16 hours required in subsection (F)(6)(b) in pediatric trauma-related continuing medical education;

7. Appoint an individual to act as trauma program manager to coordinate trauma service activities;

8. If the trauma center is required by Table 13.1 to have a multidisciplinary peer review committee, ensure that each surgeon on the trauma team designated according to subsection (F)(3) attends at least 50% of the meetings of the multidisciplinary peer review committee;

9. If the trauma center provides surgical services, ensure that policies and procedures for operating rooms and an operating room team are established, documented, and implemented that include:

   a. The availability of an operating room for trauma care;

   b. The composition of an operating room team;

   c. The qualifications, skills, and knowledge required of each personnel member of an operating room team;

   d. The roles and responsibilities of each personnel member of an operating room team;

   e. If an operating room team is not on the premises of the health care institution 24 hours a day, under what circumstances the operating room team is notified to come to the trauma center; and

f. How the operating room team is notified;

10. Ensure that the following personnel members on the trauma team:

a. Hold current certification in a trauma critical care course:

i. Trauma medical director, if applicable;

ii. Each emergency medicine physician who is not board-certified or board-eligible; and

iii. Each physician assistant or registered nurse practitioner who is responsible for patients in an emergency department in the absence of an emergency physician; or

b. Have held certification in a trauma critical care course:

i. Each general surgeon other than the trauma medical director, and

ii. Each emergency medicine physician who is board-certified or board-eligible;

11. If the trauma center is designated as a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, or Level II Pediatric trauma center, ensure that each of the trauma team personnel members required in Table 13.1(C)(2) and (C)(3)(a) through (f) are board-certified or board-eligible;

12. If the trauma center is designated as a Level I Pediatric trauma center, ensure that the following trauma team members are fellowship-trained:

a. The surgeon credentialed for pediatric trauma care required in Table 13.1(C)(2)(a)(iii),

b. The pediatric emergency medicine physician required in Table 13.1(C)(2)(c),

c. The pediatric-credentialed orthopedic surgeon required in Table 13.1(C)(3)(b),

d. The pediatric-credentialed neurosurgeon required in Table 13.1(C)(3)(d), and

e. The pediatric-credentialed critical care medicine physician required in (C)(3)(f);

13. If the trauma center is designated as a Level II Pediatric trauma center, ensure that:

a. The pediatric-credentialed critical care medicine physician required in (C)(3)(f) is fellowship-trained, and

b. A fellowship-trained pediatric emergency medicine physician provides supervision for pediatric emergency trauma care and is appointed as a liaison to the multidisciplinary peer review committee established according to subsection (B)(5); and

14. If the trauma center is not designated as a Level I Pediatric trauma center or Level II Pediatric trauma center and annually provides trauma care to 100 or more injured

children younger than 15 years of age, ensure that the trauma center:

a. Complies with subsection (F)(13) and Table 13.1(C)(2)(a)(iii), (3)(b), (3)(d), and (3)(f) and (F)(2); and

b. Has a:

i. Pediatric emergency department area,

ii. Pediatric intensive care area, and

iii. Pediatric-specific trauma performance improvement program.

G. In addition to the requirements in subsections (A) through (E), the owner of a trauma center designated based on meeting the applicable standards specified in this Section and Table 13.1 shall ensure that the trauma center:

1. Establishes, documents, and implements a patient transfer plan, consistent with A.A.C. R9-10-211, that include:

a. The criteria for transferring a patient,

b. The health care institution to which a patient meeting specific criteria will be transferred,

c. The personnel members who are responsible for coordinating the transfer of a patient, and

d. The process for transferring a patient;

2. Participates in state, local, or regional trauma-related activities such as:

a. The State Trauma Advisory Board, established by A.R.S. § 36-2222;

b. A regional emergency medical services coordinating council described in A.R.S. § 36-2222(A)(3);

c. Trauma Registry Users Group, established by the Department;

d. Trauma Managers Workgroup, established by the Department; or

e. Injury Prevention Council;

3. Participates in injury prevention programs specific to the trauma center's patient population at the national, regional, state, or local levels;

4. Except for a Level IV trauma center, conducts trauma care continuing education activities for physicians, trauma center personnel members, and EMCTs;

5. If the trauma center holds a designation as a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, or Level II Pediatric trauma center, establishes and maintains:

a. An injury prevention program:

i. Independently or in collaboration with other health care institutions,

health advocacy groups, or the Department; and

ii. That includes:

(1) Designating a prevention coordinator who serves as the trauma center's representative for injury prevention and injury control activities;

(2) Carrying out injury prevention and injury control activities, including activities specific to the patient population;

(3) Conducting injury control studies;

(4) Monitoring the progress and effect of the injury prevention program; and

(5) Providing injury prevention and injury control information resources for the public; and

b. An educational outreach program:

i. Independently or in collaboration with other health care institutions, health advocacy groups, or the Department;

ii. That includes providing education to physicians, trauma center personnel members, EMCTs, and the general public; and

iii. That may include education about:

(1) Injury prevention,

(2) Trauma care,

(3) Other topics specific to the patient population,

(4) Criteria for assessing a patient who may require trauma care,

(5) Criteria for the transfer of a patient requiring trauma care; and

6. If the trauma center holds a designation as a Level I trauma center or Level I Pediatric trauma center:

a. Establishes and maintains, either independently or in collaboration with other hospitals, a residency program or fellowship program that provides advanced medical training in emergency medicine, general surgery, orthopedic surgery, or neurosurgery;

b. Participates in the provision of a trauma critical care course;

c. Conducts or participates in research related to trauma and trauma care; and

d. Maintains an Institutional Review Board, established consistent with 45 CFR Part 46, to review biomedical and behavioral research related to trauma and trauma care involving human subjects, conducted, funded, or sponsored by the

trauma center, in order to protect the rights of the human subjects of such research.

H. In addition to the requirements in subsections (A) through (E), the owner of a trauma center designated based on meeting the applicable standards specified in this Section and Table 13.1 shall:

1. Ensure the presence of a surgeon at all operative procedures;
2. If the trauma center provides emergency medicine, neurosurgery, orthopedic surgery, anesthesiology, critical care, or radiology as an organized service, ensure that:
    a. A physician from the organized service is appointed to act as a liaison between the organized service and the trauma center's trauma service;
    b. The physician in subsection (H)(2)(a) completes:
        i. If the trauma center's designation is for a three-year period, at least 48 hours of trauma-related continuing medical education during the term of the designation;
        ii. If the trauma center's designation is for a one-year period, at least 16 hours of trauma-related continuing medical education during the term of the designation; and
        iii. If the trauma center is designated as a Level I Pediatric trauma center or Level II Pediatric trauma center, at least 12 of the 48 hours required in subsection (H)(2)(b)(i) or four of the 16 hours required in subsection (H)(2)(b)(ii) in pediatric trauma-related continuing medical education; and
    c. If the trauma center is required by Table 13.1 to have a multidisciplinary peer review committee, ensure the physician in subsection (H)(2)(a) attends at least 50% of the meetings of the multidisciplinary peer review committee;
3. Ensure that, when a physician is on-call for general surgery, neurosurgery, or orthopedic surgery, the physician is not on-call or on a back-up call list at another health care institution;
4. Ensure that policies and procedures are established, documented, and implemented for:
    a. Except for a Level IV trauma center, the formulation of blood products to be available during an event requiring multiple blood transfusions for a patient or patients; and
    b. For a Level IV trauma center, the expedited release of blood products during an event requiring multiple blood transfusions for a patient or patients;

5. Ensure that the patient transfer plan required in subsection (G)(1) includes processes for transferring a patient needing:

a. Acute hemodialysis or pediatric trauma care to a hospital providing the required service if the trauma center is designated as a:

i. Level III or Level IV trauma center; or

ii. Level II trauma center and does not provide, as applicable, acute hemodialysis or pediatric trauma care;

b. Burn care as an organized service, acute spinal cord management, microvascular surgery, or replant surgery to a hospital providing the required service if the trauma center is designated as a:

i. Level III or Level IV trauma center; or

ii. Level I or Level II trauma center and does not provide, as applicable, burn care as an organized service, acute spinal cord management, microvascular surgery, or replant surgery; or

c. Another service that the trauma center is not authorized or not able to provide to a hospital providing the required service;

6. Except for a Level IV trauma center or as provided in subsection (I), require that:

a. An emergency medicine physician is present in the emergency department at all times;

b. A surgeon on the trauma team is present in the emergency department:

i. For a patient:

(1) If an adult, with a systolic blood pressure less than 90 mm Hg or, if a child, with confirmed age-specific hypotension;

(2) With respiratory compromise, respiratory obstruction, or intubation;

(3) Who is transferred from another hospital and is receiving blood to maintain vital signs;

(4) Who has a gunshot wound to the abdomen, neck, or chest;

(5) Who has a Glasgow Coma Scale score less than 8 associated with an injury attributed to trauma; or

(6) Who is determined by an emergency department physician to have an injury that has the potential to cause prolonged disability or death; and

ii. No later than the following times:

(1) For a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, or Level II Pediatric trauma center, within 15 minutes after notification or at the time the patient arrives in the emergency department, whichever is later; or

(2) For a Level III trauma center, within 30 minutes after notification or at the time the patient arrives in the emergency department, whichever is later; and

c. One of the following anesthesia personnel members is available for an operative procedure on a patient at the indicated time point:

i. For a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, or Level II Pediatric trauma center, an anesthesiologist, anesthesiology chief resident, or certified registered nurse anesthetist is present in the emergency department or in an operating room area awaiting the patient no later than 15 minutes after patient arrival in the emergency department; and

ii. For a Level III trauma center, an anesthesiologist, anesthesiology chief resident, or certified registered nurse anesthetist is present in the emergency department or in an operating room area awaiting the patient no later than 30 minutes after patient arrival in the emergency department;

7. For a clinical capability required for the trauma center according to Table 13.1(C)(3), require that the on-call radiologist, critical care medicine physician, or surgical specialist is available to provide medical services, as applicable to the specialist, for a patient requiring trauma care within 45 minutes after notification; and

8. For personnel members assigned to an operating room team according to subsection (F)(9), require that the personnel members on the operating room team are on the premises of the trauma center while on duty or:

a. For a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, Level II Pediatric trauma center:

i. Are available to provide operative services for a patient requiring trauma care within 15 minutes after notification or patient arrival at the trauma center, whichever is later; and

ii. Have response times and patient outcomes monitored through the performance improvement program; and

b. For a Level III trauma center or Level IV trauma center, if the Level IV trauma center provides surgical services:

i. Are available to provide operative services for a patient requiring trauma care within 30 minutes after notification or patient arrival at the trauma center, whichever is later; and

ii. Have response times and patient outcomes monitored through the performance improvement program.

I. The Department shall consider a trauma center designated based on meeting the applicable standards specified in this Section and Table 13.1 to be in compliance with subsection (H)(6)(a), (b),or (c), as applicable, if the trauma center has documentation showing that:

1. The individual required to be present at the indicated location and within the indicated time period was present 80% or more of the time, and

2. The trauma center monitors the rate of compliance with subsection (H)(6) and patient outcomes through the performance improvement program.

J. The requirement in subsection (H)(6)(b) applies whether or not the owner of a trauma center allows a surgery resident in the fourth or fifth year of residency training to begin treating a patient described in subsection (H)(6)(b)(i) while awaiting the arrival of the surgeon on the trauma team, as required in subsection (H)(6)(b)(ii)(1) or (2).

K. An ALS base hospital certificate holder that chooses to submit trauma registry information to the Department, as allowed by A.R.S. § 36-2221(A), shall:

1. Include in the ALS base hospital's trauma registry at least the information required in R9-25-1309(A) for each patient who meets one or more of the criteria in subsections (C)(1)(a) through (c), and

2. Comply with the submission requirements in subsections (C)(2) and (3).

R9-25-1315. ~~Application Processing Time Periods (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))~~ Repealed

~~**A.** The application processing time periods for each type of approval granted by the Department under this Article are listed in Table 1 and may be extended through a written agreement between an owner and the Department.~~

~~**B.** The Department shall, within the administrative completeness time period specified in Table 1, review each application submitted for administrative completeness.~~

~~1. If an application is incomplete, the Department shall send to the owner a written notice listing each deficiency and the information or items needed to complete the application.~~

~~2. If an owner fails to submit to the Department all of the information or items listed in a~~

~~notice of deficiencies within the time period specified in Table 1, the Department shall consider the application withdrawn.~~

~~C.~~ ~~After determining that an application is administratively complete, the Department shall review the application for substantive compliance with the requirements for approval.~~

~~1.~~ ~~The Department shall complete its substantive review of each application, and send an owner written notice of approval or denial, within the substantive review time period specified in Table 1.~~

~~2.~~ ~~As part of the substantive review for an application for initial designation or renewal of designation as a Level IV trauma center based on meeting the state standards, the Department shall conduct an announced onsite survey of the health care institution or trauma center as described in R9-25-1310.~~

~~3.~~ ~~An owner applying for renewal of designation who submits documentation of the owner's having applied for verification as permitted under R9-25-1306(A)(2)(b) or (A)(3)(b) shall submit to the Department during the substantive review time period documentation that complies with R9-25-1306(A)(2)(a) or (A)(3)(a).~~

~~4.~~ ~~During the substantive review time period, the Department may make one written request for additional information, listing the information or items needed to determine whether to approve the application, including, for an owner applying for renewal described in subsection (C)(3), a request for documentation that complies with R9-25-1306(A)(2)(a) or (A)(3)(a).~~

~~5.~~ ~~For an application for initial designation or renewal of designation as a Level IV trauma center based on meeting the state standards, a written request for additional information may include a request for a corrective action plan to correct any deficiencies identified during an onsite survey of the health care institution or trauma center.~~

~~6.~~ ~~If an owner fails to submit to the Department all of the information or items listed in a written request for additional information, including, if applicable, a corrective action plan, within the time period specified in Table 1, the Department shall deny the application.~~

~~D.~~ ~~In applying this Section, the Department shall:~~

~~1.~~ ~~In calculating an owner's time to respond, begin on the postmark date of a notice of deficiencies or written request for additional information and end on the date that the Department receives all of the information or documents requested in the notice of deficiencies or written request for additional information; and~~

~~2.~~ ~~In calculating the Department's time periods, not include any time during which the~~

~~Department is waiting for an owner to submit information or documents to the Department as requested by the Department in a notice of deficiencies or written request for additional information.~~

~~**E.** If the Department denies an application, the Department shall send to the owner a written notice of denial setting forth the information required under A.R.S. § 41-1092.03.~~

~~1. An owner may file a written notice of appeal with the Department within 30 days after receiving the notice of denial, as provided in A.R.S. § 41-1092.03.~~

~~2. An appeal shall be conducted according to A.R.S. Title 41, Chapter 6, Article 10.~~

Table 1. ~~**Application Processing Time Periods (in days) (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))**~~ **Repealed**

~~**Type of Approval**~~	~~Department's Administrative Completeness Time Period~~	~~Owner's Time to Respond to Notice of Deficiencies~~	~~Department's Substantive Review Time Period~~	~~Owner's Time to Respond to Written Request for Additional Information~~
~~Initial Designation (R9-25-1304)~~	~~30~~	~~30~~	~~90~~	~~60~~
~~Provisional Designation (R9-25-1305)~~	~~30~~	~~30~~	~~90~~	~~60~~
~~Extension of Provisional Designation (R9-25-1305)~~	~~15~~	~~30~~	~~15~~	~~30~~
~~Renewal of Designation (R9-25-1306)~~	~~30~~	~~30~~	~~90~~	~~120~~
~~Modification of Designation (R9-25-1309)~~	~~30~~	~~30~~	~~90~~	~~60~~

Exhibit I. ~~**Arizona Trauma Center Standards (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))**~~ **Repealed**

~~E =~~ ~~Essential and required~~

~~**Trauma Facilities Criteria**~~	~~Levels~~			
	~~**I**~~	~~**II**~~	~~**III**~~	~~**IV**~~

~~**A. Institutional Organization**~~				
~~1. Trauma program~~	~~E~~	~~E~~	~~E~~	~~-~~
~~2. Trauma service~~	~~E~~	~~E~~	~~E~~	~~-~~
~~3. Trauma team~~	~~E~~	~~E~~	~~E~~	~~E~~
~~4. Trauma program medical director[1]~~	~~E~~	~~E~~	~~E~~	~~-~~
~~5. Trauma multidisciplinary committee~~	~~E~~	~~E~~	~~E~~	~~-~~
~~6. Trauma coordinator/trauma program manager[2]~~	~~E~~	~~E~~	~~E~~	~~E~~
~~**B. Hospital Departments/Divisions/Sections**~~				
~~1. Surgery~~	~~E~~	~~E~~	~~E~~	~~-~~
~~2. Neurological surgery~~	~~E~~	~~E~~	~~-~~	~~-~~
~~a. Neurosurgical trauma liaison~~	~~E~~	~~E~~	~~-~~	~~-~~
~~3. Orthopaedic surgery~~	~~E~~	~~E~~	~~E~~	~~-~~
~~a. Orthopaedic trauma liaison~~	~~E~~	~~E~~	~~E~~	~~-~~
~~4. Emergency medicine~~	~~E~~	~~E~~	~~E~~	~~-~~
~~a. Emergency medicine liaison[3]~~	~~E~~	~~E~~	~~E~~	~~-~~
~~5. Anesthesia~~	~~E~~	~~E~~	~~E~~	~~-~~
~~**C. Clinical Capabilities**~~				
~~1. Published on-call schedule for each listed specialty required in (C)(2) and (3)~~	~~E~~	~~E~~	~~E~~	~~-~~
~~2. Specialty immediately available 24 hours/day~~				
~~a. General surgery[4]~~	~~E~~	~~E~~	~~E~~	~~-~~
~~i. Published back-up schedule~~	~~E~~	~~E~~	~~-~~	~~-~~
~~ii. Dedicated to single hospital when on-call~~	~~E~~	~~E~~	~~-~~	~~-~~
~~b. Anesthesia[5]~~	~~E~~	~~E~~	~~E~~	~~-~~
~~c. Emergency medicine[6]~~	~~E~~	~~E~~	~~E~~	~~-~~
~~3. On-call and promptly available 24 hours/day[7]~~				
~~a. Cardiac surgery[8]~~	~~E~~	~~-~~	~~-~~	~~-~~
~~b. Hand surgery~~	~~E~~	~~E~~	~~-~~	~~-~~
~~c. Microvascular/replant surgery~~	~~E~~	~~-~~	~~-~~	~~-~~
~~d. Neurologic surgery~~	~~E~~	~~E~~	~~-~~	~~-~~
~~i. Dedicated to one hospital or back-up call~~	~~E~~	~~E~~	~~-~~	~~-~~

~~e. Obstetrics/gynecologic surgery~~	~~E~~	~~-~~	~~-~~	~~-~~
~~f. Ophthalmic surgery~~	~~E~~	~~E~~	~~-~~	~~-~~
~~g. Oral/maxillofacial surgery[9]~~	~~E~~	~~E~~	~~-~~	~~-~~
~~h. Orthopaedic surgery~~	~~E~~	~~E~~	~~E~~	~~-~~
~~i. Dedicated to one hospital or back-up call~~	~~E~~	~~E~~	~~-~~	~~-~~
~~i. Plastic surgery~~	~~E~~	~~E~~	~~-~~	~~-~~
~~j. Critical care medicine~~	~~E~~	~~E~~	~~-~~	~~-~~
~~k. Radiology~~	~~E~~	~~E~~	~~E~~	~~-~~
~~l. Thoracic surgery~~	~~E~~	~~E~~	~~-~~	~~-~~
~~**D. Clinical Qualifications**~~				
~~1. General/Trauma Surgeon~~				
~~a. Board certification[10]~~	~~E~~	~~E~~	~~E~~	~~-~~
~~b. 16 hours CME/year[11]~~	~~E~~	~~E~~	~~-~~	~~-~~
~~c. ATLS certification[12]~~	~~E~~	~~E~~	~~E~~	~~E~~
~~d. Multidisciplinary peer review committee attendance > 50%[13]~~	~~E~~	~~E~~	~~E~~	~~-~~
~~2. Emergency Medicine[3]~~				
~~a. Board certification[10]~~	~~E~~	~~E~~	~~-~~	~~-~~
~~b. Trauma education – 16 hours CME/year[11]~~	~~E~~	~~E~~	~~-~~	~~-~~
~~c. ATLS certification[12]~~	~~E~~	~~E~~	~~E~~	~~E~~
~~d. Multidisciplinary peer review committee attendance > 50%[13]~~	~~E~~	~~E~~	~~E~~	~~-~~
~~3. Neurosurgery~~				
~~a. Board certification~~	~~E~~	~~E~~	~~-~~	~~-~~
~~b. 16 hours CME/year[11]~~	~~E~~	~~E~~	~~-~~	~~-~~
~~c. Multidisciplinary peer review committee attendance > 50%[13]~~	~~E~~	~~E~~	~~E~~	~~-~~
~~4. Orthopaedic Surgery~~				
~~a. Board certification~~	~~E~~	~~E~~	~~-~~	~~-~~
~~b. 16 hours CME/year in skeletal trauma[11]~~	~~E~~	~~E~~	~~-~~	~~-~~
~~c. Multidisciplinary peer review committee attendance > 50%[13]~~	~~E~~	~~E~~	~~E~~	~~-~~

~~**E. Facilities/Resources/Capabilities**~~				
~~1. Volume Performance[14]~~	~~E~~	-	-	-
~~2. Presence of surgeon at resuscitation (immediately available)[15]~~	~~E~~	~~E~~	-	-
~~3. Presence of surgeon at resuscitation (promptly available)[16]~~	-	-	~~E~~	-
~~4. Presence of surgeon at operative procedures~~	~~E~~	~~E~~	~~E~~	~~E~~
~~5. Emergency Department~~				
~~a. Personnel~~				
~~i. Designated physician director~~	~~E~~	~~E~~	~~E~~	-
~~b. Resuscitation Equipment for Patients of All Ages~~				
~~i. Airway control and ventilation equipment~~	~~E~~	~~E~~	~~E~~	~~E~~
~~ii. Pulse oximetry~~	~~E~~	~~E~~	~~E~~	~~E~~
~~iii. Suction devices~~	~~E~~	~~E~~	~~E~~	~~E~~
~~iv. Electrocardiograph-oscilloscope-defibrillator~~	~~E~~	~~E~~	~~E~~	~~E~~
~~v. Internal paddles~~	~~E~~	~~E~~	~~E~~	-
~~vi. CVP monitoring equipment~~	~~E~~	~~E~~	~~E~~	-
~~vii. Standard intravenous fluids and administration sets~~	~~E~~	~~E~~	~~E~~	~~E~~
~~viii. Large-bore intravenous catheters~~	~~E~~	~~E~~	~~E~~	~~E~~
~~ix. Sterile Surgical Sets for~~				
~~(1) Airway control/cricothyrotomy~~	~~E~~	~~E~~	~~E~~	~~E~~
~~(2) Thoracostomy~~	~~E~~	~~E~~	~~E~~	~~E~~
~~(3) Venous cutdown~~	~~E~~	~~E~~	~~E~~	~~E~~
~~(4) Central line insertion~~	~~E~~	~~E~~	~~E~~	-
~~(5) Thoracotomy~~	~~E~~	~~E~~	~~E~~	-
~~(6) Peritoneal lavage~~	~~E~~	~~E~~	~~E~~	-
~~x. Arterial catheters~~	~~E~~	~~E~~	-	-
~~xi. Drugs necessary for emergency care~~	~~E~~	~~E~~	~~E~~	~~E~~
~~xii. X-ray availability 24 hours/day~~	~~E~~	~~E~~	~~E~~	-
~~xiii. Broselow tape~~	~~E~~	~~E~~	~~E~~	~~E~~
~~xiv. Thermal Control Equipment~~				
~~(1) For patient~~	~~E~~	~~E~~	~~E~~	~~E~~

~~(2) For fluids and blood~~	~~E~~	~~E~~	~~E~~	~~E~~
~~xv. Rapid infuser system~~	~~E~~	~~E~~	~~E~~	~~E~~
~~xvi. Qualitative end-tidal CO_2 determination~~	~~E~~	~~E~~	~~E~~	~~E~~
~~c. Communication with EMS vehicles~~	~~E~~	~~E~~	~~E~~	~~E~~
~~d. Capability to resuscitate, stabilize, and transport pediatric patients[17]~~	~~E~~	~~E~~	~~E~~	~~E~~
~~6. Operating Room~~				
~~a. Immediately available 24 hours/day~~	~~E~~	~~E~~	-	-
~~b. Personnel~~				
~~i. In-house 24 hours/day[18]~~	~~E~~	-	-	-
~~ii. Available 24 hours/day[19]~~	-	~~E~~	~~E~~	-
~~c. Age-Specific Equipment~~				
~~i. Cardiopulmonary bypass~~	~~E~~	-	-	-
~~ii. Operating microscope~~	~~E~~	-	-	-
~~d. Thermal Control Equipment~~				
~~i. For patient~~	~~E~~	~~E~~	~~E~~	~~E~~
~~ii. For fluids and blood~~	~~E~~	~~E~~	~~E~~	~~E~~
~~e. X-ray capability including C-arm image intensifier~~	~~E~~	~~E~~	~~E~~	-
~~f. Endoscopes, bronchoscope~~	~~E~~	~~E~~	~~E~~	-
~~g. Craniotomy instruments~~	~~E~~	~~E~~	-	-
~~h. Equipment for long bone and pelvic fixation~~	~~E~~	~~E~~	~~E~~	-
~~i. Rapid infuser system~~	~~E~~	~~E~~	~~E~~	~~E~~
~~7. Postanesthetic Recovery Room (SICU is acceptable)~~				
~~a. Registered nurses available 24 hours/day~~	~~E~~	~~E~~	~~E~~	-
~~b. Equipment for monitoring and resuscitation~~	~~E~~	~~E~~	~~E~~	~~E~~
~~c. Intracranial pressure monitoring equipment~~	~~E~~	~~E~~	-	-
~~i. Pulse oximetry~~	~~E~~	~~E~~	~~E~~	~~E~~
~~ii. Thermal control~~	~~E~~	~~E~~	~~E~~	~~E~~
~~8. Intensive or Critical Care Unit for Injured Patients~~				
~~a. Registered nurses with trauma training~~	~~E~~	~~E~~	~~E~~	-
~~b. Designated surgical director or surgical co-director~~	~~E~~	~~E~~	~~E~~	-

c. Surgical ICU service physician in-house 24 hours/day[20]	E	-	-	-
d. Surgically directed and staffed ICU service[20]	E	E	-	-
e. Equipment for monitoring and resuscitation	E	E	E	-
f. Intracranial pressure monitoring equipment	E	E	-	-
g. Pulmonary artery monitoring equipment	E	E	E	-
9. Respiratory Therapy Services				
a. Available in-house 24 hours/day	E	E	-	-
b. On-call 24 hours/day	-	-	E	-
10. Radiological Services (Available 24 hours/day)				
a. In-house radiology technologist	E	E	-	-
b. Angiography	E	E	-	-
c. Sonography	E	E	E	-
d. Computed tomography	E	E	E	-
i. In-house CT technician	E	E	-	-
e. Magnetic resonance imaging	E	-	-	-
11. Clinical Laboratory Service (Available 24 hours/day)				
a. Standard analyses of blood, urine, and other body fluids, including microsampling when appropriate	E	E	E	E
b. Blood typing and cross-matching	E	E	E	-
c. Coagulation studies	E	E	E	E
d. Comprehensive blood bank or access to a community central blood bank and adequate storage facilities	E	E	E	-
e. Blood gases and pH determinations	E	E	E	E
f. Microbiology	E	E	E	-
12. Acute Hemodialysis				
a. In-house	E	-	-	-
b. Transfer agreement	-	E	E	E
13. Burn Care—Organized	E			
a. In-house or transfer agreement with burn center	E	E	E	E
14. Acute Spinal Cord Management	E			
a. In-house or transfer agreement with regional acute spinal cord injury rehabilitation center	E	E	E	E

~~F. Rehabilitation Services~~				
~~1. Transfer agreement to an approved rehabilitation facility~~	~~E~~	~~E~~	~~E~~	~~E~~
~~2. Physical therapy~~	~~E~~	~~E~~	~~E~~	~~-~~
~~3. Occupational therapy~~	~~E~~	~~E~~	~~-~~	~~-~~
~~4. Speech therapy~~	~~E~~	~~E~~	~~-~~	~~-~~
~~5. Social Services~~	~~E~~	~~E~~	~~E~~	~~-~~
~~G. Performance Improvement~~				
~~1. Performance improvement programs~~	~~E~~	~~E~~	~~E~~	~~E~~
~~2. Trauma Registry~~				
~~a. In-house~~	~~E~~	~~E~~	~~E~~	~~E~~
~~b. Participation in state, local, or regional registry~~	~~E~~	~~E~~	~~E~~	~~E~~
~~3. Audit of all trauma deaths~~	~~E~~	~~E~~	~~E~~	~~E~~
~~4. Morbidity and mortality review~~	~~E~~	~~E~~	~~E~~	~~E~~
~~5. Trauma conference—multidisciplinary~~	~~E~~	~~E~~	~~E~~	~~-~~
~~6. Medical nursing audit~~	~~E~~	~~E~~	~~E~~	~~E~~
~~7. Review of prehospital trauma care~~	~~E~~	~~E~~	~~E~~	~~-~~
~~8. Review of times and reasons for trauma-related bypass~~	~~E~~	~~E~~	~~-~~	~~-~~
~~9. Review of times and reasons for transfer of injured patients~~	~~E~~	~~E~~	~~E~~	~~E~~
~~10. Performance improvement personnel dedicated to care of injured patients~~	~~E~~	~~E~~	~~-~~	~~-~~
~~H. Continuing Education/Outreach~~				
~~1. Outreach activities[21]~~	~~E~~	~~E~~	~~-~~	~~-~~
~~2. Residency program[22]~~	~~E~~	~~-~~	~~-~~	~~-~~
~~3. ATLS provide/participate[23]~~	~~E~~	~~-~~	~~-~~	~~-~~
~~4. Programs provided by hospital for:~~				
~~a. Staff/community physicians (CME)~~	~~E~~	~~E~~	~~E[24]~~	~~-~~
~~b. Nurses~~	~~E~~	~~E~~	~~E~~	~~-~~
~~c. Allied health personnel~~	~~E~~	~~E~~	~~E~~	~~-~~
~~d. Prehospital personnel provision/participation~~	~~E~~	~~E~~	~~E~~	~~-~~
~~I. Prevention~~				
~~1. Prevention program[25]~~	~~E~~	~~E~~	~~-~~	~~-~~

~~2. Collaboration with existing national, regional, state, and community programs[26]~~	~~E~~	~~E~~	~~E~~	~~E~~
~~J. Research~~				
~~1. Research program[27]~~	~~E~~	~~-~~	~~-~~	~~-~~
~~2. Trauma registry performance improvement activities~~	~~E~~	~~E~~	~~E~~	~~-~~
~~3. Identifiable Institutional Review Board process~~	~~E~~	~~-~~	~~-~~	~~-~~
~~4. Extramural education presentations~~	~~E[28]~~	~~-~~	~~-~~	~~-~~
~~K. Additional Requirements for Trauma Centers Represented as Caring for Pediatric Trauma Patients[29]~~				
~~1. Trauma surgeons credentialed for pediatric trauma care~~	~~E~~	~~E~~	~~-~~	~~-~~
~~2. Pediatric emergency department area~~	~~E~~	~~E~~	~~-~~	~~-~~
~~3. Pediatric resuscitation equipment in all patient care areas~~	~~E~~	~~E~~	~~-~~	~~-~~
~~4. Microsampling~~	~~E~~	~~E~~	~~E~~	~~-~~
~~5. Pediatric-specific performance improvement program~~	~~E~~	~~E~~	~~E~~	~~E~~
~~6. Pediatric intensive care unit~~	~~E[30]~~	~~E[31]~~	~~-~~	~~-~~

~~[1] An individual may not serve as trauma medical director for more than one trauma center at the same time.~~
~~[2] For a Level I trauma center, this shall be a full-time position.~~
~~[3] This does not apply if emergency medicine physicians do not participate in the care of a hospital's trauma patients.~~
~~[4] For this criterion, "immediately available" means that:~~

~~1. For a Level I trauma center, a PGY-4 or 5 surgery resident or a trauma surgeon is on the hospital premises at all times; and~~
~~2. For all major resuscitations in a Level I, II, or III trauma center:~~
   ~~a. If advance notice is provided from the field, a trauma surgeon is present in the emergency department upon patient arrival; and~~
   ~~b. If advance notice is not provided from the field, a trauma surgeon is present in the emergency department:~~
      ~~i. For a Level I or II trauma center, no later than 15 minutes after patient arrival; or~~
      ~~ii. For a Level III trauma center, no later than 30 minutes after patient arrival.~~

~~The minimum threshold for compliance with #2 is 80%.~~
~~A PGY-4 or 5 surgery resident may begin resuscitation while awaiting the arrival of the trauma surgeon, but is not a replacement for the trauma surgeon.~~

~~[5] For this criterion, "immediately available" means that:~~

~~1. For a Level I trauma center, an anesthesiologist, anesthesiology chief resident, or certified registered nurse anesthetist is on the hospital premises at all times;~~
~~2. For a Level II trauma center, an anesthesiologist, anesthesiology chief resident, or certified registered nurse anesthetist is present in the emergency department no later than 15 minutes after patient arrival;~~
~~3. For a Level III trauma center, an anesthesiologist, anesthesiology chief resident, or certified registered nurse anesthetist is present in the emergency department no later than 30 minutes after patient arrival; and~~
~~4. For a Level I, II, or III trauma center, an anesthesiologist is present for all surgeries.~~

~~[6] For this criterion, "immediately available" means that an emergency medicine physician is physically present in the emergency department at all times. However, if emergency medicine physicians do not participate in the care of a hospital's trauma patients, an emergency medicine physician is not required to be immediately available 24 hours per day.~~

[7] ~~For the criteria in (C)(3)(a)-(l), "promptly available" means that:~~

1. ~~A physician specialist is present in the emergency department no later than 45 minutes after notification, based on patient need; or~~
2. ~~For hand surgery and microvascular/replant surgery, the owner has transfer agreements to ensure that a patient in need of hand surgery or microvascular/replant surgery can be expeditiously transferred to a health care institution that has a hand surgeon or microvascular/replant surgeon on the premises.~~

[8] ~~This criterion is satisfied by a physician authorized by the hospital to perform cardiothoracic surgery.~~

[9] ~~This criterion is satisfied by a dentist or physician authorized by the hospital to perform oral and maxillofacial surgery. If a physician, the individual shall be a plastic surgeon or an otolaryngologist.~~

[10] ~~In a Level I or II trauma center, a non-board-certified physician may be included in the trauma service if the physician:~~

1. ~~If a surgeon, is in the examination process by the American Board of Surgery;~~
2. ~~If the trauma medical director, is a Fellow of ACS;~~
3. ~~Unless the trauma medical director, complies with the following:~~
   a. ~~Has a letter written by the trauma medical director demonstrating that the health care institution's trauma program has a critical need for the physician because of the physician's individual experience or the limited physician resources available in the physician's specialty;~~
   b. ~~Has successfully completed an accredited residency training program in the physician's specialty, as certified by a letter from the director of the residency training program;~~
   c. ~~Has current ATLS certification as a provider or instructor, as established by documentation;~~
   d. ~~Has completed 48 hours of trauma CME within the past three years, as established by documentation;~~
   e. ~~Has attended at least 50% of the trauma quality assurance and educational meetings, as established by documentation;~~
   f. ~~Has been a member or attended local, regional, and national trauma organization meetings within the past three years, as established by documentation;~~
   g. ~~Has a list of patients treated over the past year with accompanying ISS and outcome for each;~~
   h. ~~Has a quality assurance assessment by the trauma medical director showing that the morbidity and mortality results for the physician's patients compare favorably with the morbidity and mortality results for comparable patients treated by other members of the trauma service; and~~
   i. ~~Has full and unrestricted privileges in the physician's specialty and in the department with which the physician is affiliated; or~~
4. ~~Complies with the following:~~
   a. ~~Has provided exceptional care of trauma patients, as established by documentation such as a quality assurance assessment by the trauma medical director;~~
   b. ~~Has numerous publications, including publication of excellent research;~~
   c. ~~Has made numerous presentations; and~~
   d. ~~Has provided excellent teaching, as established by documentation.~~

~~In a Level III trauma center, only the trauma medical director is required to be board-certified.~~

[11] ~~This criterion applies only to the trauma medical director, the emergency medicine liaison, the neurosurgical trauma liaison, and the orthopaedic trauma liaison. This criterion is satisfied by an average of 16 hours annually, or 48 hours over three years, of verifiable external trauma-related CME. External CME includes programs given by visiting professors or invited speakers and teaching an ATLS course.~~

[12] ~~Among the trauma surgeons, only the trauma medical director is required to have current ATLS certification. The other trauma surgeons are required to have held ATLS certification at one time. Among the emergency medicine physicians, only non-board-certified physicians are required to have current ATLS certification. The other emergency medicine physicians are required to have held ATLS certification at one time.~~

[13] ~~Among the trauma surgeons, 50% attendance is required for each member of the trauma surgical core group. In the other specialty areas, 50% attendance is required only for the emergency medicine liaison, the neurosurgical trauma liaison, and the orthopaedic trauma liaison.~~

[14] ~~Except for Level I trauma centers that care only for pediatric patients, each Level I trauma center shall satisfy one of the following volume performance standards:~~

1. ~~1200 trauma admissions per year,~~
2. ~~240 admissions with ISS > 15 per year, or~~
3. ~~An average of 35 patients with ISS > 15 for the trauma panel surgeons per year.~~

~~Burn patients may be included in annual trauma admissions if the trauma service, not a separate burn service, is responsible for burn care in the trauma center.~~

[15] ~~For this criterion, "immediately available" means that for all major resuscitations in a Level I or II trauma center:~~

1. ~~If advance notice is provided from the field, a trauma surgeon is present in the emergency department upon patient arrival; and~~
2. ~~If advance notice is not provided from the field, a trauma surgeon is present in the emergency department no later than 15 minutes after patient arrival.~~

~~The minimum threshold for compliance with this criterion is 80%.~~
~~A PGY 4 or 5 surgery resident may begin resuscitation while awaiting the arrival of the trauma surgeon, but is not a replacement for the trauma surgeon.~~

[16] ~~For this criterion, "promptly available" means that for all major resuscitations in a Level III trauma center:~~

1. ~~If advance notice is provided from the field, a trauma surgeon is present in the emergency department upon patient arrival; and~~
2. ~~If advance notice is not provided from the field, a trauma surgeon is present in the emergency department no later than 30 minutes after patient arrival.~~

~~The minimum threshold for compliance with this criterion is 80%.~~
~~A PGY 4 or 5 surgery resident may begin resuscitation while awaiting the arrival of the trauma surgeon, but is not a replacement for the trauma surgeon.~~

[17] ~~A trauma center that does not admit pediatric patients shall be capable of resuscitating, stabilizing, and transporting pediatric trauma patients.~~

[18] ~~A Level I trauma center shall have a complete operating room team in the hospital at all times, so that an injured patient who requires operative care can receive it in the most expeditious manner. The members of the operating room team shall be assigned to the operating room as their primary function; they cannot also be dedicated to other functions within the institution.~~

[19] ~~A Level II trauma center shall have a complete operating room team available when needed. The need to have an in-house operating room team depends on a number of things, including the patient population served, the ability to share responsibility for operating room coverage with other hospital staff, prehospital communication, and the size of the community served by the trauma center. If an out-of-house operating room team is used, then this aspect of care shall be monitored by the performance improvement program.~~

[20] ~~This requirement may be satisfied by a physician authorized by the hospital to admit patients into the intensive care unit as the attending physician or to perform critical care procedures.~~

[21] ~~This requirement is met through having an independent outreach program or participating in a collaborative outreach program. "Collaborative outreach program" means an organized effort, including multiple hospitals or sponsored or coordinated by a Regional Council or the Department, through which participating hospitals educate the general public or current or prospective physicians, nurses, prehospital providers, or allied health professionals regarding injury prevention, trauma triage, interfacility transfer of trauma patients, or trauma care.~~

[22] ~~A Level I trauma center shall have a functional and documented teaching commitment. This requirement may be met through:~~

1. ~~A trauma fellowship program; or~~
2. ~~Active participation with one of the following types of residency programs in emergency medicine, general surgery, orthopaedic surgery, or neurosurgery:~~
   a. ~~An independent residency program;~~
   b. ~~A regional residency rotation program; or~~
   c. ~~A collaborative residency program that includes multiple hospitals, with each non-sponsor participating hospital hosting at least one rotation.~~

[23] ~~This requirement is met through participating in the provision of ATLS courses and having ATLS instructors on staff.~~

[24] ~~When a Level III trauma center is in an area that contains a Level I or Level II trauma center, this is not required.~~

[25] ~~This requirement is met through having an independent prevention program or participating in a collaborative prevention program. "Collaborative prevention program" means an organized effort, including multiple hospitals or sponsored or coordinated by a Regional Council or the Department, through which participating health care institutions promote injury prevention through primary, secondary, or tertiary prevention strategies. An independent or collaborative prevention program shall include:~~

1. ~~Conducting injury control studies,~~
2. ~~Monitoring the progress and effect of the prevention program,~~
3. ~~Providing information resources for the public, and~~
4. ~~Each participating hospital's designating a prevention coordinator who serves as the hospital's spokesperson for prevention and injury control activities.~~

[26] ~~This requirement is met through participating in a prevention program organized at the national, regional, state, or local community level.~~

[27] ~~This requirement is met through having an independent research program or participating in a collaborative research program. "Collaborative research program" means an organized effort, including multiple hospitals or sponsored or coordinated by a Regional Council or the Department, through which participating hospitals systematically investigate issues related to trauma and trauma care.~~
~~Injury control studies are considered to be research program activities if they have a stated focused hypothesis or research question.~~

[28] ~~The trauma program shall provide at least 12 educational presentations every three years outside the academically affiliated institutions of the trauma center.~~

[29] ~~A trauma center is required to comply with the requirements of (K)(1) through (6), in addition to the requirements in (A) through (J), if the trauma center is represented as caring for pediatric trauma patients. "Represented as caring for pediatric trauma patients" means that a trauma center's availability or capability to care for pediatric trauma patients is advertised to the general public, health care providers, or emergency medical services providers through print media, broadcast media, the Internet, or other means such as the EMSystem, administered by the Department.~~

[30] ~~The trauma center shall have a PICU available on-site.~~

[31] ~~This requirement may be satisfied by a transfer agreement.~~

Table 13.1. Arizona Trauma Center Standards (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

Key:

E = Essential and required
I(P) = Level I Pediatric trauma center
II(P) = Level II Pediatric trauma center
ICU = Intensive care unit
In-house = On the premises of the health care institution
ISS = Injury severity score, the sum of the squares of the abbreviated injury scale scores of the three most severely injured body regions
Child life = A program of support to injured children and their families to reduce stress and anxiety by:
a. Explaining medical equipment and procedures to children in a non-threatening and age-appropriate manner,
b. Explaining a diagnosis to a child in an age-appropriate manner, and
c. Helping children and their families develop strategies to cope with the diagnosis and expected outcome

Trauma Facilities Criteria	Levels					
	I	I(P)	II	II(P)	III	IV
A. Institutional Organization						
1. Trauma service	E	E	E	E	E	-
2. Trauma program medical director	E	E	E	E	E	-
3. Trauma multidisciplinary peer review committee	E	E	E	E	E	-
B. Hospital Departments/Divisions/Sections						
1. Surgery	E	E	E	E	E	-
2. Neurosurgery	E	E	E	E	-	-
3. Orthopedic surgery	E	E	E	E	E	-
4. Emergency medicine	E	E	E	E	E	-
5. Pediatric emergency department area	-	E	-	E	-	-
6. Anesthesia	E	E	E	E	E	-
C. Clinical Capabilities						
1. Written on-call schedule for each component of the trauma service if a team member is not in-house	E	E	E	E	E	E
2. Physician specialist available 24 hours/day						
a. General surgeon	E	E	E	E	E	-
i. Published back-up schedule	E	E	E	E	-	-
ii. Dedicated to single hospital when on-call	E	E	E	E	-	-
iii. Surgeon credentialed for pediatric trauma care	-	E	-	E	-	-
b. Emergency medicine physician	E	E	E	E	E	-
c. Pediatric emergency medicine physician	-	E	-	-	-	-

3. Specialist on-call and available 24 hours/day						
a. Orthopedic surgeon	E	E	E	E	E	-
b. Pediatric-credentialed orthopedic surgeon	-	E	-	E	-	-
c. Neurosurgeon	E	E	E	E	-	-
d. Pediatric-credentialed neurosurgeon	-	E	-	E	-	-
e. Critical care medicine physician	E	E	E	E	-	-
f. Pediatric-credentialed critical care medicine physician	-	E	-	E	-	-
g. Radiologist	E	E	E	E	E	
h. Hand surgeon	E	E	E	E	-	-
i. Ophthalmic surgeon	E	E	E	E	-	-
j. Plastic surgeon	E	E	E	E	-	-
k. Thoracic surgeon	E	E	E	E	-	-
l. Cardiac surgeon	E	E	-	-	-	-
m. Obstetrics/gynecologic surgeon	E	E	-	-	-	-
n. Oral/maxillofacial surgeon (plastic surgeon, otolaryngologist, or oral/maxillofacial surgeon)	E	E	E	E	-	-
4. Qualified anesthesia personnel member on-call and available 24 hours/day						
a. Physician or certified nurse anesthetist	E	E	E	E	E	-
b. Physician or certified nurse anesthetist with a pediatric credential	-	E	-	E	-	-
5. Volume performance standards:						
a. 1200 trauma admissions per year, b. 240 admissions with ISS > 15 per year, or c. Average of 35 patients with ISS > 15 for each trauma team surgeon per year	E	-	-	-	-	-
d. 200 trauma admissions < 15 years of age per year,	-	E	-	-	-	-
D. Facilities/Resources/Capabilities						
1. Emergency department						
a. Designated physician director	E	E	E	E	E	-
b. Personnel members with pediatric-specific trauma-related training	-	E	-	E	-	-
c. Resuscitation equipment for patients of all sizes						
i. Airway control and ventilation equipment	E	E	E	E	E	E
ii. Pulse oximetry	E	E	E	E	E	E
iii. Suction devices	E	E	E	E	E	E

iv. Electrocardiograph-oscilloscope-defibrillator	E	E	E	E	E	E
v. Color-coded, length-based tool to assist with medication dosing and equipment selection for children	E	E	E	E	E	E
vi. Central venous pressure monitoring equipment	E	E	E	E	E	-
vii. Standard intravenous fluids and administration sets	E	E	E	E	E	E
viii. Large-bore intravenous catheters	E	E	E	E	E	E
ix. Sterile surgical sets for:						
(1) Airway control/cricothyrotomy	E	E	E	E	E	E
(2) Thoracostomy	E	E	E	E	E	E
(3) Central line insertion	E	E	E	E	E	-
(4) Thoracotomy	E	E	E	E	E	-
x. Arterial catheters	E	E	E	E	-	-
xi. X-ray availability 24 hours/day	E	E	E	E	E	-
xii. Thermal control equipment						
(1) For patient	E	E	E	E	E	E
(2) For fluids and blood	E	E	E	E	E	E
xiii. Rapid infusion system/capability	E	E	E	E	E	E
xiv. Qualitative end-tidal CO_2 monitoring	E	E	E	E	E	E
d. Communication with EMS personnel	E	E	E	E	E	E
e. Capability to resuscitate, stabilize, and transfer pediatric patients	E	E	E	E	E	E
2. Operating room						
a. Immediately available 24 hours/day	E	E	E	E	-	-
b. Size-specific equipment						
i. Cardiopulmonary bypass	E	E	-	-	-	-
ii. Operating microscope	E	E	-	-	-	-
c. Thermal control equipment						
i. For patient	E	E	E	E	E	E
ii. For fluids and blood	E	E	E	E	E	E
d. X-ray capability including C-arm image intensifier	E	E	E	E	E	-
e. Endoscopes, bronchoscope	E	E	E	E	E	-
g. Craniotomy instruments	E	E	E	E	-	-
h. Equipment for long bone and pelvic fixation	E	E	E	E	E	-

i. Rapid infusion system/capability	E	E	E	E	E	E
3. Postanesthesia recovery room or surgical ICU						
a. Registered nurses available 24 hours/day	E	E	E	E	E	E
b. Equipment for monitoring and resuscitation	E	E	E	E	E	E
c. Intracranial pressure monitoring equipment	E	E	E	E	-	-
d. Pulse oximetry	E	E	E	E	E	E
e. Thermal control equipment						
i. For patient	E	E	E	E	E	E
ii. For fluids and blood	E	E	E	E	E	E
4. ICU or critical care unit for injured patients						
a. Pediatric ICU	-	E	-	E	-	-
b. Registered nurses with trauma-related training	E	E	E	E	E	-
c. Registered nurses with pediatric-specific trauma-related training	-	E	-	E	-	-
d. Designated surgical director or surgical co-director	E	E	E	E	E	-
e. Physician (fourth year of residency training or higher) assigned to surgical ICU service and in-house 24 hours/day	E	E	-	-	-	-
f. Physician (fourth year of residency training or higher) with a pediatric credential assigned to surgical ICU service and in-house 24 hours/day	-	E	-	-	-	-
g. Surgically directed and staffed ICU service	E	E	E	E	-	-
h. Equipment for monitoring and resuscitation	E	E	E	E	E	-
i. Intracranial pressure monitoring equipment	E	E	E	E	-	-
5. Respiratory therapy services (Available 24 hours/day)						
a. Available in-house	E	E	E	E	-	-
b. On-call and available within 45 minutes after notification	-	-	-	-	E	-
6. Radiological services (Available 24 hours/day)						
a. In-house radiology technologist	E	E	E	E	-E	-
b. Radiology technologist on-call and available within 45 minutes after notification	-	-	-	-	-	E
c. Resuscitation equipment for patients of all sizes, as specified in subsection (D)(1)(c)(i) to (v)	E	E	E	E	E	E
d. Angiography	E	E	E	E	-	-
e. Sonography	E	E	E	E	E	-
f. Computed tomography (CT)	E	E	E	E	E	-

i. In-house CT technician	E	E	E	E	-	-
ii. CT technician on-call and available within 45 minutes after notification	-	-	-	-	E	-
f. Magnetic resonance imaging	E	E	E	E	-	-
7. Clinical laboratory service (Available 24 hours/day)						
a. Standard analyses of blood, urine, and other body fluids	E	E	E	E	E	E
b. Blood typing and cross-matching	E	E	E	E	E	-
c. Coagulation studies	E	E	E	E	E	E
d. Comprehensive blood bank or access to a community central blood bank and adequate storage facilities	E	E	E	E	E	-
e. Blood gases and pH determinations	E	E	E	E	E	E
f. Microbiology	E	E	E	E	E	-
8. Child maltreatment assessment capability	E	E	E	E	E	E
E. Rehabilitation Services Specific to the Patient Population						
1. Physical therapy	E	E	E	E	E	-
2. Occupational therapy	E	E	E	E	-	-
3. Speech therapy	E	E	E	E	-	-
F. Social Services Specific to the Patient Population						
1. Social services	E	E	E	E	E	-
2. Child life program	-	E	-	E	-	-
G. Performance Improvement						
1. Multidisciplinary peer review committee	E	E	E	E	E	-
2. Performance improvement personnel dedicated to the trauma service	E	E	E	E	-	-

R9-25-1309. Trauma Registry Data (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2221, and 36-2225(A)(5) and (6))

A. A trauma registry established according to R9-25-1308(B)(1) includes the following in the record of a patient's episode of care, as defined in A.A.C. R9-11-101, for each patient meeting the criteria in R9-25-1308(C)(1):

1. An identification code specific to the health care institution that had contact with the patient during the episode of care;
2. Demographic information about the patient:
   a. The unique number assigned by the health care institution to the patient;
   b. A code indicating whether the patient's record will be submitted to the

Department as required in R9-25-1308(C)(2);

c. The unique number assigned by the health care institution for the episode of care;

d. The date the patient arrived at the health care institution for the episode of care;

e. For the episode of care, a code indicating whether the patient:

i. Was directly admitted to the health care institution,

ii. Was admitted to the health care institution through the emergency department,

iii. Was seen in the emergency department then transferred to another health care institution by an ambulance service or emergency medical services provider,

iv. Was seen in the emergency department and discharged, or

v. Died in the emergency department or was dead on arrival;

f. The patient's first name, middle initial, and last name;

g. The patient's Social Security Number;

h. The patient's date of birth and age;

i. Codes indicating the patient's gender, race, and ethnicity;

j. The zip code of the patient's residence or, if applicable, an indication of why no zip code was reported; and

k. The city, state, and county of the patient's residence;

3. Information about the occurrence of the patient's injury:

a. The date and time the injury occurred;

b. The ICD-code describing the type of location where the injury occurred;

c. The zip code of the location where the injury occurred;

d. The city, state, and county where the injury occurred;

e. A code indicating whether the patient's injury resulted from blunt force trauma, a penetrating wound, or a burn;

f. The ICD-code indicating the primary mechanism or cause of the patient's injury resulting in the episode of care and the manner or intent through which the injury occurred;

g. A description of the cause and circumstances leading to the patient's injury;

h. Whether the patient was using a protective device or safety equipment at the time of the injury and, if so, the type or types of protective device or safety equipment being used;

i. If the patient was subject to the requirements in A.R.S. § 28-907 at the time of

the injury, whether the patient was using a child restraint system, as defined in A.R.S. § 28-907, at the time of the injury and, if so, the type of child restraint system being used; and

j. If the patient's injury resulted from a motor vehicle crash, a code describing the status of airbag deployment;

4. Information about the patient's arrival at the health care institution:

a. A code identifying the mode of transportation by which the patient arrived at the health care institution; and

b. If applicable:

i. The ambulance service or emergency medical services provider that transported the patient to the health care institution;

ii. The unique identifier given by the ambulance service or emergency medical services provider to the incident during which the patient received EMS;

iii. The date the ambulance service or emergency medical services provider transported the patient to the trauma center; and

iv. If the patient was transferred from another health care institution, the name of the other health care institution;

5. Information about the health care institution's assessment or treatment of the patient in the emergency department:

a. A code indicating which of the criteria in R9-25-1308(C)(1) the patient met;

b. A code indicating whether an ambulance service or emergency medical services provider transported the patient to the health care institution and, if so, the criteria used by the transporting ambulance service or emergency medical services provider for transporting the patient to the health care institution;

c. The date and time the patient arrived at the emergency department of the health care institution for the episode of care;

d. The date and time the patient died or left the emergency department of the health care institution for the episode of care;

e. The length of time in hours and in minutes that the patient remained in the emergency department of the health care institution during the episode of care;

f. If trauma team activation occurred, the time when the last trauma team personnel member arrived at their assigned location in the health care institution;

g. Whether the patient showed signs of life when the patient arrived at the health

care institution;

h. The values of the following for the patient at the time of their first assessment at the health care institution:

i. Pulse rate;

ii. Respiratory rate;

iii. Oxygen saturation;

iv. Systolic blood pressure; and

v. Temperature, including the units of temperature and the route used to measure the patient's temperature;

i. A code indicating whether the patient was receiving respiratory assistance at the time the patient's respiratory rate was assessed;

j. A code indicating whether the patient was receiving supplemental oxygen at the time the patient's oxygen saturation was assessed;

k. Codes indicating the Glasgow Coma Score for:

i. Eye opening,

ii. Verbal response to stimulus, and

iii. Motor response to stimulus;

l. The patient's total Glasgow Coma Score;

m. Whether the patient was intubated at the time of the patient's assessments in subsections (A)(5)(h)(ii), (k)(ii), and (l);

n. A code indicating whether a paralytic agent or sedative had been administered to the patient at the time the patient's Glasgow Coma Score was measured;

o. A code indicating another factor that may have affected the patient's Glasgow Coma Score;

p. A revised trauma score for the patient, auto-calculated based on the patient's systolic blood pressure, respiratory rate, and Glasgow Coma Score;

q. A code indicating the status of alcohol use by the patient and, if applicable, the blood alcohol concentration in the patient's blood;

r. A code indicating the status of drug use by the patient and, if applicable, the code for each drug class detected in the patient's blood;

s. A code indicating the disposition of the patient at the time the patient was discharged from the emergency department; and

t. If the patient was transferred to another health care institution upon discharge from the emergency department:

i. The name of the health care institution to which the patient was transferred;

ii. The name of the ambulance service or emergency medical services provider providing the interfacility transport;

iii. A code indicating the reason for transfer; and

iv. If there was a delay in transferring the patient to another health care institution, a code indicating the reason for the delay;

6. Information about the patient's discharge from the health care institution:

a. The date and time the patient was discharged from the health care institution;

b. The length of time the patient remained as an inpatient, as defined in A.A.C. R9-10-201, in the health care institution;

c. The length of time the patient remained in the health care institution's intensive care unit;

d. A code indicating whether the patient was alive or dead at the time of discharge from the health care institution;

e. The ICD-code for each injury identified in the patient, including an indication of whether the ICD-code is for:

i. The principle diagnosis, the reason believed by the health care institution to be chiefly responsible for the patient's need for the episode of care; or

ii. A secondary diagnosis, another reason believed by the health care institution to have contributed to the patient's need for the episode of care;

f. The patient's Injury Severity Score;

g. A code indicating the disposition of the patient at the time the patient was discharged from the health care institution;

h. Whether a report of suspected physical abuse was reported to law enforcement or as required by A.R.S. § 13-3620 or 46-454, if applicable, and, if so:

i. Whether an investigation into the suspected physical abuse was initiated by an entity to which the suspected physical abuse was reported; and

ii. If the patient is a child, whether the patient was discharged in the care of a person other than the person responsible for the care of the patient at the time the patient arrived at the health care institution; and

i. If the patient was transferred to a hospital upon discharge from the health care institution:

i. The name of the hospital to which the patient was transferred,

ii. The name of the ambulance service or emergency medical services provider providing the interfacility transport, and

iii. A code indicating the reason for transfer; and

7. Financial information about the episode of care:

a. A code for the primary source of payment for the episode of care;

b. A code for a secondary source of payment for the episode of care, if applicable;

c. The total amount of charges for the episode of care; and

d. The total amount collected by the health care institution for the episode of care.

B. In addition to the information required in subsection (A), a trauma registry established according to R9-25-1308(B)(1) by a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, Level II Pediatric trauma center, or Level III trauma center includes the following in the record of a patient's episode of care, as defined in A.A.C. R9-11-101, for each patient meeting the criteria in R9-25-1308(C)(1):

1. Demographic information about the patient:

a. The country of the patient's residence;

b. The country where the patient was found or from which an ambulance service or emergency medical services provider transported the patient; and

c. Any pre-existing medical conditions diagnosed for the patient, unrelated to the reason for the episode of care;

2. Information about the occurrence of the patient's injury:

a. Whether the time specified according to subsection (A)(3)(a) is the actual time of occurrence or an estimate;

b. The street address of the location where the injury occurred or, if the location at which the injury occurred does not have a street address, another indicator of the location at which the injury occurred;

c. Any additional ICD-code describing the mechanism or cause of the patient's injury resulting in the episode of care and the manner or intent through which the injury occurred;

d. The ICD-code indicating the activity the patient was engaged in that resulted in the patient's injury;

e. If the patient's injury resulted from a crash involving a means of transportation, including a motor vehicle, other motorized means of transportation, watercraft, bicycle, or aircraft, a code describing the type of vehicle in use at the time of the

injury and the patient's location in the vehicle;

f. A description of any issues related to a protective device or safety equipment in use at the time of the patient's injury; and

g. Whether the patient's injury occurred during the patient's paid employment and, if so, a code indicating:

i. The type of occupation associated with the patient's employment, and

ii. The patient's occupation;

3. A code indicating whether EMS was provided to the patient and, if applicable, the type of transport provided to the patient;

4. If EMS was provided to the patient, whether a prehospital incident history report was provided to the trauma center and, if so:

a. The date on the prehospital incident history report;

b. The identifying number on the prehospital incident history report assigned by the ambulance service or emergency medical services provider;

c. The date and time the ambulance service or emergency medical services provider was dispatched, as defined in R9-25-901, to the scene;

d. The date and time the ambulance service or emergency medical services provider responded to the dispatch;

e. The date and time the ambulance service or emergency medical services provider arrived at the scene;

f. The date and time the ambulance service or emergency medical services provider established contact with the patient;

g. The date and time the ambulance service or emergency medical services provider left the scene;

h. The date and time the ambulance service or emergency medical services provider arrived at the health care institution that was the transport destination;

i. The date and time the patient's pulse, respiration, oxygen saturation, and systolic blood pressure were first measured;

j. At the date and time the patient's pulse, respiration, oxygen saturation, and systolic blood pressure were first measured, the patient's:

i. Pulse rate,

ii. Respiratory rate,

iii. Oxygen saturation, and

iv. Systolic blood pressure;

k. Whether the patient was intubated at the date and time the patient's pulse, respiration, and oxygen saturation were first measured;

l. Codes indicating the Glasgow Coma Score for:

i. Eye opening,

ii. Verbal response to stimulus, and

iii. Motor response to stimulus;

m. The patient's total Glasgow Coma Score;

n. A code indicating whether a paralytic agent or sedative had been administered to the patient at the date and time the patient's Glasgow Coma Score was measured;

o. A revised trauma score for the patient, auto-calculated based on the patient's systolic blood pressure, respiratory rate, and Glasgow Coma Score;

p. Codes indicating all airway management procedures performed on the patient by an ambulance service or emergency medical services provider before the patient's arrival at the first health care institution; and

q. Whether the patient experienced cardiac arrest subsequent to the injury before the patient's arrival at the first health care institution;

5. The amount of time that elapsed from the date and time the ambulance service or emergency medical services provider:

a. Was dispatched and the date and time the ambulance service or emergency medical services provider arrived at the scene,

b. Arrived at the scene and the date and time the ambulance service or emergency medical services provider left the scene,

c. Left the scene and the date and time the ambulance service or emergency medical services provider arrived at the transport destination, and

d. Was dispatched and the date and time the ambulance service or emergency medical services provider arrived at the transport destination;

6. Whether the patient arrived at the trauma center for treatment of the injury resulting in the episode of care through an interfacility transport;

7. If the patient arrived at the trauma center through an interfacility transport, the following information about the health care institution at which the patient was seen immediately before arriving at the trauma center:

a. The name of the health care institution;

b. The date and time the patient arrived at the health care institution in subsection (B)(7)(a); and

c. The date and time the patient left the health care institution in subsection (B)(7)(a);

8. If the patient arrived at the health care institution in subsection (B)(7)(a) through an interfacility transport, the information in subsections (B)(7)(a) through (c) about each health care institution at which the patient was seen for the injury resulting in the episode of care before arriving at the health care institution in subsection (B)(7)(a);

9. If the patient arrived at the trauma center through an interfacility transport, for each health care institution at which the patient was seen for the injury resulting in the episode of care before arriving at the trauma center, information for the first instance of assessing the patient's:

   a. Respiratory rate,

   b. Systolic blood pressure,

   c. The patient's total Glasgow Coma Score, and

   d. Revised trauma score; and

10. Information about the patient's episode of care at the trauma center and the patient's discharge from the trauma center:

   a. The patient's height and weight when the patient arrived at the trauma center;

   b. The number of days the patient spent on a mechanical ventilator;

   c. If applicable, the identification number assigned by a medical examiner or alternate medical examiner, as defined in A.R.S. § 11-591, to the documentation of the patient's autopsy;

   d. The total length of time the patient remained at the trauma center before discharge;

   e. For each ICD-code identified according to subsection (A)(6)(e), a code that reflects the severity of the injury to which the ICD-code refers;

   f. For each ICD-code identified according to subsection (A)(6)(e) that does not include an indication of the part of the patient's body that was injured, a code supplementing the ICD-code that indicates the part of the body that was injured;

   g. For each procedure performed on the patient:

      i. The ICD-code for the procedure,

      ii. The health care institution at which the procedure was performed,

      iii. A code indicating the organized service unit within the health care institution in which the procedure was performed, and

      iv. The date and time the procedure was begun;

h. Any complications experienced by the patient while the patient remained at the trauma center;

i. The Abbreviated Injury Scale code indicating the severity of each of the patient's injuries;

j. The Abbreviated Injury Scale code indicating the body region affected by each of the patient's injuries;

k. If the trauma center is designated as a Level I trauma center or Level I Pediatric trauma center, the six-digit Abbreviated Injury Scale code and the software version used to calculate the six-digit Abbreviated Injury Scale code; and

l. The patient's probability of survival.

~~R9-25-1406.~~R9-25-1310. Trauma Registry Data Quality Assurance (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2220(A), 36-2221, and 36-2225(A)(5) and (6))

~~**A.** To ensure the completeness and accuracy of trauma registry reporting, a submitting health care institution shall allow the Department to review the following, upon prior notice from the Department of at least five business days:~~

~~1. The submitting health care institution's database that includes data regarding cases;~~

~~2. Patient medical records; and~~

~~3. Any record, other than those specified in subsections (A)(1) and (2), that may contain information about diagnostic evaluation or treatment provided to a patient.~~

~~**B.** Upon prior notice from the Department of at least five business days, a submitting health care institution shall provide the Department with all of its patient medical records for a time period specified by the Department, to allow the Department to review the patient medical records and determine whether the submitting health care institution has submitted data to the trauma registry for the cases who received medical services within the time period.~~

~~**C.** For purposes of subsection (B), the Department considers a submitting health care institution to be in compliance with R9-25-1402(A) if the submitting health care institution submitted data to the trauma registry for 97% of the cases who received medical services within the time period.~~

~~**D.** The Department shall return to a submitting health care institution data not submitted in compliance with R9-25-1402 and shall identify the revisions that are needed to bring the data into compliance with R9-25-1402.~~

~~**E.** A submitting health care institution that has trauma registry data returned as provided in subsection (D) shall revise the data as identified by the Department and shall submit the revised data to the Department within 15 business days after the date the Department returned the data or~~

~~within a longer period agreed upon between the Department and the submitting health care institution.~~

~~**F.** Within 15 business days after receiving a written request from the Department that includes a simulated patient medical record, a submitting health care institution shall prepare and submit to the Department the data set identified in Table 1 for the patient described in the simulated patient medical record.~~

A. To ensure the completeness and accuracy of trauma registry reporting, a health care institution submitting trauma registry information to the Department shall allow the Department to review the following, upon prior notice from the Department of at least five business days:

1. The health care institution's trauma registry or other database containing trauma registry information;
2. Patient medical records; and
3. Any record, other than those specified in subsections (A)(1) and (2), that may contain information about diagnostic evaluation or treatment provided to a patient receiving trauma care.

B. Upon prior notice from the Department of at least five business days, a health care institution submitting trauma registry information to the Department shall provide the Department with all patient medical records for a time period specified by the Department, to allow the Department to determine the accuracy and completeness of the information submitted to the trauma registry for patients receiving trauma care during the period.

C. For purposes of subsection (B), the Department considers a health care institution to be in compliance with R9-25-1308(C)(2) if the health care institution submitted to the Department trauma registry information for 97% of the patients receiving trauma care during the period.

D. If trauma registry information submitted to the Department by a health care institution according to R9-25-1308(C)(2) and (3) is not in compliance with requirements in R9-25-1308 or R9-25-1309, the Department shall:

1. Notify the health care institution that the trauma registry information submitted to the Department is not in compliance with requirements in R9-25-1308 or R9-25-1309, and
2, Identify the revisions or actions that are needed to bring the data into compliance with R9-25-1308 and R9-25-1309.

E. A health care institution that has trauma registry information returned, as provided in subsection (D), shall:

1. Revise the trauma registry information as identified by the Department, and
2. Submit the revised data to the Department within 15 business days after the date the

Department notified the health care institution according to subsection (D)(1) or within a longer period agreed upon between the Department and the health care institution.

F. Within 15 business days after receiving a written request from the Department that includes a simulated patient medical record, a health care institution submitting trauma registry information to the Department shall prepare and submit to the Department the information required in R9-25-1309, applicable to the Level of health care institution, for the patient described in the simulated patient medical record.

ARTICLE 14. ~~TRAUMA REGISTRY; TRAUMA SYSTEM QUALITY ASSURANCE~~ REPEALED

R9-25-1401. ~~**Definitions (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2221, and 36-2225(A)(5) and (6))**~~ **Repealed**

~~The following definitions apply in this Article, unless otherwise specified:~~

~~1. "Aggregate trauma data" means a collection of data from the trauma registry that is compiled so that it is not possible to identify a particular trauma patient, trauma patient's family, health care provider, or health care institution.~~

~~2. "AIS" means abbreviated injury scale, an anatomic severity scoring system established in Association for the Advancement of Automotive Medicine Committee on Injury Scaling, *Abbreviated Injury Scale (AIS) 2005* (2005), incorporated by reference, including no future editions or amendments, and available from Association for the Advancement of Automotive Medicine, P.O. Box 4176, Barrington, IL 60011-4176, and www.carcrash.org.~~

~~3. "ALS base hospital" has the same meaning as "advanced life support base hospital" in A.R.S. 36-2201.~~

~~4. "Case" means a patient who meets R9-25-1402(A)(1), (2), or (3).~~

~~5. "Category" means a group of related codes within the ICD-9-CM, identified by the first three digits of each code number within the group, and including all code numbers that share the same first three digits.~~

~~6. "Data element" means a categorized piece of information.~~

~~7. "Data set" means a collection of data elements that includes, for each case, data that complies with Table 1.~~

~~8. "Department" means the Arizona Department of Health Services.~~

~~9. "ED" means emergency department, an organized area of a hospital that provides unscheduled emergency services, as defined in A.A.C. R9-10-201, 24 hours per day, seven days per week, to individuals who present for immediate medical attention.~~

~~10. "EMS" has the same meaning as "emergency medical services" in A.R.S. § 36-2201.~~

~~11. "EMS provider" has the same meaning as "emergency medical services provider" in A.R.S. § 36-2201.~~

~~12. "GCS" means Glasgow Coma Scale, a scoring system that defines eye, motor, and verbal responses in the patient with injury.~~

~~13. "Health care institution" has the same meaning as in A.R.S. § 36-401.~~

14. ~~"Health care provider" means a caregiver involved in the delivery of trauma services to a patient, whether in a prehospital setting, in a hospital setting, or during rehabilitation.~~

15. ~~"Hospital" has the same meaning as in A.A.C. R9-10-201.~~

16. ~~"ICD-9-CM" has the same meaning as in A.A.C. R9-4-101.~~

17. ~~"ICD-9-CM E-code" means the external cause of injury as coded according to the ICD-9-CM.~~

18. ~~"ICD-9-CM N-code" means the nature of injury as coded according to the ICD-9-CM.~~

19. ~~"ICD-9-CM Procedure Code" means the procedure performed on a patient as coded according to the ICD-9-CM.~~

20. ~~"Injury" means the result of an act that damages, harms, or hurts; unintentional or intentional damage to the body resulting from acute exposure to mechanical, thermal, electrical, or chemical energy or from the absence of such essentials as heat or oxygen.~~

21. ~~"ISS" has the same meaning as in R9-25-1301.~~

22. ~~"Owner" has the same meaning as in R9-25-1301.~~

23. ~~"Patient" means an individual who is sick, injured, or dead and who requires medical monitoring, medical treatment, or transport.~~

24. ~~"Scene" means a location, other than a health care institution, from which a patient is transported.~~

25. ~~"Submitting health care institution" means a health care institution that submits data to the trauma registry as provided in R9-25-1402.~~

26. ~~"Trauma center" means a health care institution that meets the definition of "trauma center" in A.R.S. § 36-2201 or the definition of "trauma center" in A.R.S. § 36-2225.~~

27. ~~"Trauma registry" has the same meaning as in A.R.S. § 36-2201.~~

28. ~~"Trauma team" means a group of health care providers organized to provide care to trauma patients.~~

29. ~~"Trauma team activation" means notification of trauma team members in response to triage information received concerning a patient with injury or suspected injury.~~

30. ~~"Trauma triage protocol" means a "triage protocol," as defined in R9-25-101, specifically designed for use with patients with injury.~~

R9-25-1402. ~~**Data Submission Requirements (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2221, and 36-2225(A)(5) and (6))**~~ **Repealed**

~~**A.**~~ ~~As required under A.R.S. § 36-2221 and R9-25-1313, an owner of a trauma center shall ensure that the data set identified in Table 1 is submitted to the Department, as prescribed in subsection (B), for each patient who meets one or more of the following criteria:~~

1. ~~A patient with injury or suspected injury who is triaged from a scene to a trauma center or ED based upon the responding EMS provider's trauma triage protocol;~~
2. ~~A patient with injury or suspected injury for whom a trauma team activation occurs; or~~
3. ~~A patient with injury who is admitted as a result of the injury or who dies as a result of the injury, who has an ICD-9-CM N-code within categories 800 through 959, and who does not only have:~~
    a. ~~Late effects of injury or another external cause, as demonstrated by an ICD-9-CM N-code within categories 905 through 909;~~
    b. ~~A superficial injury or contusion, as demonstrated by an ICD-9-CM N-code within categories 910 through 924;~~
    c. ~~Effects of a foreign body entering through an orifice, as demonstrated by an ICD-9-CM N-code within categories 930 through 939;~~
    d. ~~An isolated femoral neck fracture from a same-level fall, as demonstrated by:~~
        i. ~~An ICD-9-CM N-code within category 820; and~~
        ii. ~~An ICD-9-CM E-code within category E885 or E886;~~
    e. ~~An isolated distal extremity fracture from a same-level fall, as demonstrated by:~~
        i. ~~An ICD-9-CM N-code within categories 813 through 817 or within categories 823 through 826; and~~
        ii. ~~An ICD-9-CM E-code within category E885 or E886;~~
    f. ~~An isolated burn, as demonstrated by an ICD-9-CM N-code within categories 940 through 949.~~

~~**B.** An owner of a trauma center shall submit the data required under subsection (A) to the Department:~~

1. ~~On a quarterly basis according to the following schedule:~~
    a. ~~For cases identified between January 1 and March 31, so that it is received by the Department by July 1 of the same calendar year;~~
    b. ~~For cases identified between April 1 and June 30, so that it is received by the Department by October 1 of the same calendar year;~~
    c. ~~For cases identified between July 1 and September 30, so that it is received by the Department by January 2 of the following calendar year; and~~
    d. ~~For cases identified between October 1 and December 31, so that it is received by the Department by April 1 of the following calendar year;~~
2. ~~Through an electronic reporting system authorized by the Department;~~
3. ~~In a format authorized by the Department; and~~

~~4.~~ ~~Along with the following information:~~

~~a.~~ ~~The name and physical address of the trauma center;~~

~~b.~~ ~~The date the trauma data is being submitted to the Department;~~

~~c.~~ ~~The total number of cases for whom trauma data is being submitted;~~

~~d.~~ ~~The quarter and year for which trauma data is being submitted;~~

~~e.~~ ~~The range of ED or hospital arrival dates for the cases for whom trauma data is being submitted;~~

~~f.~~ ~~The name, title, phone number, fax number, and e-mail address of the trauma center's point of contact for the trauma data; and~~

~~g.~~ ~~Any special instructions or comments to the Department from the trauma center's point of contact.~~

~~C.~~ ~~An ALS base hospital certificate holder that chooses to submit trauma data to the Department, as provided in A.R.S. § 36-2221, shall comply with the data submission requirements in this Section for an owner of a trauma center.~~

Table 1. ~~**Trauma Registry Data Set (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2221, and 36-2225(A)(5) and (6))**~~ **Repealed**

~~**KEY:**~~

~~Required for TC Levels I, II, and III = An owner of a hospital designated as a Level I, Level II, or Level III trauma center under Article 13 of this Chapter shall include these data elements in the data submission required under R9-25-1402.~~

~~Required for TC Level IV, Non-Designated TC, and ALS Base Hospital = An owner of a health care institution designated as a Level IV trauma center under Article 13 of this Chapter; an owner of a trauma center, as defined in A.R.S. § 36-2201, that is not designated as a trauma center under Article 13 of this Chapter; or an ALS base hospital certificate holder that submits trauma data as provided under A.R.S. § 36-2221 shall include these data elements in the data submission required under R9-25-1402.~~

~~* = Only required for hospitals designated as Level I trauma centers under Article 13 of this Chapter.~~

~~**Field Name/Data Element Description**~~	~~**Required for TC Levels I, II, and III**~~	~~**Required for TC Level IV, Non-Designated TC, and ALS Base Hospital**~~
~~**DEMOGRAPHIC DATA ELEMENTS**~~		
~~Reporting Facility Site ID~~	~~X~~	~~X~~
~~Registration Number~~	~~X~~	~~X~~
~~Medical Record Number~~	~~X~~	~~X~~
~~Hospital Admission Date~~	~~X~~	~~X~~
~~Admission Status~~	~~X~~	~~X~~
~~Patient Last Name~~	~~X~~	~~X~~
~~Patient First Name~~	~~X~~	~~X~~

~~Patient Middle Initial~~	~~X~~	~~X~~
~~Social Security Number~~	~~X~~	~~X~~
~~Date of Birth~~	~~X~~	~~X~~
~~Age~~	~~X~~	~~X~~
~~Units of Age~~	~~X~~	~~X~~
~~Gender~~	~~X~~	~~X~~
~~Race~~	~~X~~	~~X~~
~~Ethnicity~~	~~X~~	~~X~~
~~Zip Code of Residence~~	~~X~~	
~~City of Residence~~	~~X~~	
~~County of Residence~~	~~X~~	
~~State of Residence~~	~~X~~	~~X~~
~~Country of Residence~~	~~X~~	
~~Alternate Home Residence~~	~~X~~	
~~Co-Morbid Conditions (Pre-Existing)~~	~~X~~	
~~**INJURY DATA ELEMENTS**~~		
~~Injury Date~~	~~X~~	~~X~~
~~Injury Time~~	~~X~~	~~X~~
~~Actual versus Estimated Injury Time~~	~~X~~	
~~Injury Location ICD-9-CM E-code (E849)~~	~~X~~	~~X~~
~~Street Location of Injury~~	~~X~~	
~~Zip Code of Injury~~	~~X~~	~~X~~
~~City of Injury~~	~~X~~	~~X~~
~~County of Injury~~	~~X~~	
~~State of Injury~~	~~X~~	
~~Primary ICD-9-CM E-code Injury Descriptor~~	~~X~~	~~X~~
~~Additional ICD-9-CM E-code Injury Descriptor~~	~~X~~	
~~Trauma Type~~	~~X~~	
~~Work-Related~~	~~X~~	
~~Patient Occupational Industry~~	~~X~~	
~~Patient Occupation~~	~~X~~	
~~Patient Position in Vehicle~~	~~X~~	
~~Protective Devices~~	~~X~~	~~X~~
~~Child Specific Restraint~~	~~X~~	
~~Airbag Deployment~~	~~X~~	
~~Safety Equipment Issues~~	~~X~~	
~~**PREHOSPITAL TRANSPORT DATA ELEMENTS**~~		
~~EMS Provider Type~~	~~X~~	

~~Transport Mode (Into Reporting Facility)~~	~~X~~	~~X~~
~~Other Transport Modes~~	~~X~~	
~~Transport Agency~~	~~X~~	
~~Run Sheet Available?~~	~~X~~	
~~Run Sheet Date~~	~~X~~	
~~Transported From~~	~~X~~	
~~Date EMS Provider Notified~~	~~X~~	
~~Time EMS Provider Notified~~	~~X~~	
~~Date EMS Provider Left for Scene~~	~~X~~	
~~Time EMS Provider Left for Scene~~	~~X~~	
~~Date EMS Provider Arrived at Scene~~	~~X~~	
~~Time EMS Provider Arrived at Scene~~	~~X~~	
~~Date of EMS Patient Contact~~	~~X~~	
~~Time of EMS Patient Contact~~	~~X~~	
~~Date EMS Provider Departed Scene~~	~~X~~	
~~Time EMS Provider Departed Scene~~	~~X~~	
~~Date of Arrival at Destination~~	~~X~~	
~~Time of Arrival at Destination~~	~~X~~	
~~EMS Destination~~	~~X~~	
~~Total EMS Response Time (Minutes)~~	~~X~~	
~~Total EMS Scene Time (Minutes)~~	~~X~~	
~~Transport Time – Scene to Destination (Minutes)~~	~~X~~	
~~Total EMS Time (Minutes)~~	~~X~~	
~~System Access~~	~~X~~	
~~Triage Criteria~~	~~X~~	~~X~~
~~Date of Measurement of Vital Signs~~	~~X~~	
~~Time of Measurement of Vital Signs~~	~~X~~	
~~Initial Field Pulse Rate~~	~~X~~	
~~Initial Field Respiratory Rate~~	~~X~~	
~~Initial Field Oxygen Saturation~~	~~X~~	
~~Field Airway Management Details~~	~~X~~	
~~Field Intubation Status~~	~~X~~	
~~Field Paralytic Agent in Effect~~	~~X~~	
~~Initial Field Systolic Blood Pressure~~	~~X~~	
~~Initial Field GCS – Eye Opening~~	~~X~~	
~~Initial Field GCS – Verbal Response~~	~~X~~	
~~Initial Field GCS – Motor Response~~	~~X~~	

~~Initial Field GCS – Total~~	~~X~~	
~~Field Revised Trauma Score~~	~~X~~	
~~REFERRING/TRANSFER HOSPITAL DATA ELEMENTS~~		
~~Interfacility Transfer~~	~~X~~	
~~Date of Arrival at First Referring Hospital~~	~~X~~	
~~Time of Arrival at First Referring Hospital~~	~~X~~	
~~Date of Transfer from First Referring Hospital~~	~~X~~	
~~Time of Transfer from First Referring Hospital~~	~~X~~	
~~Transferring Facility (First Referring)~~	~~X~~	
~~Length of Stay in First Referring Hospital (Hours)~~	~~X~~	
~~Destination Facility~~	~~X~~	
~~Date of Arrival at Second Referring Hospital~~	~~X~~	
~~Time of Arrival at Second Referring Hospital~~	~~X~~	
~~Date of Transfer from Second Referring Hospital~~	~~X~~	
~~Time of Transfer from Second Referring Hospital~~	~~X~~	
~~Transferring Facility (Second Referring)~~	~~X~~	
~~Length of Stay in Second Referring Hospital (Hours)~~	~~X~~	
~~Destination Facility~~	~~X~~	
~~Vital Signs Designation (If First or Second Referring)~~	~~X~~	
~~Initial Respiratory Rate in Referring Facility~~	~~X~~	
~~Initial Systolic Blood Pressure in Referring Facility~~	~~X~~	
~~Initial GCS Total in Referring Facility~~	~~X~~	
~~Initial Revised Trauma Score in Referring Facility~~	~~X~~	
~~ED/TRAUMA DATA ELEMENTS~~		
~~ED/Hospital Arrival Date~~	~~X~~	~~X~~
~~ED/Hospital Arrival Time~~	~~X~~	~~X~~
~~ED Exit Date~~	~~X~~	~~X~~
~~ED Exit Time~~	~~X~~	~~X~~
~~Length of Stay in ED (Hours)~~	~~X~~	~~X~~
~~Complete Trauma Team Arrival Time~~	~~X~~	
~~ED Discharge Disposition~~	~~X~~	~~X~~
~~ED Discharge Destination Hospital~~	~~X~~	~~X~~
~~Discharge Transport Agency~~	~~X~~	
~~Transfer Reason~~	~~X~~	
~~ED/Hospital Initial Pulse Rate~~	~~X~~	
~~ED/Hospital Initial Respiratory Rate~~	~~X~~	

~~ED/Hospital Initial Respiratory Assistance~~	~~X~~	
~~ED/Hospital Initial Oxygen Saturation~~	~~X~~	
~~ED/Hospital Initial Supplemental Oxygen~~	~~X~~	
~~ED/Hospital Intubation Status~~	~~X~~	
~~ED/Hospital Paralytic Agent in Effect~~	~~X~~	
~~ED/Hospital Initial Systolic Blood Pressure~~	~~X~~	
~~ED/Hospital Initial GCS – Eye Opening~~	~~X~~	
~~ED/Hospital Initial GCS – Verbal Response~~	~~X~~	
~~ED/Hospital Initial GCS – Motor Response~~	~~X~~	
~~ED/Hospital Initial GCS – Total~~	~~X~~	
~~ED/Hospital Initial GCS Assessment Qualifiers~~	~~X~~	
~~ED/Hospital Initial Temperature~~	~~X~~	
~~ED/Hospital Initial Units of Temperature~~	~~X~~	
~~ED/Hospital Initial Temperature Route~~	~~X~~	
~~ED/Hospital Initial Revised Trauma Score~~	~~X~~	
~~Alcohol Use Indicator~~	~~X~~	
~~Blood Alcohol Content (mg/dl)~~	~~X~~	
~~Drug Use Indicator~~	~~X~~	
~~Toxicology Substances Found~~	~~X~~	
~~DISCHARGE DATA ELEMENTS~~		
~~Hospital Discharge Date~~	~~X~~	~~X~~
~~Hospital Discharge Time~~	~~X~~	~~X~~
~~Hospital Admission Length of Stay (Days)~~	~~X~~	~~X~~
~~Total Length of Hospital Stay – ED plus Admission (Days)~~	~~X~~	
~~Final Outcome – Dead or Alive~~	~~X~~	~~X~~
~~Total ICU Length of Stay (Days)~~	~~X~~	~~X~~
~~Total Ventilator Days~~	~~X~~	
~~Hospital Discharge Disposition~~	~~X~~	~~X~~
~~Hospital Discharge Destination Hospital~~	~~X~~	~~X~~
~~Discharge Transport Agency~~	~~X~~	
~~Transfer Reason~~	~~X~~	
~~Autopsy Identification Number~~	~~X~~	
~~Injury Diagnoses – ICD-9-CM N-codes~~	~~X~~	~~X~~
~~AIS Six-Digit Injury Identifier~~	~~X*~~	
~~AIS Severity Code~~	~~X~~	
~~AIS Body Region of Injury~~	~~X~~	
~~Injury Severity Score~~	~~X~~	

~~Probability of Survival~~	~~X~~	
~~ED/Hospital Procedure Location~~	~~X~~	
~~ED/Hospital Procedure Start Date~~	~~X~~	
~~ED/Hospital Procedure Start Time~~	~~X~~	
~~ED/Hospital ICD-9-CM Procedure Codes~~	~~X~~	
~~Hospital Complications~~	~~X~~	
~~Primary Method of Payment~~	~~X~~	
~~Secondary Method of Payment~~	~~X~~	
~~Total Hospital Charges~~	~~X~~	
~~Total Reimbursements~~	~~X~~	

R9-25-1403. ~~**Trauma System Data Reports; Requests for Trauma Registry Reports (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2220(A), 36-2221, and 36-2225(A)(5) and (6))**~~ **Repealed**

~~**A.** The Department shall produce and disseminate to each submitting health care institution a quarterly trauma system data report that includes statewide aggregate trauma data.~~

~~**B.** A person may request to receive a report containing statewide aggregate trauma data for data elements not included in the quarterly trauma system data report by submitting a written public records request to the Department as provided in A.A.C. R9-1-303.~~

~~**C.** The Department shall process a request for a report submitted under subsection (B) as provided in A.A.C. R9-1-303.~~

~~**D.** As provided in A.R.S. § 36-2220(A)(1), Trauma Registry data from which a patient, the patient's family, or the patient's health care provider or facility might be identified is confidential and is not available to the public.~~

R9-25-1405. ~~**Confidentiality and Retention of Trauma System Quality Assurance Data (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2220(A), 36-2221, 36-2222(E)(3), 36-2225(A)(5) and (6), 36-2403(A), and 36-2404)**~~ **Repealed**

~~**A.** As provided in A.R.S. §§ 36-2220(A)(2) and 36-2403(A), all data and documents obtained by the Department or considered by the Department, the State Trauma Advisory Board, or a State Trauma Advisory Board subcommittee for purposes of trauma system quality assurance are confidential and are not available to the public.~~

~~**B.** The Department shall ensure that:~~

~~1. Each member of the State Trauma Advisory Board or member of a State Trauma Advisory Board subcommittee who will have access to the data and documents described in subsection (A) executes a written confidentiality statement before being allowed~~

~~access to the data and documents;~~

~~2. All trauma system quality assurance activities are completed in executive session during State Trauma Advisory Board or State Trauma Advisory Board subcommittee meetings;~~

~~3. Except for one historical copy, all copies of data and documents described in subsection (A) and used during an executive session are collected at the end of the executive session and destroyed after the State Trauma Advisory Board or State Trauma Advisory Board subcommittee meeting; and~~

~~4. Executive session minutes and all copies of data and documents described in subsection (A) are maintained in a secure area and are accessible only to authorized Department employees.~~

R9-25-1406. **Renumbered**

May 30, 2017

Mr. Terry Mullins
Bureau Chief, EMS and Trauma Systems
Arizona Department of Health Services
150 N. 18th Ave., Suite 540
Phoenix, AZ 85007

Dear Mr. Mullins:

On behalf of the Arizona Hospital and Healthcare Association (AzHHA) and our more than 80 hospital, healthcare and affiliated health system members, thank you for the opportunity to comment on the Arizona Department of Health Services' (ADHS) proposed rules relating to trauma center designation. We would like to express our gratitude to the ADHS rule-writers and the Bureau of Emergency Medical Services (EMS) and Trauma Systems staff for conducting an open and deliberative draft rule-making process. We appreciate the consensus-building approach taken by the department and the opportunity to provide feedback on an iterative basis throughout the process. The proposed rules reflect constructive input from multiple stakeholders, and are sounder as a result of this process.

Because we have provided abundant input on previous drafts of the proposed rules, our comments in this letter are directed at changes made in the proposed rule relative to the February 2017 draft. We generally support the positions taken by ADHS in response to the comments received on that draft, with a few minor exceptions and/or requested clarifications.

Trauma Center Application and Designation

We are particularly appreciative that the Department was able to reexamine the role that the American College of Surgeons might be willing to take in assessing Arizona healthcare institutions against state trauma center standards. As such, we strongly support the Department's decision to maintain assessment by a national verification organization against state standards as one of the principal paths for Level I and Level II designation. We also support the proposal to incorporate a "safety-net" process for Level I and II designation as a back-stop. We likewise support the proposal to establish an optional path for Level III and Level IV trauma centers, which relies on review and assessment by ADHS. This approach builds upon the current process for Level IV designation. We believe the bifurcated approach will address concerns raised by some of the urban trauma centers and larger health system, while addressing fiscal concerns of rural facilities seeking a lower level designation.

Having said this, we would like to bring to the attention a section of the proposed rules in which this bifurcated process may penalize Level III and Level IV applicants relative to Level I and Level II applicants. R9-25-1302 (A)(2)(a-d) allows healthcare institutions to be eligible for Level I or Level II designation based on "meeting the requirements of Subsection C." R9-25-1302(C) delineates a process for healthcare institutions to be eligible for Level I and II designation when they applied for verification, but did not receive it nor did they receive documentation of meeting the state standards. This alternative process requires, as outlined in subsection C: a facility to be reviewed by ADHS commensurate with the national verification organization assessment; issuance of a non-compliance report by ADHS; and submission of a corrective action plan, as applicable.

Because Level III and Level IV applicants can also apply for designation based on verification or documentation by a national verification organization that the facility has met state standards (R9-25-1302(A)(2)(e) and R9-25-1302(B)(2))—similar to Level I and Level II applicants, we question why a "corrective action pathway" to designation does not exist for them. These facilities may not choose to utilize this pathway as often as applicants for a higher level of designation will, but we believe the option should be available to all levels of applicants—if it is available to any. As such, we recommend including a provision that allows Level III and Level IV applicants to be eligible for designation based on meeting the requirement of R9-25-1302, subsection C. If the Department approves this change, conforming changes will need to be made to subsection C.

Performance Improvement

Based on comments received on the February 2017 draft, the Department has proposed adding subparagraph f to R9-25-1308(B)(7). This subparagraph delineates steps a trauma center must take if "an issue is identified" with respect to the facility's performance improvement program. While we understand the appeal in clarifying department expectation with respect to implementation of a facility's performance improvement plan, we question whether a facility will be able to anticipate and include in its performance improvement policies and procedures every type of issue that might arise and necessitate a corrective action plan. Depending on the issue identified, plans might need to be developed and implemented in concert with staff from multiple departments and/or the governing body. In other instances, the plan might not necessitate such wide-ranging inter-departmental coordination. We recommend that ADHS reassess the need, and indeed the practicality, of requiring trauma centers to include this level of detail in their broader performance improvement policies and procedures. Instead, we recommend the Department strike this provision from the rules, but incorporate it into a substantive policy statement that would lay out ADHS's expectations for how a facility would implement a performance improvement plan should "an issue be identified."

Other Observations

As mentioned above, we support many of the changes ADHS has made (and not made) in response to previous stakeholder input on the draft rules. This includes:

- Increasing, from 10 to 15, the number of days that a healthcare institution has to submit a corrective action plan under R9-25-1306(E).
- Aligning requirements for Level I and Level II trauma center anesthesia personnel with those of surgeons and other operating room team members (R9-25-1308(H)(6).
- Maintaining current provisions relating to trauma program managers, and not specifying an FTE requirement in the rules.
- Maintaining current state volume performance standards.

Finally, we would like to take this opportunity to opine on an issue that has increasingly concerned many of our Board members, although it is outside the purview of this rule-making—and indeed outside the authority of ADHS to address without additional statutory authority. The issue of concern involves the evolving configuration of the trauma system in Arizona—specifically, the proliferation of Level I trauma centers in the Phoenix metropolitan area, while rural areas struggle to maintain more basic Level III services. To be clear, our Board has not taken a formal position on this issue. Moreover, we acknowledge that it is not surprising to have significantly more Level I trauma services in the metro area due to the demographics of our state. However, there is concern that the growth in Level I trauma centers in the Phoenix area may impact the quality of care over time. It is a question of whether there are enough high acuity trauma cases in Maricopa County to support the number of Level I trauma centers there without diminishing this quality. We do not have an answer to this question, but we believe it is an important one to be examined moving forward.

At the same time, many of our Board members have expressed concern that policymakers should be more attuned to the need to improve trauma care in rural areas. The data indicates that this is an important path to pursue. And, ADHS has done an excellent job in this respect. However, the current distribution of trauma funding, which was established before a statewide trauma system was developed, and which directs all resources to Level I trauma centers—has created distortions in the development of a statewide system. We are currently in the process of evaluating this issue, but do not have a proposal to share at this time.

In conclusion, we would like to thank ADHS staff again on the open and deliberative approach they took in developing the proposed rules. We look forward to continuing to work with the Department as the rules are implemented. Please feel free to contact me in the meantime if you have any questions regarding our comments.

Sincerely,

Debbie Johnston
Senior Vice President, Policy Development

From: Lee, Patricia J [mailto:Trish.Lee@orovalleyhospital.com]
Sent: Wednesday, May 31, 2017 1:05 PM
To: Kimberly Boehm
Cc: West, Carmen D
Subject: re: trauma rules

Hi Kim-
Below is all I see in the new rules that talk about NPs or PAs having ATLS. It specifically says "responsible for patients in an emergency department in the absence of an emergency physician". Because our NPs & PAs always have a board certified doc in the deparment, do they require the ATLS cert?

Trish Lee, BSN, RN ~ ED Director
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TITLE 9. HEALTH SERVICES

CHAPTER 25. EMERGENCY MEDICAL SERVICES

ARTICLE 13. TRAUMA ~~CENTER DESIGNATION~~ CENTERS AND TRAUMA REGISTRIES

ARTICLE 14. ~~TRAUMA REGISTRY; TRAUMA SYSTEM QUALITY ASSURANCE~~ REPEALED

ECONOMIC, SMALL BUSINESS, AND CONSUMER IMPACT STATEMENT

ECONOMIC, SMALL BUSINESS, AND CONSUMER IMPACT STATEMENT

TITLE 9. HEALTH SERVICES

CHAPTER 25. EMERGENCY MEDICAL SERVICES

ARTICLE 13. TRAUMA ~~CENTER DESIGNATION~~ CENTERS AND TRAUMA REGISTRIES

ARTICLE 14. ~~TRAUMA REGISTRY; TRAUMA SYSTEM QUALITY ASSURANCE~~ REPEALED

1. An identification of the rulemaking

Arizona Revised Statutes (A.R.S.) § 36-2225 requires the Arizona Department of Health Services (Department) to develop and administer a statewide emergency medical services and trauma system to implement the Arizona emergency medical services and trauma system plan, required under A.R.S. § 36-2208. A.R.S. § 36-2225 further requires the Department to adopt rules for the designation of trauma centers and to require trauma centers to submit data to the trauma registry established by the Department under A.R.S. § 36-2208. The Department has implemented these statutes in Arizona Administrative Code (A.A.C.) Title 9, Chapter 25, Articles 13 and 14. In 9 A.A.C. 25, Article 13, the Department specifies the processes by which a health care institution may voluntarily request designation. Any hospital in Arizona that meets applicable American College of Surgeons Committee on Trauma (ACS) or state standards may apply for and receive a designation as a Level I, II, or III trauma center. Any health care institution in Arizona that meets applicable state standards may apply for and receive a designation as a Level IV trauma center. A.R.S. § 36-2225 allows three methods to become a trauma center, but the rules only specify two methods. According to 9 A.A.C. 25, Article 14, all trauma centers are required to report to the trauma registry using ICD-9 codes. At the same time, the Centers for Medicare and Medicaid Services require all hospitals to use ICD-10 codes when billing for services. This results in an expensive duplicate reporting system. Several issues have arisen with the current system for provisional designation as a trauma center. For example, the rules appear to limit submission to less than 12 consecutive months of data. This is problematic since the Department encourages the submission of data by hospitals that are not trauma centers to obtain a more complete view of trauma services in the state and to enable the Department to provide technical assistance to a hospital that may seek designation as a trauma center in the future. The Department is revising the rules to address these concerns, update application and other requirements, remove obsolete requirements, and improve the effectiveness of the rules.

2. Identification of the persons who will be directly affected by, bear the costs of, or directly benefit from the rules

a. Cost bearers

- The Department
- Designated trauma centers
- Health care institutions planning to request designation
- Physicians and other health care providers
- Ambulance services and other EMS providers
- Emergency Medical Care Technicians (EMCTs)
- Health insurance companies and health plans, including AHCCCS
- Tribes and federal agencies operating a hospital or other health care institution under federal or tribal law
- ACS

b. Beneficiaries

- The Department
- Designated trauma centers
- Health care institutions planning to request designation
- Physicians and other health care providers
- Ambulance services and other EMS providers and their EMCTs
- Health insurance companies and health plans, including AHCCCS
- Tribes and federal agencies operating a hospital or other health care institution under federal or tribal law
- Trauma patients and their families
- General public

3. Cost/Benefit Analysis

This analysis covers costs and benefits associated with the rule changes and does not describe effects imposed by statutes. No new FTEs will be required due to this rulemaking. Annual costs/revenues changes are designated as minimal when more than $0 and $5,000 or less, moderate when between $5,000 and $30,000, and substantial when $30,000 or greater in additional costs or revenues. A cost is listed as significant when meaningful or important, but not readily subject to quantification.

Description of Affected Groups	Description of Effect	Increased Cost/ Decreased Revenue	Decreased Cost/ Increased Revenue
A. State and Local Government Agencies and Federal or Tribal Health Care Institutions			
Department	Having rules to follow that are clearer and easier to understand	None	None-to-minimal
	Adding a requirement for providing additional information on an application or when notifying of a change	None	Significant
	Changing the attestation to clarify that an owner must not only know the applicable requirements but will comply with them	None	Significant
	Clarifying and updating requirements related to inspections	None-to-minimal	Significant
	Clarifying and updating requirements related to designation and dedesignation, including reducing processing times	None-to-minimal	None
	Clarifying and updating requirements related to trauma registry data to improve data quality and usefulness	None-to-minimal	Significant
	Developing inspection and review criteria for Levels other than Level IV	Moderate	Significant
AHCCCS	Clarifying and updating requirements related to providing a trauma service to improve care of trauma patients	None-to-substantial	None-to-substantial
	Clarifying and updating requirements related to trauma registry data to improve data quality and usefulness	None	Significant
	Encouraging more health care institutions to become trauma centers	None-to-minimal	Significant
Publicly owned health care institutions	Having rules to follow that are clearer and easier to understand	None	Significant
	Adding categories and associated requirements for Pediatric Level I trauma centers and Pediatric Level II trauma centers at stakeholders' request and consistent requirements for trauma centers providing trauma care to 100 or more children per year	None-to-substantial	None-to-substantial
	Allowing another pathway to designation	None-to-substantial	None-to-substantial
	Adding a time period before designation during which the health	None-to-substantial	None-to-substantial

Description of Affected Groups	Description of Effect	Increased Cost/ Decreased Revenue	Decreased Cost/ Increased Revenue
	care institution was assessed		
	Clarifying that an outpatient treatment center authorized to provide emergency room services may apply for designation as a Level IV trauma center	None-to-substantial	None-to-substantial
	Adding a requirement for providing additional information on an application or when notifying of a change	Minimal	None-to-minimal
	Removing the requirement for a health care institution licensed by the Department to provide documentation of licensure	None	Minimal
	Increasing the time period for notification of a name change	None	None-to-minimal
	Removing provisional designation and adding provisions related to retention of a provisional designation	None-to-substantial	None-to-substantial
	Clarifying and updating requirements related to inspections	None-to-substantial	Significant
	Clarifying and updating requirements related to designation and dedesignation, including reducing processing times and lengthening terms for modified designations	None	None-to-substantial
	Clarifying and updating requirements related to providing a trauma service to improve care of trauma patients	None-to-substantial	None-to-substantial
	Clarifying and updating requirements related to trauma registry data to improve data quality and usefulness	None-to-moderate	Significant
Tribes and federal agencies operating a hospital or other health care institution under federal or tribal law (in addition to effects common to all health care institutions)	Adding a requirement for a health care institution not licensed by the Department to provide documentation of operating as an administrative unit of the U.S. government or a sovereign tribal nation	Minimal	None
Municipal fire departments or fire districts providing ambulance services and their EMCTs	Having rules to follow that are clearer and easier to understand	None	Significant
	Clarifying and updating requirements related to trauma registry data to improve data quality and usefulness	None-to-minimal	Significant

Description of Affected Groups	Description of Effect	Increased Cost/ Decreased Revenue	Decreased Cost/ Increased Revenue
B. Privately Owned Businesses			
Privately owner health care institutions	Having rules to follow that are clearer and easier to understand	None	Significant
	Adding categories and associated requirements for Pediatric Level I trauma centers and Pediatric Level II trauma centers and facilities providing trauma care to more than 100 children per year	None-to-substantial	None-to-substantial
	Allowing another pathway to designation	None-to-substantial	None-to-substantial
	Adding a time period before designation during which the health care institution was assessed	None-to-substantial	None-to-substantial
	Clarifying that an outpatient treatment center authorized to provide emergency room services may apply for designation as a Level IV trauma center	None-to-substantial	None-to-substantial
	Adding a requirement for providing additional information on an application or when notifying of a change	Minimal	None-to-minimal
	Removing the requirement for a health care institution licensed by the Department to provide documentation of licensure	None	Minimal
	Lengthening the time period for notification of a name change	None	None-to-minimal
	Removing provisional designation and adding provisions related to retention of a provisional designation	None-to-substantial	None-to-substantial
	Clarifying and updating requirements related to inspections	None-to-substantial	Significant
	Clarifying and updating requirements related to designation and dedesignation, including reducing processing times and lengthening terms for modified designations	None	None-to-substantial
	Clarifying and updating requirements related to providing a trauma service to improve care of trauma patients	None-to-substantial	None-to-substantial
	Clarifying and updating requirements related to trauma registry data to improve data quality and usefulness	None-to-moderate	Significant

Description of Affected Groups	Description of Effect	Increased Cost/ Decreased Revenue	Decreased Cost/ Increased Revenue
Private EMS providers	Having rules to follow that are clearer and easier to understand	None	Significant
	Clarifying and updating requirements related to trauma registry data to improve data quality and usefulness	None-to-minimal	Significant
Health insurance companies and health plans	Clarifying and updating requirements related to providing a trauma service to improve care of trauma patients	None-to-substantial	None-to-substantial
	Clarifying and updating requirements related to trauma registry data to improve data quality and usefulness	None	Significant
Physicians and other health care providers	Having rules to follow that are clearer and easier to understand	None	Significant
	Including in the rules a list of trauma care parameters to be monitored as part of the performance improvement program	None-to-minimal	Significant
	Requiring a trauma critical care course to replace the ATLS requirement	None	Significant
	Adding requirements for physician assistants and registered nurse practitioners	None-to-minimal	None-to-substantial
	Allowing physicians and other health care providers to not be on the premises at all times	None	Significant
American College of Surgeons Committee on Trauma	Having a method for a health care institution seeking designation as a Level I, Level II, or Level III trauma center to be assessed by another national verification organization or the Department	Moderate-to-substantial	None
C. Consumers			
EMCTs	Having rules to follow that are clearer and easier to understand	None	Significant
	Clarifying and updating requirements related to trauma registry data to improve data quality and usefulness	None-to-minimal	Significant
Trauma patients and their families	Having rules that include updated requirements and are clearer and easier to understand	None	Significant
General public	Having rules to follow that are clearer and easier to understand	None	Significant

Description of Affected Groups	Description of Effect	Increased Cost/ Decreased Revenue	Decreased Cost/ Increased Revenue
	Clarifying and updating requirements related to providing a trauma service to improve care of trauma patients	None	Significant
	Adding categories and associated requirements for Pediatric Level I trauma centers and Pediatric Level II trauma centers	None	Significant
	Clarifying and updating requirements related to trauma registry data to improve data quality and usefulness	None	Significant

- **The Department**

Under the rules in 9 A.A.C. 25, Article 13, the Department has designated 41 hospitals as trauma centers. Currently, 11 hospitals are designated as Level I trauma centers, including one with provisional designation; seven as Level III trauma centers, including two with provisional designation; and 23 as Level IV trauma centers. This is in contrast with 2009, when eight hospitals were designated as Level I trauma centers, six in the Phoenix metropolitan area, one in Tucson, and one in Flagstaff; none were designated as Level III trauma centers; and seven were designated as Level IV trauma centers, all in rural areas of the state. All 41 of these trauma centers submit trauma registry information as required by A.R.S. §§ 36-2221 and 36-2225. The rules in 9 A.A.C. 25, Article 14 currently specify the requirements for the submission of trauma registry information, and specify the patients for whom information is required to be submitted. There are two sets of data that are specified in rule, a full data set and a reduced data set, containing fewer data elements. The full data set is required to be submitted by Level I trauma centers, Level II trauma centers, and Level III trauma centers. To reduce the burden on smaller hospitals, Level IV trauma centers are required to submit the reduced data set, but are allowed to submit the full data set if they want. Currently, 16 Level IV trauma centers submit the reduced data set, and 8 submit the full data set. As allowed by A.R.S. § 36-2221, one advanced life support base hospital has also submitted the full data set and is preparing to apply for designation as a Level I trauma center.

According to the State Trauma Advisory Board's 2016 Annual Report, available at http://www.azdhs.gov/documents/preparedness/emergency-medical-services-trauma-system/reports/2016-stab-annual-report.pdf, in the five years from 2010 to 2015, the rate of trauma injuries has increased from 418 to 627 traumas per 100,000 Arizona residents. Falls and motor vehicle traffic accounted for almost 70% of trauma injuries in 2015 and approximately 65% of trauma-related mortalities. Comparing all trauma deaths statewide and those occurring in a trauma

center over the three-year period 2013 to 2015, data show a statewide age-adjusted trauma mortality rate of 44.4 per 100,000 but an age-adjusted trauma mortality rate of only 12.8 per 100,000 for deaths occurring in a designated trauma center. This is in contrast with an age-adjusted trauma mortality rate of 58.0 per 100,000 in 2006 when designation began.

In 2009, 67.3% of patients with a trauma injury occurring in Maricopa County were taken to a trauma center, with 44.7% of them arriving at a trauma center within one hour. For trauma injuries occurring in Pima County, 95% of patients were taken to a trauma center, with 48.8% of them arriving at a trauma center within one hour. This is in contrast with injuries occurring in rural counties without a Level I trauma center, in which 45.3% of patients with trauma injuries were taken to a trauma center, while only 7.5% of them arrived at a trauma center within one hour. With the expansion in the number of trauma centers and the addition of Level III trauma centers, the time it takes a severely injured patient to reach a trauma center has decreased. In 2015, the median time to reach a trauma center for an injury occurring in an urban area was 46 minutes, with approximately 75% arriving within one hour. For injuries occurring in rural areas, over 25% of patients arrived at a trauma center within one hour.

As part of this rulemaking, the Department is establishing rules that are clearer and easier to understand. The revised rules also address issues that had been identified during the 2012 five-year-review report for the rules in 9 A.A.C. 25. In the new rules, 30 definitions are being removed, most of these because the term is no longer being used or is being defined/described where it is being used, consistent with the 2012 five-year-review report. The Department is also adding definitions for 19 terms, to define terms that had been used but were undefined in the current rules or to clarify what the term means as used in the new rules. Four existing definitions are being revised. Language throughout the rest of Article 13 is also being updated and revised to improve clarity and understandability. The Department had had to adopt three agency substantive policy statements to address issues with the current rules. These address the ICD-9/ICD-10 issue, issues related to provisional designation, and issues caused by ACS, as a national verification organization, no longer providing documentation that a health care institution meets standards specified in rule. The Department anticipates that changes to update and make the rules clearer and easier to understand may remove the need for these substantive policy statements and provide the Department with as much as a minimal benefit through reducing the number of questions the Department receives to interpret the rules and being able to rescind the substantive policy statements.

In the new rules, requirements for applying for an initial designation or to renew designation are combined into one Section to eliminate duplicative requirements. Because the Department has already developed and has been using a combined application form, this change is not expected to

cause a cost or benefit to the Department or any other entity. However, the new rules require additional information to be provided as part of an application. The rule adds requirements for an applicant to provide the name and contact information of the applicant's trauma program manager and trauma registrar; specify whether the health care institution's trauma registry will be located at the health care institution or be part of a centralized trauma registry, as newly allowed in R9-25-1308; specify the time period for which the health care institution plans to begin submitting trauma registry information, if not already submitting trauma registry information to the Department; and, if the health care institution is applying for designation as a Level IV trauma center, to state whether the health care institution plans to submit, in addition to the information for the reduced data set required in R9-25-1309(A), the additional information for the full data set specified in R9-25-1309(B). Most of this information would presently be collected by the Department during discussions with the trauma program manager or when setting up a trauma center for reporting trauma registry data. Information such as whether the applicant plans to submit trauma registry information as part of a centralized trauma registry is necessary due to rule changes being made. The new rules also change the attestation on the application to clarify that an owner must not only know the applicable requirements but will comply with them. The Department anticipates that these changes will provide the Department with a significant benefit.

The new rules also clarify and update requirements related to inspections, requirements related to designation and dedesignation, and requirements related to trauma registry data quality and usefulness. The criteria to be used when determining compliance and what the Department may inspect during an inspection are clarified in the R9-25-1306. The new rules also allow the Department flexibility in determining when an inspection is necessary, based on stated criteria, and provide notice that the Department may conduct an announced inspection as part of monitoring compliance with a corrective action plan. Consistent with other Department rules, the new rules add that the Department may conduct an announced inspection of a randomly selected trauma center to ensure compliance with standards and the safety of patients. In R9-25-1307, the Department includes many of the requirements related to designation and dedesignation that had been located in other parts of the rules. The new rule uses the statutory term "dedesignation" rather than "denial or revocation," removes redundant provisions currently in subsection (A), reduces the time period for processing an application based on verification or on the assessment by a national verification organization, and clarifies when the Department will issue a designation and when the Department will decline to issue a designation. The new rule also changes the term of modified designation from the remainder of the original designation to a one-year period or the remainder of the original designation, whichever is longer, to benefit a trauma center requesting the modification. In R9-25-1309, the Department

describes the information required to be submitted that had been listed in Table 1 of Article 14. This more descriptive wording makes it easier to understand what information is required to be submitted. Clarifications in R9-25-1310 and additional required information in R9-25-1309, as discussed below, are also expected to improve the usefulness of the trauma registry data in improving the quality of trauma care in Arizona. The Department expects that these changes may provide a significant benefit to the Department while causing at most minimal costs to the Department.

When the trauma center rules were first developed in 2005, the Department made a decision to have at least two pathways to designation for Level I trauma centers, Level II trauma centers, and Level III trauma centers. The current rules specify that ACS conducts assessments of health care institutions in support of the Department's designation of the health care institution as a Level I trauma center, Level II trauma center, or Level III trauma center and may either issue verification of the health care institution as a trauma facility or provide documentation that the health care institution meets state standards (the standards specified in rule) for designation. Because of the expense associated with an ACS assessment, the Department assesses health care institutions for compliance with standards specified in the rules for designation as a Level IV trauma center. Over the past 10 years, many Level I and Level III trauma centers in the State have taken advantage of designation via state standards, sometimes because of problems with ACS verification, making this route to designation a safety net for Arizona's trauma centers. In the past few years, ACS has been unwilling to provide documentation that a health care institution meets state standards, which could have left facilities without a safety net if the Department had not attended ACS assessment site visits, discussed with the reviewers whether the facility met state standards, and based decisions regarding trauma center designation on the discussions and site assessment. Although not in rule, the Department had described this process, which provides a benefit to Arizona's trauma centers and the public, in a substantive policy (SP-095-PHS-EMS) effective December 1, 2014.

Under the new rules, a health care institution applying for designation at any Level of trauma center may be assessed by a national verification organization, such as ACS, and submit either documentation from the national verification organization of verification as a trauma facility or of compliance with the standards specified in rule. Alternately, a health care institution applying for designation as a Level III or Level IV trauma center will also be able to request assessment by the Department. Due to the complexity of a review of a Level I or Level II trauma center, and in response to requests by a majority of Level I trauma center stakeholders, review by a national verification organization will continue being required for Level I and Level II trauma centers, but a mechanism has been put into rule in R9-25-1302 to ensure that review/assessment by the Department may still provide a safety net for Arizona's Level I and Level II trauma centers, similar to the process

currently being used by the Department. The Department anticipates that the Department may receive a significant benefit from having a process included in rule for state assessment for more than Level IV trauma centers and incur a moderate cost for developing inspection and review criteria for Level III trauma centers and for formalizing the safety-net process for Level I and Level II trauma centers.

- **Health insurance companies and health plans, including AHCCCS**

The new rules were developed to improve the trauma system within Arizona and, therefore, the outcomes for patients suffering an injury due to trauma. Health insurance companies and health plans, including AHCCCS, bear most of the costs of hospitalization and a large component of the costs of rehabilitation after a trauma injury. In 2015, the charges for trauma care provided in Arizona totaled over $1.6 billion. The median charges for a trauma patient in 2015 were $22,026, an 8.8% decrease from the median charges in 2013. The costs to a health insurance company or health plan associated with a patient who survives a trauma injury and requires extended hospitalization or rehabilitation services are higher than those for a patient who dies as a result of the trauma. By clarifying and updating requirements related to providing a trauma service, the changes in the new rules may improve care of trauma patients, allowing patients who would otherwise have died of their injuries to survive. By improving the trauma system, the changes may also reduce disability and lengths of stay for patients who would have survived the trauma, regardless of changes made to the rules. Therefore, the rules changes may cause a health insurance company or health plan to incur up to substantial cost increases for patients who would otherwise have died and receive up to substantial cost reductions from patients who would otherwise have had poorer outcomes. Since the rules also clarify and update requirements related to trauma registry data to improve data quality and usefulness, the new rules may help health care institutions to make further changes to improve patient care and allow the Department and, through reports published by these entities, health insurance companies and health plans to encourage health care institutions to make these changes, which may provide a significant benefit to a health insurance company or health plan.

The Trauma and Emergency Services Fund (TESF) was created in 2002 under A.R.S. §36-2903.07 to offset the unreimbursed costs of operating a Level I trauma center, and AHCCCS distributes these monies. In SFY 2016, AHCCCS distributed $20,870,749 as shown at: https://www.azahcccs.gov/PlansProviders/Downloads/HospitalSupplements/Prop202payment.pdf. Since AHCCCS distributes TESF monies, the new rules may affect AHCCCS in another way. When A.R.S. §36-2903.07 was enacted in 2002, there were six self-designated trauma centers; now there are 10 Level I trauma centers designated by the Department. It is possible that a Level III trauma center that had been unwilling to attempt verification by ACS as a Level I trauma facility, without the assurance that a Department assessment could serve as a safety net, may pursue designation as a

Level I trauma center. If so, the number of Level I trauma centers throughout Arizona may further increase, and AHCCCS may receive more applications for TESF distributions. The Department anticipates that processing any additional applications may cause AHCCCS to incur at most a minimal amount of additional costs. Having more trauma centers in locations other than the Phoenix or Tucson metropolitan areas may allow patients with severe trauma injuries to travel shorter distances to receive the trauma care they need, providing a significant benefit to a health insurance company or health plan, including AHCCCS, as well as to patients.

- **Health care institutions, both publicly owned hospitals and privately owned hospitals and other health care institutions**

Of the 41 hospitals designated as trauma centers, two are owned by political subdivisions: Maricopa Integrated Health System, owned by the Maricopa County Special Health Care District; and Yavapai Regional Medical Center, owned by the Central Yavapai Hospital District; and one hospital is tribal. The rest are privately owned, several by large corporations such as Banner, Honor Health, Dignity Health, or Tenet. The Department anticipates that having rules to follow that are clearer and easier to understand will provide a significant benefit to a health care institution designated as a trauma center and to a health care institution that may seek designation in the future. Other changes described below may also affect both trauma centers and health care institutions that may seek designation in the future.

Injuries cause a higher mortality in children than all other causes combined. At the request of stakeholders, the Department added to the rules categories and associated requirements for Level I Pediatric trauma centers and Level II Pediatric trauma centers, consistent with requirements used by ACS for verification of hospitals as these categories of trauma facilities. These categories of trauma facilities have unique capabilities to treat pediatric patients, including specially trained clinical staff; special programs, such as child life, described/defined in the Key to Table 13.1; and hospital facilities geared to pediatric patients. Currently, one hospital in Arizona, Phoenix Children's Hospital, has been verified by ACS as a Level I Pediatric trauma facility, and one hospital, Maricopa Integrated Health System, has been verified by ACS as a Level II Pediatric trauma facility. Because a hospital could choose to request designation as one of these categories of trauma center, but is not required by the rules to do so, any expenses incurred by the hospital to meet ACS or state requirements are not caused by the rules but by the hospital's choice. If a hospital were designated as a Level I Pediatric trauma center or Level II Pediatric trauma center, the hospital might expect to receive more critically injured pediatric patients, resulting in up to a substantial increase in revenue for the hospital. Because not every trauma center providing trauma care to children may decide to request designation as one of these categories of trauma center, the new rules also contain specific requirements for a trauma center

that is not designated as a Level I Pediatric trauma center or Level II Pediatric trauma center and annually provides trauma care to 100 or more injured children younger than 15 years of age. These requirements, provided in R9-25-1308(F)(14), are consistent with requirements in the current rules, but provide more specificity and help ensure the health and safety of pediatric patients treated at the trauma center. Complying with these requirements may cause a trauma center to incur up to a substantial increased cost, depending on what requirements were not being met.

As mentioned above, currently all health care institutions wanting to be designated as a Level I trauma center, Level II trauma center, or Level III trauma center are required by rule to apply to ACS for verification and obtain either verification or documentation issued by ACS stating that the health care institution meets the state standards for the specific Level of trauma center. According to the ACS webpage at https://www.facs.org/quality%20programs/trauma/vrc/fees, as of January 1, 2017, a health care institution with verification at Adult Level I or II or Pediatric Level I is required to pay ACS an annual fee of $17,000, which is scheduled to increase to $19,000 beginning July 1, 2019. A health care institution with verification at Level III pays $12,000 annually, increasing to $13,649 beginning July 1, 2019. If a health care institution has both adult and pediatric verifications, the health care institution currently would be required to pay an annual fee of as much as $34,000, increasing to $38,000 beginning July 1, 2019. On top of the annual fees are one-time fees related to each application for verification. These include fees for a verification consultation ($18,000, increasing to $19,000 beginning July 1, 2018), consultation for Level II Pediatric with Level I or Level II Adult ($21,500, increasing to $23,500 beginning July 1, 2019), and focused reviews that concentrate on deficiencies noted during a previous assessment ($13,500, increasing to $14,000 beginning July 1, 2019, for an onsite review and $1,500 for a remote review).

As allowed by the new rules, a health care institution may continue to obtain designation based on verification by a national verification organization, currently ACS, or on documentation from a national verification organization stating that the health care institution meets the state standards. However, the new rules provide another option for health care institutions applying for designation as a Level III trauma center – assessment by the Department – and a new option for designation as a Level IV trauma center – assessment by a national verification organization. This change gives a health care institution more flexibility in determining what route the health care institution plans to take towards obtaining a trauma center designation. As mentioned above, the new rules also ensure that the Department may serve as a safety net for Arizona's Level I and Level II trauma centers, providing requirements for the use of this process similar to those currently being used by the Department. The Department anticipates that these changes may provide a health care institution with up to a substantial benefit, depending on the decisions made by the health care

institution. In the unlikely possibility that a health are institution plans to pursue designation as a Level IV trauma center through verification, the health care institution could incur up to a substantial cost increase.

In the current rules, a health care institution is required to "[h]old current verification for the health care institution" or "[h]ave current documentation issued by ACS stating that the health care institution meets the state standards" for the specific Level of trauma center for which designation is being requested. For all applications received by the Department since designation began, this required documentation has been dated sooner than six-months before an application was submitted. In fact, in many cases, an application is submitted around the time that an ACS site visit for assessment takes place and before documentation is received indicating the results of the assessment. In the new rules, the document indicating verification or assessment of compliance with standards specified in the rules is required to have been issued within six-months before an application is submitted. The Department believes that documentation of compliance most accurately reflects compliance at the time of the assessment.

Although the Department has no data to demonstrate this, it is reasonable to assume that the longer the time period between the assessment and an application, the more chance that a health care institution may not be in compliance at the time of the application. The Department believes that requiring the documentation of compliance to have been issued within six months before the date of the application is a reasonable time frame, especially since ACS may take four to six months after a site visit to issue verification documentation. Therefore, an application that includes documentation of verification from ACS could be submitted almost a year after an ACS site visit. Conversely, the Department believes that the assessment of compliance should have been completed before the date of application for a health care institution requesting designation on the basis of verification or assessment of state standards by a national verification organization. Unless the assessment of compliance were completed before an application was submitted, a health care institution would not know the national verification organization's conclusions and whether the health care institution could apply based on the verification or outside assessment or would need to apply for a Department assessment. This would also improve application processing times since an application would not be pending receipt of such documentation. The Department anticipates that this requirement may impose up to a substantial burden on a health care institution, especially one applying for renewal of designation based on verification, by requiring the health care institution to submit an application to ACS (or another national verification organization) earlier than had been the practice under the current rules. However, the requirement may also provide up to a substantial benefit to a health care institution since the standards used by ACS change. By scheduling an ACS assessment in time to

receive documentation of verification or denial of verification before the date of application, the health care institution would either have the needed documentation or would know that the health care institution needs to apply based on assessment of compliance with state standards by the national verification organization or the Department to avoid losing designation.

The statutory definition of "trauma center" in A.R.S. § 36-2225 states that a trauma center can be a health care institution that is designated by the Department, not just a hospital. The Department licenses health care institutions, under 9 A.A.C. 10, as outpatient treatment centers authorized to provide emergency room services. These outpatient treatment centers may operate as free-standing emergency departments. Although there are currently no independently licensed outpatient treatment centers authorized to provide emergency room services, 14 such facilities are licensed by the Department under single group licenses issued to a hospital under A.R.S. § 36-422(F). In the quickly changing health care industry, it is likely that outpatient treatment centers authorized to provide emergency room services may be independently licensed in the future. Therefore, the Department specifically included this class of health care institution as being eligible for designation as a Level IV trauma center, even though such health care institutions could have applied for designation under the current rules. The Department anticipates that clarifying the eligibility of an outpatient treatment center authorized to provide emergency room services to become a Level IV trauma center may provide up to a substantial benefit to an outpatient treatment center that becomes designated, since it may receive more patients requiring trauma care. Although seeking to obtain designation is at the discretion of a health care institution and is not required by the rules, an outpatient treatment center authorized to provide emergency services that is seeking designation may incur up to substantial costs to comply with requirements in the rules.

The current rules include requirements for initial applications for designation in R9-25-1304 and requirements for renewals of designation in R9-25-1306. These requirements are essentially the same, and the Department has been using a single application form for both. In the new rules, the requirements for both are consolidated into R9-25-1303 and several additional pieces of information are being required. Since, at some time in the future, ACS may not be the only national verification organization providing verification, R9-25-1303 now requires the name of the national verification organization and name and contact information for its representative. Since assessment of meeting standards in the rules may be performed by the Department as well as a national verification organization, R9-25-1303 also requires the applicant to state who will be assessing the health care institution's compliance with the standards in the rule; if a national verification organization, the name of the national verification organization and name and contact information for its representative; and if the Department, the date the health care institution will be ready for an

assessment. The new rule also adds requirements for an applicant to provide the name and contact information of the applicant's trauma program manager and trauma registrar; specify whether the health care institution's trauma registry will be located at the health care institution or be part of a centralized trauma registry, as newly allowed in R9-25-1308; specify the time period for which the health care institution plans to begin submitting trauma registry information, if not already submitting trauma registry information to the Department; and, if the health care institution is applying for designation as a Level IV trauma center, to state whether the health care institution plans to submit, in addition to the information for the reduced data set required in R9-25-1309(A), the additional information for the full data set specified in R9-25-1309(B). This information is already being collected by the Department during discussions with a health care institution seeking designation, but had not been included in the current rules. As part of an application, the applicant would also be required to attest that the owner must not only know the applicable requirements but will comply with them. The list of individuals who can sign the application is being removed since that is now specified in R9-25-102; and information that had been in R9-25-1315 or Table 1 of Article 13 for reviewing an application for completeness, and on when the Department would consider an application withdrawn, is being included in the rule to improve clarity and understandability. The Department anticipates that making these changes may cause a minimal cost to a health care institution applying for designation and may provide up to a minimal benefit.

The rule also replaces the requirement for a health care institution licensed by the Department to provide documentation of licensure, since that information is available through the licensing component of the Department, with a requirement for the license number. The new rule adds a requirement for a health care institution not licensed by the Department to provide documentation that the health care institution is operating as a hospital or an outpatient treatment center providing emergency services under federal or tribal law. The new rules in R9-25-1304 also add a requirement for a trauma center making a change of trauma program manager or trauma medical director to provide the name of the new trauma program manager or trauma medical director. The new rule also allows additional time during which an owner is required to notify the Department of a change in the trauma center's name. The Department anticipates that removing the requirement for a licensed health care institution to provide documentation of licensure and lengthening the time to report a change may provide up to a minimal benefit to a trauma center, while other changes may cause a minimal cost to a health care institution applying for designation, but is already information that is collected or is necessary, given the changes being made to the rules.

Before a hospital applies for assessment by ACS, the hospital must gather sufficient records of patients receiving trauma services from the hospital, containing specific data related to the trauma

services provided, to enable the trauma services provided by the hospital to be assessed. To allow EMS providers to bring patients with trauma injuries to the hospital, and thereby address this need, the concept of "provisional designation" was included in the current rules. However, the system of provisional designation has encountered challenges on implementation. While the Department encourages a hospital developing its trauma capacity in preparation for seeking designation as a trauma center to submit to the Department data related to the services provided by the hospital to treat trauma injuries, R9-25-1305(A) could be read as preventing a hospital from applying for provisional designation because the hospital submitted too much data to the Department. In addition, according to the current rules, a hospital seeking provisional designation just submits an application and attests to having the resources and capabilities necessary to meet the state standards for the Level of designation sought, rather than attesting to meeting the requirements for designation, and no inspection of these facilities is included in the rules, possibly lessening patient safety.

The new rules phase out provisional designation. Under R9-25-1303.01, a health care institution that held a provisional designation before the effective date of the rules would be able to retain the provisional designation until the end of the designation period, before which the health care institution would need to apply for designation under R9-25-1303. Under the new rules, a health care institution that would have applied for a provisional designation under the current rules could apply for initial designation under R9-25-1303, and could request a Department assessment or the Department's participation in a review conducted by a national verification organization. The lack of sufficient patient records would not necessarily prevent the Department from issuing a designation if other indicators of facility and staffing capabilities were documented and comply with requirements in the rules. This would enable the health care institution to become designated and receive patients through the EMS system, while the health and safety of a patient would be protected. The Department anticipates that these changes could provide a health care institution with as much as a substantial benefit, depending on whether the health care institution has provisional designation and whether it can meet standards specified in rule or for verification by a national verification organization like ACS by the effective date of the rules. However, having to undergo a review of the health care institution's capabilities and staffing, rather than just attesting to meeting the requirements for designation may cause up to a substantial burden on a health care institution that does not have the requisite capabilities.

In R9-25-1306, the Department combines redundant requirements from the current R9-25-1310 and R9-25-1311. The new rule uses the term "inspection" rather than "on-site survey" and "investigation," consistent with other Department rules; clarifies the criteria to be used when determining compliance and what the Department may inspect during an inspection, while giving the

Department flexibility in determining when an inspection is necessary; provides notice that the Department may conduct an announced inspection as part of monitoring compliance with a corrective action plan; and adds that the Department may conduct an announced inspection of a randomly selected trauma center. The Department anticipates that these changes may provide a significant benefit to a health care institution in knowing how and under what circumstances an inspection may be made and from the Department's flexibility in determining whether an inspection is necessary. The changes may also cause up to a substantial cost to a health care institution that may not be in compliance at the time a random, announced inspection is scheduled.

The new R9-25-1307 uses the statutory term "dedesignation" rather than "denial or revocation," consistent with statute, and includes information on processing an application that had been in R9-25-1315 or Table 1, including processing time periods and requirements for notification and for appeal. The time period for processing a complete application is reduced from 90 calendar days to 45 calendar days for an application based on verification and to 60 calendar days for an application based on an assessment of compliance with state standards by a national verification organization. The rule also clarifies when the Department will issue a designation and when the Department will decline to issue a designation and changes the term of modified designation from being the remainder of the original designation to either a one-year period or the remainder of the original designation, whichever is longer. These changes should provide a significant benefit to a health care institution.

When the rules in Article 13 were adopted in 2005, many of the requirements in Exhibit I reflected ACS requirements at the time. Since then, trauma system standards and trauma clinical practice have changed, necessitating a review of the requirements in Exhibit I and its footnotes. This review was completed in conjunction with representatives of stakeholder groups. To make the rules clearer and more easily understood, footnotes are no longer used in the rules and some requirements that had been in Exhibit I and its footnotes were put into the new R9-25-1308 and clarified. Requirements that are applicable to all trauma centers, consistent with A.R.S. §§ 36-2221 and 36-2225, are grouped together in subsections (A) through (E). These include requirements for establishing a trauma registry, with related policies and procedures; establishing a performance improvement program, with related policies and procedures; ensuring specific information/records are included in the trauma registry, in the current R9-25-1402; submitting trauma registry information to the Department, in the current R9-25-1402; and reviewing the information in the trauma center's trauma registry as part of the performance improvement program. Subsection (E) contains a list of the types of trauma care parameters that a trauma center monitors as part of its performance improvement program.

Other requirements currently in Exhibit I or its footnotes, which apply to a trauma center designated based on meeting these state standards, are grouped together in subsections (F) through (J) of R9-25-1308. These requirements do not apply to a trauma center designated based on verification, since the standards of the national verification organization issuing the verification apply to these trauma centers and may differ from the requirements in subsections (F) through (J). These include requirements for establishing a trauma service, with related policies and procedures; appointing a trauma medical director meeting specific requirements; appointing a trauma program manager; ensuring attendance of relevant individuals at multidisciplinary peer review committee meetings; ensuring that personnel members on the trauma team meet specific requirements; participating in state, local, or regional trauma-related activities and injury prevention programs; and ensuring maintenance of specific clinical capabilities and staffing, including that staff meet specific requirements. The new rules also clarify education/training requirements for physician assistants and registered nurse practitioners who are responsible for patients in an emergency department in the absence of an emergency physician, since these health care providers are more widely used now than at the time the current rules were adopted. The Department anticipates that this reorganization of current requirements to improve clarity will provide a significant benefit to a trauma center or a health care institution considering designation.

Other requirements in the current rules have been revised to reduce the regulatory burden, without compromising patient health or safety. These include establishing policies and procedures for operating rooms and operating room teams, including a provision not in the current rules allowing an operating room team of a Level I trauma center to not be on the premises at all times as long as the team is present within 15 minutes after notification or patient arrival, whichever is later. Under the new rules, a trauma center is required to establish a patient transfer plan and ensure transfer of patients according to the patient transfer plan. The patient transfer plan replaces the requirement for a patient transfer agreement in the current rule because of the difficulties that tribal health care institutions had in complying with the requirement. The Department believes that these changes may cause a heath care institution to incur minimal-to-moderate costs to develop these policies and procedures and patient transfer plan, but that a health care institution will receive up to a substantial benefit from the changes. As requested by stakeholders, the Department is allowing health care institutions under the same governing authority to establish a single, centralized trauma registry and submit consolidated information from the trauma registry to the Department if specific requirements are met. A health care institution meeting these requirements may also receive up to a substantial benefit from having a centralized trauma registry.

In the current rules, certain emergency medicine physicians and general surgeons are required to have current certification in ATLS, defined in R9-25-1301. ATLS courses were developed by ACS to provide instruction on the immediate medical management of injured patients, are most often offered in large metropolitan areas, and may require a physician taking the course to be away from a trauma center for several days. This absence could adversely affect the ability of a trauma center to provide trauma care to a patient, especially in smaller, more rural trauma centers. The cost for the course may range from $700 to $900, not including travel, hotel, or meals. The new rules replace the requirement for ATLS with a requirement for a "trauma critical care course," as defined in R9-25-1301. While the content of the course would be consistent with ATLS and, thus, continue to protect patient health and safety, a health care institution may have more flexibility in ensuring that the health care institution's physicians are adequately trained under the new requirement. A hospital could develop its own course or assist a local college or university to develop and implement the course, perhaps in conjunction with other hospitals or other health care institutions. The rule change does not impose a cost on a health care institution, because the health care institution could continue to require its physicians to attend an ATLS course and be ATLS-certified. However, the rule change could provide a health care institution with as much as a moderate benefit, depending on the number of physicians requiring this training, the cost for sending a physician to the ATLS course, the cost for developing or acquiring alternate training, and costs associated with coverage during a physician's absence.

Still other requirements were listed in Exhibit I as being specific to Levels of trauma centers. When moved into R9-25-1308, these Level-specific requirements were not changed. These include requirements for conducting continuing education activities for physicians, trauma center personnel members, and EMCTs; establishing an injury prevention program; establishing an educational outreach program; establishing a residency program or fellowship program; participating in providing a trauma critical care course; and participating in trauma research, including maintaining an Institutional Review Board. The Department anticipates that this reorganization may make the rules clearer and provide a significant benefit to a health care institution. The current rules also contain in Exhibit I(E)(11) requirements related to the availability of blood products. In the new rules, these requirements are clarified, and policies and procedures are required for availability of blood products, consistent with the Level of trauma center. The Department believes that a trauma center may incur minimal costs to develop these policies and procedures if they have not already been developed and implemented.

Table 13.1 is a revision of Exhibit I, with unnecessary requirements or requirements now included in R9-25-1308 removed. Requirements for internal paddles; surgical sets for venous

cutdown and for peritoneal lavage; drugs necessary for emergency care, since they would be covered under requirements for all patients by the licensing rules; pulmonary artery monitoring equipment; and microsampling have been removed. Requirements for a microvascular/replant surgeon; staffing currently in Exhibit I(D) and (E)(6)(b); acute hemodialysis, burn care, and acute spinal cord management; some items in Exhibit I(G); items in Exhibit I(H) to (J); and some items in Exhibit I(K) have been moved into R9-25-1308. These changes may provide a significant benefit to a health care institution due to the improved clarity of the rules.

Requirements specific to the new Level I Pediatric trauma centers and Level II Pediatric trauma centers have been added to Table 13.1. These include requirements for a pediatric emergency department area; surgeons credentialed for pediatric care; pediatric emergency medicine physicians; physicians or certified nurse anesthetists with pediatric credentials; personnel members with pediatric-specific trauma-related training in the emergency department; a pediatric ICU staffed with registered nurses with pediatric-specific trauma-related training; and a child life program, as described/defined in the Key to the Table. These requirements are consistent with current ACS requirements for verification, were provided by a group of stakeholders, and endorsed by stakeholders attending meetings to review the draft rules. The Department believes that a health care institution would not seek designation as a Level I Pediatric trauma center or Level II Pediatric trauma center if the health care institution did not already comply with these requirements, which would cause a substantial cost to an unprepared health care institution. In addition, a health care institution providing trauma care to a predominantly pediatric population is currently required to adhere to adult trauma care staffing, equipment, and other resource and facility requirements to be designated because there are no separate pediatric trauma care requirements. Such a health care institution may receive a significant, and perhaps up to a substantial, benefit from the new rules because the new rules pertaining to pediatric designation are more consistent with the operational standards of a pediatric facility and are more understandable and applicable than adult trauma center standards under the current rules.

Also added to Table 13.1 are requirements to improve patient health and safety that are now standards of care. These include requirements that specific resuscitation equipment for patients of all sizes be available in radiology, for magnetic resonance imaging to be available in Level II trauma centers, for a registered nurse to be available for duty in a postanesthesia recovery room/surgical ICU, for a radiology technologist to be available in a Level III or Level IV trauma center, and that all trauma centers have child maltreatment assessment capabilities. Table 13.1 clarifies requirements for anesthesia personnel members to include certified nurse anesthetists, clarifies that equipment for patients of all sizes (not ages) is required to be available, and makes thermal control requirements

consistent. Terminology throughout the Table has also been corrected or clarified from that in Exhibit I. The Department estimates that these additions could cause a health care institution that does not meet these requirements and plans to seek designation as a trauma center to incur substantial costs. However, the health care institution could also receive a substantial benefit from compliance with these standards and receiving a designation.

The information required to be submitted from a health care institution's trauma registry according to A.R.S. §§ 36-2221 and 36-2225 is included in Table 1 of Article 14 in the current rules. Without a data dictionary, it is difficult to determine what information is required. To clarify what information is required to be submitted, the Department is adopting R9-25-1309, which contains a description of each data element being required. As mentioned above, trauma centers submit either of two sets of trauma registry information: the reduced data set, which includes the information specified in R9-25-1309(A); or the full data set, which includes the information specified in both R9-25-1309(A) and (B). The Department anticipates that the clarification of what information is required to be submitted may provide a significant benefit to a submitting health care institution.

Some changes are being made in the new rules to the trauma registry information required to be submitted. Information on the city, county, and zip code of a patient's residence; county and state of injury; type of trauma; EMS provider or ambulance company transporting the patient; date the patient arrived; time all activated trauma team members were present; health care institution's assessment or treatment of the patient in the emergency department; and financial information about the episode of care, currently reported by Level I through Level III trauma centers, will now be required for all submitting health care institutions as part of the reduced data set. Since trauma related to motor vehicles accounts for over 32% of trauma cases, all submitting health care institutions will be required to report, if applicable, whether a child-specific restraint system was used or an airbag deployed. To better assess the utilization of the different Levels of trauma center, all submitting health care institutions will also be required to report whether a patient was transferred and the reason for transfer. Health care institutions have been voluntarily providing much of this information since it is important in assessing the overall trauma system in the state.

Changes being made to other information required in the full data set include reporting the country of injury; the activity that a patient was engaged in at the time of the injury; and, if applicable, the type of vehicle involved in the injury, in addition to the patient's position in the vehicle. Other information currently required in a full data set will no longer be required because it is difficult to gather and may be inaccurate, including information about other EMS providers or ambulance services at the scene and any information about rendezvous points. In addition, calculated fields will no longer be required to be submitted.

Changes affecting all submitting health care institutions include the use of the term "ICD-code" to denote whichever coding system is being used by the health care institution for billing purposes, to avoid requiring a duplicate set of information to be maintained. To better enable linking between the trauma registry and data submitted by EMS providers and ambulance companies under R9-25-710(A)(9) or through the Arizona Prehospital and EMS Registry System (AZ-PIERS), the incident number is also being required. According to the 23rd Annual Report of the Arizona Child Fatality Review Program, available at http://www.azdhs.gov/documents/prevention/womens-childrens-health/reports-fact-sheets/child-fatality-review-annual-reports/cfr-annual-report-2016.pdf, blunt force trauma, a penetrating wound, or motor vehicle crashes account for 27% of all maltreatment deaths among children. Since patients with these types of injuries would be included in the trauma registry, fields for suspected abuse, investigation of suspected abuse, and whether a child was released to a caregiver other than the one bringing the child to the facility are being added to better assess the extent of the problem before a death occurs. Health care institutions have already been voluntarily providing much of this information. The Department anticipates that a health care institution that had not been submitting this additional information may incur at most a moderate increased cost. Since health care institutions use information from the trauma registry to assess the performance of staff, determine opportunities for improvement in trauma care, and the need for education or outreach in the community, the Department anticipates that the addition of this information and the removal of requirements for hard-to-collect information may provide a significant benefit to a health care institution.

- **Tribes and federal agencies**

As of March 2017, there was one health care institution, Tuba City Regional HealthCare Corporation, designated as a trauma center that is not licensed by the Department. Under the current rules, a health care institution not licensed by the Department and operating as an administrative unit of the U.S. government or a sovereign tribal nation denotes the health care institution's affiliation on an application and provides the address and main telephone number of the facility. Under the new rules, a health care institution not licensed by the Department would need to provide, as part of an application, documentation demonstrating that the health care institution is operating, as a hospital or an outpatient treatment center providing emergency services under federal or tribal law, as an administrative unit of the U.S. government or a sovereign tribal nation. This documentation could be any number of existing documents or as simple as a printout, including the name of the facility, from a federal or tribal website listing health care institutions under federal or tribal auspices. The Department believes that this requirement will impose a minimal burden on such a health care institution.

- **Physicians and other health care providers**

The Department anticipates that having rules to follow that are clearer and easier to understand may provide a significant benefit to physicians and other health care providers working in a trauma center. To enable a health care institution to monitor trauma care provided to patients at the health care institution and to allow for the Department to assess the state of trauma care provided in Arizona, the new rules include a list of trauma care parameters to be monitored by a trauma center as part of the trauma center's performance improvement program. Physicians and other health care providers may incur a minimal cost to participate in monitoring these parameters. They may also receive a significant benefit from being able to assess what treatment strategies worked better than others to enable them to provide better clinical care to their patients. In the current rules, emergency medicine physicians and general surgeons are required to have ATLS certification. Since ATLS courses are most often offered in large metropolitan areas and may not be offered frequently in any one location, a physician required to take the ATLS course may be away from a trauma center and from home for several days. If a trauma center adopts a trauma critical care course other than ATLS, the physician may be able to take the course closer to home and spend less time away from the trauma center and home, providing a significant benefit to the physician.

Physicians are not the only health care providers affected by the new rules. When the current rules were adopted, the use of physician assistants and registered nurse practitioners was not as wide-spread as it is today. Therefore, the current rules did not address these health care providers. The new rules recognize that many health care institutions, especially smaller hospitals, free-standing emergency departments, and those in rural areas, may at times have a physician assistant or registered nurse practitioner as the highest level of health care provider in an emergency department. The Department believes it is critical that a physician assistant or registered nurse practitioner who is responsible for patients in an emergency department in the absence of an emergency physician have the knowledge and skills necessary to care for a critically injured patient until an emergency physician can arrive. The new rules require that a physician assistant or registered nurse practitioner who is responsible for patients in an emergency department in the absence of an emergency physician have current certification in a trauma critical care course. The Department anticipates that obtaining and maintaining current certification in a trauma critical care course may cause a physician assistant or registered nurse practitioner to incur none-to-minimal costs, depending on who pays for the certification and recertification. The new rules may also provide up to a substantial benefit to a physician assistant or registered nurse practitioner if the rules encourage a trauma center to employ more physician assistants or registered nurse practitioners.

Under the current rules, a surgery resident or trauma surgeon is required to be on the premises of a Level I trauma center at all times. Depending on where "on the hospital premises" a surgeon is located, it may take the surgeon 15 or more minutes to reach the emergency department, just as it may take a patient with a trauma injury more than 15 minutes to reach the hospital. Under the new rules, a surgeon on the trauma team of a Level I trauma center is required to be present in the emergency department within 15 minutes after notification or at the time the patient arrives in the emergency department, whichever is later. Similar requirements are included for other members of an operating room team of a Level I trauma center. A trauma center is required to monitor response times and patient outcomes through the performance improvement program. These changes continue to protect patient health and safety but provide a surgeon or another operating room team member with more flexibility in where to wait for a patient to arrive.

For example, a physician who lives five minutes from the Level I trauma center may be able to be at home, rather than in a hospital break area, and meet the new requirements. If a patient is being flown in from a distance, it may take the patient 30 minutes or more to arrive at the Level I trauma center's emergency department. Having the surgeon on the premises during the flight provides no added benefit to the patient over allowing the surgeon to finish dinner at home and be in the emergency department when the patient arrives, as long as patient treatment is not delayed or otherwise compromised. An anesthesiologist, anesthesiology chief resident, or certified registered nurse anesthetist is also required under the current rules to be on the premises of a Level I trauma center at all times. Under the new rules, these health care providers are required to be present in the emergency department or in an operating room area awaiting the patient no later than 15 minutes after patient arrival in the emergency department. Again, a trauma center is required to monitor response times and patient outcomes through the performance improvement program. The Department believes that these changes may provide a significant benefit to a surgeon, anesthesia personnel member, or other operating room team member.

- **American College of Surgeons Committee on Trauma (ACS)**

Under the current rules, a health care institution seeking designation or renewal of designation as a Level I trauma center, Level II trauma center, or Level III trauma center is required to apply to ACS for verification and obtain either verification or documentation issued by ACS stating that the health care institution meets the state standards for the specific Level of trauma center. As mentioned above, the cost to a health care institution for ACS assessment is substantial. It is possible, under the new rules, that some Level III trauma centers currently designated based on verification may no longer rely on ACS assessment, but, instead, request the Department to assess compliance with the state standards. Similarly, a health care institution seeking initial designation as a

Level III trauma center may also forego assessment by ACS in favor of assessment by the Department. If another national verification organization emerges in the future, ACS may experience competition since the new rules do not specify that ACS is the only national verification organization that may provide verification. The Department anticipates that ACS may incur a moderate-to-substantial revenue loss due to the rule changes, depending on how many current trauma centers, or other health care institutions seeking initial designation, choose a route to designation other than through ACS assessment.

- **EMS providers and ambulance services and their EMCTs**

EMS providers and ambulance services are an integral part of Arizona's trauma system. Of the 21 air ambulance services and 100 ground ambulance services in Arizona, 20 are municipal ground ambulance services, 40 are fire districts established under A.R.S. Title 48, Chapter 5, and one is the Greenlee County Ambulance Service. In 2015, approximately 70% of all trauma patients were transported to a trauma center by ground ambulance. The percentage of patients transported by air ambulance depended on the severity of the patient's injury and ranged from approximately 6% for those with less severe injuries to over 25% for those patients with the most critical injuries. The facility to which a patient is transported also depends on the nature and severity of a patient's injuries and may also depend on the location of the nearest hospital/trauma center. While the most severely injured patients might be transported directly to a Level I trauma center, if the patient needs to be stabilized before transport to enable the patient to arrive at the Level I trauma center alive, the patient may be brought to another facility first.

Some information about transports by EMS providers and ambulance services, as well as some information about treatment provided to a patient during transport, at a trauma center, and at any facility to which the patient was brought for stabilization are included in a trauma center's trauma registry. This information is then submitted to the Department, according to R9-25-1308 and R9-25-1309, and includes information provided by EMS providers and ambulance services. As mentioned above, the information required to be submitted to the Department is being clarified in R9-25-1309, and additional information is being required. The Department believes that clarifying the information required to be provided to a trauma center by an EMCT on behalf of an EMS provider or ambulance service may provide them a significant benefit. Updating requirements related to trauma registry data to improve data quality and usefulness may also provide a significant benefit to an EMS provider or ambulance service, as well as to an EMCT. The Department also believes that providing additional information to a trauma center, such as the incident number, country of injury, activity that the patient was engaged in at the time of the injury, and type of vehicle involved in the injury, if applicable, may impose up to a minimal burden on an EMS provider or ambulance service, as well as on an EMCT.

- **Trauma patients and their families**

  Clarifying and updating requirements related to providing a trauma service are expected to improve the care of trauma patients. Pediatric trauma patients and their families are also expected to benefit from having categories and associated requirements for Pediatric Level I trauma centers and Pediatric Level II trauma centers. The Department believes that the trauma patients and their families may receive a significant benefit from the rules changes that may allow patients who would otherwise have died of their injuries to survive and reduce disability and lengths of stay for patients who would have survived the trauma but had poorer outcomes.

- **General public**

  The Department anticipates that the general public will receive a significant benefit from the rules changes, which were developed to improve trauma service and patient outcomes. Having rules to follow that are clearer and easier to understand may allow trauma centers and their staff to more easily comply with requirements. By clarifying and updating requirements related to trauma registry data, the Department believes that both trauma care and data quality will improve, and trauma centers will be able to better use the data to further improve performance, develop better injury prevention programs, and tailor outreach to health care providers and individuals in local communities to their needs. Having a designation as a Pediatric Level I trauma center and Pediatric Level II trauma center available may further improve the trauma system of care for children. Having better information about trauma, on a state-wide basis, will enable the Department to better evaluate the incidence, causes, severity, and outcomes for trauma cases and the operation of the Arizona trauma system and its components, and develop public health intervention activities to further improve the trauma system in Arizona.

4. A general description of the probable impact on private and public employment in businesses, agencies, and political subdivisions of this state directly affected by the rulemaking

Public and private employment in the State of Arizona is not expected to be affected due to the changes required in the rule.

5. A statement of the probable impact of the rules on small business

a. Identification of the small businesses subject to the rules

Small businesses subject to the rules may include small health care institutions, health care provider groups, and small ambulance companies or EMS providers.

b. The administrative and other costs required for compliance with the rules

Anticipated costs for complying with the rules are described under paragraph 3.

c. A description of the methods that the agency may use to reduce the impact on small businesses

The current rules reduce the impact on small businesses by allowing a health care institution to be designated as a Level IV trauma center through an assessment by the Department, rather than paying ACS or another national verification organization to perform the assessment. The new rules extend this option to health care institutions applying for designation as a Level III trauma center. The rules also reduce the impact on small businesses by having different standards for different Levels of trauma centers. The effectiveness of these methodologies is evidenced by the increase in the number of Level IV trauma centers since 2009 from seven to 24.

d. The probable costs and benefits to private persons and consumers who are directly affected by the rules

The costs to private persons and consumers from the rules changes are described in paragraph 3.

6. A statement of the probable effect on state revenues

The rulemaking does not include any fees, so the Department does not expect the rules to affect state revenues.

7. A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed rulemaking

There are no less intrusive or less costly alternatives for achieving the purpose of the rule.

8. A description of any data on which the rule is based with a detailed explanation of how the data was obtained and why the data is acceptable data

Not applicable

Exhibit A. Recodified

Historical Note

New Exhibit adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). Exhibit A recodified to Article 9 at 12 A.A.R. 2243, effective June 2, 2006 (Supp. 06-2).

Exhibit B. Recodified

Historical Note

New Table adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). Exhibit B recodified to Article 9 at 12 A.A.R. 2243, effective June 2, 2006 (Supp. 06-2).

ARTICLE 13. TRAUMA CENTER DESIGNATION

R9-25-1301. Definitions (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

The following definitions apply in this Article, unless otherwise specified:

1. "ACS" means the American College of Surgeons Committee on Trauma.
2. "ACS site visit" means an on-site inspection of a trauma facility conducted by ACS for the purpose of determining compliance with ACS trauma facilities criteria, or ACS trauma facilities criteria and state standards, at the Level of designation sought.
3. "Administrative completeness time period" means the number of days from the Department's receipt of an application until the Department determines that the application contains all of the items of information required by rule to be submitted with an application.
4. "ATLS" means the ACS Advanced Trauma Life Support Course.
5. "Available" means accessible for use.
6. "Chief administrative officer" means an individual assigned to control and manage the day-to-day operations of a health care institution on behalf of the owner or the body designated by the owner to govern and manage the health care institution.
7. "CME" means continuing medical education courses for physicians.
8. "Comply with" means to satisfy the requirements of a stated provision.
9. "CT" means computed tomography.
10. "Current" means up-to-date and extending to the present time.
11. "CVP" means central venous pressure.
12. "Department" means the Arizona Department of Health Services.
13. "Designation" means a formal determination by the Department that a health care institution has the resources and capabilities necessary to provide trauma services at a particular Level and is a trauma center.
14. "EMS" means emergency medical services.
15. "Health care institution" has the same meaning as in A.R.S. § 36-401.
16. "Hospital" has the same meaning as in A.A.C. R9-10-201.
17. "ICU" means intensive care unit.
18. "In compliance with" means satisfying the requirements of a stated provision.
19. "In-house" means on the premises at the health care institution.
20. "ISS" means injury severity score, the sum of the squares of the abbreviated injury scale scores of the three most severely injured body regions.
21. "Major resuscitation" means a patient:
    a. If an adult, with a confirmed blood pressure < 90 at any time or, if a child, with confirmed age-specific hypotension;
    b. With respiratory compromise, respiratory obstruction, or intubation, if the patient is not transferred from another health care institution;
    c. Who is transferred from another hospital and is receiving blood to maintain vital signs;
    d. Who has a gunshot wound to the abdomen, neck, or chest;
    e. Who has a Glasgow Coma Scale score < 8 with a mechanism attributed to trauma; or
    f. Who is determined by an emergency physician to be a major resuscitation.
22. "Meet the ACS standards," "meeting the ACS standards," or "meets the ACS standards" means be operated, being operated, or is operated in compliance with each applicable criterion for verification as required by ACS for verification.
23. "Meet the state standards," "meeting the state standards," or "meets the state standards" means be operated, being operated, or is operated in compliance with each applicable criterion listed in Exhibit I at least as frequently or consistently as required by the minimum threshold stated for the criterion in Exhibit I or at least 95% of the time, whichever is less.
24. "On-call" means assigned to respond and, if necessary, come to a health care institution when called by health care institution personnel.
25. "Owner" means one of the following:
    a. For a health care institution licensed under 9 A.A.C. 10, the licensee;
    b. For a health care institution operated under federal or tribal laws, the administrative unit of the U.S. government or sovereign tribal nation operating the health care institution.
26. "Person" means:
    a. An individual;
    b. A business organization such as an association, cooperative, corporation, limited liability company, or partnership; or
    c. An administrative unit of the U.S. government, state government, or a political subdivision of the state.
27. "Personnel" means an individual providing medical services, nursing services, or health-related services to a patient.
28. "PGY" means postgraduate year, a classification for residents in postgraduate training indicating the year that they are in during their post-medical-school residency program.
29. "Self-designated Level I trauma facility" means a health care institution that as of July 1, 2004, met the definition of a Level I trauma center under A.A.C. R9-22-2101(F)(1).
30. "SICU" means surgical intensive care unit.
31. "Signature" means:
    a. A handwritten or stamped representation of an individual's name or a symbol intended to represent an individual's name, or
    b. An "electronic signature" as defined in A.R.S. § 44-7002.
32. "Substantive review time period" means the number of days after completion of the administrative completeness time period during which the Department determines whether an application and owner comply with all sub-

stantive criteria required by rule for issuance of an approval.

33. "Transfer agreement" means a written contract between the owners of two health care institutions in which one owner agrees to have its health care institution receive a patient from the other owner's health care institution if the patient falls within specified criteria related to diagnosis, acuity, or treatment needs.
34. "Trauma center" has the same meaning as in A.R.S. § 36-2225.
35. "Valid" means that a license, certification, or other form of authorization is in full force and effect and not suspended or otherwise restricted.
36. "Verification" means formal confirmation by ACS that a health care institution has the resources and capabilities necessary to provide trauma services as a Level I, Level II, Level III, or Level IV trauma facility.
37. "Working day" means the period between 8:00 a.m. and 5:00 p.m. on a Monday, Tuesday, Wednesday, Thursday, or Friday that is not a state holiday.

Historical Note
New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4).

R9-25-1302. Eligibility for Designation (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

A. To be eligible to obtain designation for a health care institution, an owner shall:
1. If applying for designation as a Level I trauma center:
   a. Comply with one of the following:
      i. Hold a current and valid regular license for the health care institution to operate as a hospital, issued by the Department under 9 A.A.C. 10, Article 2; or
      ii. Be an administrative unit of the U.S. government or a sovereign tribal nation operating the health care institution as a hospital under federal or tribal law; and
   b. Comply with one of the following:
      i. Hold current verification for the health care institution as a Level I trauma facility; or
      ii. Have current documentation issued by ACS stating that the health care institution meets the state standards for a Level I trauma center;
2. If applying for designation as a Level II trauma center:
   a. Comply with one of the following:
      i. Hold a current and valid regular license for the health care institution to operate as a hospital, issued by the Department under 9 A.A.C. 10, Article 2; or
      ii. Be an administrative unit of the U.S. government or a sovereign tribal nation operating the health care institution as a hospital under federal or tribal law; and
   b. Comply with one of the following:
      i. Hold current verification for the health care institution as a Level II trauma facility; or
      ii. Have current documentation issued by ACS stating that the health care institution meets the state standards for a Level II trauma center;
3. If applying for designation as a Level III trauma center:
   a. Comply with one of the following:
      i. Hold a current and valid regular license for the health care institution to operate as a hospital, issued by the Department under 9 A.A.C. 10, Article 2; or
      ii. Be an administrative unit of the U.S. government or a sovereign tribal nation operating the health care institution as a hospital under federal or tribal law; and
   b. Comply with one of the following:
      i. Hold current verification for the health care institution as a Level III trauma facility; or
      ii. Have current documentation issued by ACS stating that the health care institution meets the state standards for a Level III trauma center; and
4. If applying for designation as a Level IV trauma center:
   a. Comply with one of the following:
      i. Hold a current and valid regular license for the health care institution to operate, issued by the Department under 9 A.A.C. 10; or
      ii. Be an administrative unit of the U.S. government or a sovereign tribal nation operating the health care institution under federal or tribal law; and
   b. Comply with one of the following:
      i. Hold current verification for the health care institution as a Level IV trauma facility; or
      ii. Demonstrate, during an on-site survey of the health care institution conducted by the Department as described in R9-25-1310, that the health care institution meets the state standards for a Level IV trauma center.

B. To be eligible to retain designation for a health care institution, an owner shall:
1. Maintain a current and valid regular license for the health care institution to operate, if applicable; and
2. Comply with the trauma center responsibilities in R9-25-1313.

Historical Note
New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4).

R9-25-1303. Expired

Historical Note
New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Section expired under A.R.S. 41-1056(E) at 18 A.A.R. 2153, effective June 30, 2012 (12-3).

R9-25-1304. Initial Application and Designation Process (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

A. An owner applying for initial designation shall submit to the Department an application including:
1. An application form provided by the Department containing:
   a. The name, address, and main telephone number of the health care institution for which the owner seeks designation;
   b. The owner's name, address, and telephone number and, if available, fax number and e-mail address;
   c. The name and telephone number and, if available, fax number and e-mail address of the chief administrative officer for the health care institution for which the owner seeks designation;
   d. The designation Level for which the owner is applying;
   e. If the owner holds verification for the health care institution for which designation is sought, the Level of verification held and the effective and expiration dates of the verification;

f. The asserted basis for designation:
   i. The owner holds verification for the health care institution,
   ii. The owner's health care institution meets the state standards, or
   iii. The owner is eligible for the grace period under R9-25-1303;
g. Unless the owner is an administrative unit of the U.S. government or a sovereign tribal nation, the hospital or health care institution license number for the health care institution for which designation is sought;
h. If applying for designation as a Level I, Level II, or Level III trauma center, the name and telephone number and, if available, fax number and e-mail address of the health care institution's trauma medical director;
i. The name, title, address, and telephone number of the owner's statutory agent or the individual designated by the owner to accept service of process and subpoenas;
j. Attestation that the owner knows all applicable requirements in A.R.S. Title 36, Chapter 21.1 and this Article;
k. Attestation that the information provided in the application, including the information in the documents attached to the application form, is accurate and complete; and
l. The dated signature of:
   i. If the owner is an individual, the individual;
   ii. If the owner is a corporation, an officer of the corporation;
   iii. If the owner is a partnership, one of the partners;
   iv. If the owner is a limited liability company, a manager or, if the limited liability company does not have a manager, a member of the limited liability company;
   v. If the owner is an association or cooperative, a member of the governing board of the association or cooperative;
   vi. If the owner is a joint venture, one of the individuals signing the joint venture agreement;
   vii. If the owner is a governmental agency, the individual in the senior leadership position with the agency or an individual designated in writing by that individual; and
   viii. If the owner is a business organization type other than those described in subsections (A)(1)(l)(ii) through (vi), an individual who is a member of the business organization;

2. Unless the owner is an administrative unit of the U.S. government or a sovereign tribal nation, a copy of the current regular hospital or health care institution license issued by the Department for the health care institution for which designation is sought;
3. If applying for designation based on verification, documentation issued by ACS establishing that the owner holds current verification for the health care institution at the Level of designation sought and showing the effective and expiration dates of the verification; and
4. If applying for designation as a Level I, Level II, or Level III trauma center based on meeting the state standards, current documentation issued by ACS establishing that the owner's health care institution meets the state standards listed in Exhibit I for the Level of designation sought.

B. The Department shall process an application as provided in R9-25-1315.

C. The Department shall approve designation if the Department determines that an owner is eligible for designation as described in R9-25-1302.

Historical Note

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4).

R9-25-1305. Eligibility for Provisional Designation; Provisional Designation Process (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

A. The owner of a health care institution may apply for one 18-month provisional designation as a Level I, Level II, or Level III trauma center if:
1. When the owner applies for provisional designation, the owner's health care institution has not produced at least 12 consecutive months of data related to trauma services provided at the health care institution; and
2. The owner cannot comply with R9-25-1302(A)(1)(b), (A)(2)(b), or (A)(3)(b).

B. To be eligible to obtain provisional designation for a health care institution, an owner shall:
1. Comply with one of the following:
   a. Hold a current and valid regular license for the health care institution to operate as a hospital, issued by the Department under 9 A.A.C. 10, Article 2; or
   b. Be an administrative unit of the U.S. government or a sovereign tribal nation operating the health care institution as a hospital under federal or tribal law; and
2. Make the attestations described in subsection (C)(2).

C. An owner applying for provisional designation shall submit to the Department an application including:
1. An application form that contains the information and items listed in R9-25-1304(A)(1)(a) through (A)(1)(d), (A)(1)(g) through (A)(1)(l), and (A)(2); and
2. Attestation that:
   a. The owner's health care institution has the resources and capabilities necessary to meet the state standards for the Level of designation sought and will meet the state standards for the Level of designation sought during the term of the provisional designation; and
   b. During the term of the provisional designation, the owner will:
      i. Ensure that the trauma center meets the state standards;
      ii. Apply for verification for the trauma center; and
      iii. Provide to the Department, within 30 days after applying for verification, documentation issued by ACS establishing that the owner has applied for verification.

D. The Department shall process an application submitted under this Section as provided in R9-25-1315.

E. The Department shall approve provisional designation if the Department determines that an owner is eligible for provisional designation as described in subsection (B).

F. To be eligible to retain provisional designation for a health care institution, an owner shall:
1. Comply with subsection (B)(1)(a) or (b);
2. Comply with the trauma center responsibilities in R9-25-1313;
3. Apply for verification for the trauma center; and

4. Provide to the Department, within 30 days after applying for verification, documentation issued by ACS establishing that the owner has applied for verification.

G. An owner who holds provisional designation and who desires to retain designation shall, before the expiration date of the provisional designation:
1. If the owner can comply with R9-25-1302(A)(1)(b), (A)(2)(b), or (A)(3)(b), apply for initial designation under R9-25-1304; or
2. If the owner cannot comply with R9-25-1302(A)(1)(b), (A)(2)(b), or (A)(3)(b), apply for an extension of the provisional designation under subsection (H).

H. An owner who holds provisional designation and who will not be able to comply with R9-25-1302(A)(1)(b), (A)(2)(b), or (A)(3)(b) on the expiration date of the provisional designation may apply to the Department, on a form provided by the Department, for one 180-day extension of the provisional designation and shall include with the application documentation issued by ACS showing the owner's progress in obtaining an ACS site visit.

I. The Department shall grant an extension if an owner provides documentation issued by ACS:
1. Establishing that the owner has applied for verification; and
2. Showing the owner's progress in obtaining an ACS site visit.

J. The Department may:
1. Investigate, as provided under R9-25-1311, a trauma center that is the subject of a provisional designation; and
2. Revoke, as provided under R9-25-1312, a provisional designation.

Historical Note
New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4).

R9-25-1306. Designation Renewal Process (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

A. At least 60 days before the expiration date of a current designation, an owner who desires to obtain renewal of designation shall submit to the Department an application including:
1. An application form that contains the information listed in R9-25-1304(A)(1);
2. If applying for renewal of designation as a Level I, Level II, or Level III trauma center based on meeting the state standards, one of the following:
   a. Documentation issued by ACS no more than 60 days before the date of application establishing that the owner's trauma center meets the state standards listed in Exhibit I for the Level of designation sought; or
   b. Documentation issued by ACS establishing that the owner has applied for verification for the trauma center, at the Level corresponding to the Level of designation sought, for the three-year period directly following the expiration of the owner's current designation; and
3. If applying for renewal of designation based on verification, documentation issued by ACS establishing that the owner:
   a. Holds verification for the trauma center, at the Level corresponding to the Level of designation sought, for the three-year period directly following the expiration of the owner's current verification and designation; or
   b. Has applied for verification for the trauma center, at the Level corresponding to the Level of designation sought, for the three-year period directly following the expiration of the owner's current verification and designation.

B. The Department shall process an application as provided in R9-25-1315.

C. The Department shall renew designation if the Department determines that the owner is eligible to retain designation as described in R9-25-1302(B).

D. The Department shall not renew designation based on verification or ACS's determination that a trauma center meets the state standards until the Department receives documentation that complies with subsection (A)(2)(a) or (A)(3)(a).

Historical Note
New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4).

R9-25-1307. Term of Designation (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

A. The Department shall issue initial designation or renewal of designation:
1. When based on verification, with a term beginning on the date of issuance and ending on the expiration date of the verification upon which designation is based; and
2. When based on meeting the state standards or eligibility under R9-25-1303, with a term beginning on the date of issuance and ending three years later.

B. The Department shall issue a provisional designation with a term beginning on the date of issuance and ending 18 months later and an extension of provisional designation with a term beginning on the expiration date of the provisional designation and ending 180 days later.

C. The Department shall issue a modified designation with a term beginning on the date of issuance and ending on the expiration date of the designation issued before the application for modification of designation under R9-25-1309.

D. If an owner submits an application for renewal of designation as described in R9-25-1306 before the expiration date of the current designation, or submits an application for extension of provisional designation as described in R9-25-1305 before the expiration date of the provisional designation, the current designation does not expire until the Department has made a final determination on the application for renewal of designation or extension of provisional designation.

Historical Note
New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4).

R9-25-1308. Changes Affecting Designation Status (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

A. At least 30 days before the date of a change in a trauma center's name, the owner of the trauma center shall send the Department written notice of the name change.

B. At least 90 days before a trauma center ceases to offer trauma services, the owner of the trauma center shall send the Department written notice of the intention to cease offering trauma services and the desire to relinquish designation.

C. Within 30 days after the date of receipt of a notice described in subsection (A) or (B), the Department shall:
1. For a notice described in subsection (A), issue an amended designation that incorporates the name change but retains the expiration date of the current designation; or
2. For a notice described in subsection (B), send the owner written confirmation of the voluntary relinquishment of designation, with an effective date consistent with the written notice.

D. An owner of a trauma center shall notify the Department in writing within three working days after:
1. The trauma center's hospital or health care institution license expires or is suspended, revoked, or changed to a provisional license;
2. A change in the trauma center's verification status; or
3. A change in the trauma center's ability to meet the state standards or, if designation is based on verification, to meet the ACS standards, that is expected to last for more than one week.

E. An owner of a trauma center who obtains verification for the trauma center during a term of designation based on meeting the state standards may obtain a new initial designation based on verification, with a designation term based on the dates of the verification, by submitting an initial application as provided in R9-25-1304.

Historical Note
New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4).

R9-25-1309. Modification of Designation (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

A. An owner of a trauma center who desires to obtain a designation that requires fewer resources and capabilities than the trauma center's current designation shall, at least 30 days before ceasing to provide trauma services consistent with the current designation, send the Department an application for modification of the trauma center's designation, including:
1. The name, address, and main telephone number of the trauma center for which the owner seeks modification of designation;
2. The owner's name, address, and telephone number and, if available, fax number and e-mail address;
3. A list of the applicable ACS or state criteria for the current designation with which the owner no longer intends to comply;
4. An explanation of the changes being made in the trauma center's resources or operations related to each criterion listed under subsection (A)(3);
5. The state Level of designation requested;
6. Attestation that the owner knows the state standards for the Level of designation requested and will ensure that the trauma center meets the state standards if modified designation is issued;
7. Attestation that the information provided in the application is accurate and complete; and
8. The dated signature of the owner, as prescribed in R9-25-1304(A)(1)(l).

B. The Department shall process an application as provided in R9-25-1315.

C. The Department shall issue a modified designation if the Department determines that, with the changes being made in the trauma center's resources and operations, the trauma center will meet the state standards for the Level of designation requested.

D. An owner who obtains modified designation shall, during the term of the modified designation, ensure that the owner's trauma center meets the state standards that were the subject of the owner's attestation described in subsection (A)(6).

E. The Department may:
1. Investigate, as provided under R9-25-1311, a trauma center that is the subject of a modified designation; and
2. Revoke, as provided under R9-25-1312, a modified designation.

F. An owner who holds modified designation shall, before the expiration date of the modified designation:
1. If the owner desires to retain designation based on the trauma center's meeting the state standards at the Level of the modified designation, apply for renewal of designation under R9-25-1306; or
2. If the owner desires to obtain designation based on verification or based on the trauma center's meeting the state standards at a Level other than the Level of the modified designation, apply for initial designation under R9-25-1304.

Historical Note
New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4).

R9-25-1310. On-Site Survey for Designation as a Level IV Trauma Center Based on Meeting the State Standards (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

A. Before issuing initial or renewal designation to an owner applying for designation as a Level IV trauma center based on meeting the state standards, the Department shall complete an announced on-site survey of the owner's health care institution that includes:
1. Reviewing equipment and the physical plant;
2. Interviewing personnel; and
3. Reviewing:
   a. Medical records;
   b. Patient discharge summaries;
   c. Patient care logs;
   d. Personnel rosters and schedules;
   e. Performance-improvement-related documents other than peer review documents privileged under A.R.S. §§ 36-445.01 and 36-2403, including reports prepared as required under R9-10-204(B)(2) and the supporting documentation for the reports; and
   f. Other documents relevant to the provision of trauma services as a Level IV trauma center and that are not privileged under federal or state law.

B. A Department surveyor shall make a verbal report of findings to an owner upon completion of an on-site survey.

C. Within 30 days after completing an on-site survey, the Department shall send to an owner a written report of the Department's findings, including a list of any deficiencies identified during the on-site survey and a request for a written corrective action plan.

D. Within 10 days after receiving a request for a written corrective action plan, an owner shall submit to the Department a written corrective action plan that includes for each identified deficiency:
1. A description of how the deficiency will be corrected, and
2. A date of correction for the deficiency.

E. The Department shall accept a written corrective action plan if it:
1. Describes how each identified deficiency will be corrected, and
2. Includes a date for correcting each deficiency as soon as practicable based upon the actions necessary to correct the deficiency.

Historical Note
New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4).

R9-25-1311. Investigations (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4) and (5))

A. If the Department determines based upon Trauma Registry data collected by the Department or receives a complaint alleging that a trauma center is not meeting the state standards

or, if designation is based on verification, is not meeting the ACS standards, the Department shall conduct an investigation of the trauma center.
1. The Department may conduct an announced or unannounced onsite survey as part of an investigation.
2. Within 30 days after completing an investigation, the Department shall send to the owner of the trauma center investigated a written report of the Department's findings, including a list of any deficiencies identified during the investigation and a request for a written corrective action plan.

B. Within 10 days after receiving a request for a written corrective action plan, an owner shall submit to the Department a written corrective action plan that includes for each identified deficiency:
1. A description of how the deficiency will be corrected, and
2. A date of correction for the deficiency.

C. The Department shall accept a written corrective action plan if it:
1. Describes how each identified deficiency will be corrected, and
2. Includes a date for correcting each deficiency as soon as practicable based upon the actions necessary to correct the deficiency.

Historical Note
New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4).

R9-25-1312. Denial or Revocation of Designation (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

A. The Department may deny or revoke designation if an owner:
1. Has provided false or misleading information to the Department;
2. Is not eligible for designation under R9-25-1302(A) or (B) or, if applicable, R9-25-1305(B) or (F);
3. Fails to submit to the Department all of the information requested in a written request for additional information within the time prescribed in R9-25-1315 and Table 1;
4. Fails to submit a written corrective action plan as requested and required under R9-25-1310 or R9-25-1311;
5. Fails to comply with a written corrective action plan accepted by the Department under R9-25-1310 or R9-25-1311;
6. Fails to allow the Department to enter the premises of the owner's health care institution, to interview personnel, or to review documents that are not documents privileged under federal or state law; or
7. Fails to comply with any applicable provision in A.R.S. Title 36, Chapter 21.1 or this Article.

B. In determining whether to deny or revoke designation, the Department shall consider:
1. The severity of each violation relative to public health and safety;
2. The number of violations;
3. The nature and circumstances of each violation;
4. Whether each violation was corrected, the manner of correction, and the duration of the violation; and
5. Whether the violations indicate a lack of commitment to having the trauma center meet the state standards or, if applicable, the ACS standards.

C. If the Department denies or revokes designation, the Department shall send to the owner a written notice setting forth the information required under A.R.S. § 41-1092.03.
1. An owner may file a written notice of appeal with the Department within 30 days after receiving a notice of denial or revocation, as provided in A.R.S. § 41-1092.03.
2. An appeal shall be conducted according to A.R.S. Title 41, Chapter 6, Article 10.

Historical Note
New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4).

R9-25-1313. Trauma Center Responsibilities (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4), (5), and (6))

The owner of a trauma center shall ensure that:
1. The trauma center meets the state standards or, if designation is based on verification, meets the ACS standards;
2. Data related to the trauma services provided at the trauma center are submitted to the Department's Trauma Registry as required by the Department;
3. The owner and the trauma center staff comply with the applicable provisions of A.R.S. Title 36, Chapter 21.1 and this Article; and
4. The owner and the trauma center staff comply with all applicable federal and state laws relating to confidentiality of information.

Historical Note
New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4).

R9-25-1314. Expired

Historical Note
New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Section expired under A.R.S. 41-1056(E) at 18 A.A.R. 2153, effective June 30, 2012 (12-3).

R9-25-1315. Application Processing Time Periods (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

A. The application processing time periods for each type of approval granted by the Department under this Article are listed in Table 1 and may be extended through a written agreement between an owner and the Department.

B. The Department shall, within the administrative completeness time period specified in Table 1, review each application submitted for administrative completeness.
1. If an application is incomplete, the Department shall send to the owner a written notice listing each deficiency and the information or items needed to complete the application.
2. If an owner fails to submit to the Department all of the information or items listed in a notice of deficiencies within the time period specified in Table 1, the Department shall consider the application withdrawn.

C. After determining that an application is administratively complete, the Department shall review the application for substantive compliance with the requirements for approval.
1. The Department shall complete its substantive review of each application, and send an owner written notice of approval or denial, within the substantive review time period specified in Table 1.
2. As part of the substantive review for an application for initial designation or renewal of designation as a Level IV trauma center based on meeting the state standards, the Department shall conduct an announced onsite survey of the health care institution or trauma center as described in R9-25-1310.
3. An owner applying for renewal of designation who submits documentation of the owner's having applied for

verification as permitted under R9-25-1306(A)(2)(b) or (A)(3)(b) shall submit to the Department during the substantive review time period documentation that complies with R9-25-1306(A)(2)(a) or (A)(3)(a).

4. During the substantive review time period, the Department may make one written request for additional information, listing the information or items needed to determine whether to approve the application, including, for an owner applying for renewal described in subsection (C)(3), a request for documentation that complies with R9-25-1306(A)(2)(a) or (A)(3)(a).
5. For an application for initial designation or renewal of designation as a Level IV trauma center based on meeting the state standards, a written request for additional information may include a request for a corrective action plan to correct any deficiencies identified during an onsite survey of the health care institution or trauma center.
6. If an owner fails to submit to the Department all of the information or items listed in a written request for additional information, including, if applicable, a corrective action plan, within the time period specified in Table 1, the Department shall deny the application.

D. In applying this Section, the Department shall:

1. In calculating an owner's time to respond, begin on the postmark date of a notice of deficiencies or written request for additional information and end on the date that the Department receives all of the information or documents requested in the notice of deficiencies or written request for additional information; and
2. In calculating the Department's time periods, not include any time during which the Department is waiting for an owner to submit information or documents to the Department as requested by the Department in a notice of deficiencies or written request for additional information.

E. If the Department denies an application, the Department shall send to the owner a written notice of denial setting forth the information required under A.R.S. § 41-1092.03.

1. An owner may file a written notice of appeal with the Department within 30 days after receiving the notice of denial, as provided in A.R.S. § 41-1092.03.
2. An appeal shall be conducted according to A.R.S. Title 41, Chapter 6, Article 10.

Historical Note

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4).

Table 1. Application Processing Time Periods (in days) (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

Type of Approval	Department's Administrative Completeness Time Period	Owner's Time to Respond to Notice of Deficiencies	Department's Substantive Review Time Period	Owner's Time to Respond to Written Request for Additional Information
Initial Designation (R9-25-1304)	30	30	90	60
Provisional Designation (R9-25-1305)	30	30	90	60
Extension of Provisional Designation (R9-25-1305)	15	30	15	30
Renewal of Designation (R9-25-1306)	30	30	90	120
Modification of Designation (R9-25-1309)	30	30	90	60

Historical Note

New Table made by final rulemaking at 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4).

Exhibit I. Arizona Trauma Center Standards (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

E = Essential and required

Trauma Facilities Criteria	Levels			
	I	II	III	IV
A. Institutional Organization				
1. Trauma program	E	E	E	-
2. Trauma service	E	E	E	-
3. Trauma team	E	E	E	E
4. Trauma program medical director[1]	E	E	E	-
5. Trauma multidisciplinary committee	E	E	E	-
6. Trauma coordinator/trauma program manager[2]	E	E	E	E
B. Hospital Departments/Divisions/Sections				
1. Surgery	E	E	E	-

2. Neurological surgery	E	E	-	-
a. Neurosurgical trauma liaison	E	E	-	-
3. Orthopaedic surgery	E	E	E	-
a. Orthopaedic trauma liaison	E	E	E	-
4. Emergency medicine	E	E	E	-
a. Emergency medicine liaison[3]	E	E	E	-
5. Anesthesia	E	E	E	-
C. Clinical Capabilities				
1. Published on-call schedule for each listed specialty required in (C)(2) and (3)	E	E	E	-
2. Specialty immediately available 24 hours/day				
a. General surgery[4]	E	E	E	-
i. Published back-up schedule	E	E	-	-
ii. Dedicated to single hospital when on-call	E	E	-	-
b. Anesthesia[5]	E	E	E	-
c. Emergency medicine[6]	E	E	E	-
3. On-call and promptly available 24 hours/day[7]				
a. Cardiac surgery[8]	E	-	-	-
b. Hand surgery	E	E	-	-
c. Microvascular/replant surgery	E	-	-	-
d. Neurologic surgery	E	E	-	-
i. Dedicated to one hospital or back-up call	E	E	-	-
e. Obstetrics/gynecologic surgery	E	-	-	-
f. Ophthalmic surgery	E	E	-	-
g. Oral/maxillofacial surgery[9]	E	E	-	-
h. Orthopaedic surgery	E	E	E	-
i. Dedicated to one hospital or back-up call	E	E	-	-
i. Plastic surgery	E	E	-	-
j. Critical care medicine	E	E	-	-
k. Radiology	E	E	E	-
l. Thoracic surgery	E	E	-	-
D. Clinical Qualifications				
1. General/Trauma Surgeon				
a. Board certification[10]	E	E	E	-
b. 16 hours CME/year[11]	E	E	-	-
c. ATLS certification[12]	E	E	E	E
d. Multidisciplinary peer review committee attendance > 50%[13]	E	E	E	-
2. Emergency Medicine[3]				
a. Board certification[10]	E	E	-	-
b. Trauma education – 16 hours CME/year[11]	E	E	-	-
c. ATLS certification[12]	E	E	E	E
d. Multidisciplinary peer review committee attendance > 50%[13]	E	E	E	-
3. Neurosurgery				
a. Board certification	E	E	-	-
b. 16 hours CME/year[11]	E	E	-	-
c. Multidisciplinary peer review committee attendance > 50%[13]	E	E	E	-
4. Orthopaedic Surgery				
a. Board certification	E	E	-	-
b. 16 hours CME/year in skeletal trauma[11]	E	E	-	-
c. Multidisciplinary peer review committee attendance > 50%[13]	E	E	E	-
E. Facilities/Resources/Capabilities				
1. Volume Performance[14]	E	-	-	-
2. Presence of surgeon at resuscitation (immediately available)[15]	E	E	-	-
3. Presence of surgeon at resuscitation (promptly available)[16]	-	-	E	-
4. Presence of surgeon at operative procedures	E	E	E	E
5. Emergency Department				
a. Personnel				
i. Designated physician director	E	E	E	-
b. Resuscitation Equipment for Patients of All Ages				
i. Airway control and ventilation equipment	E	E	E	E
ii. Pulse oximetry	E	E	E	E
iii. Suction devices	E	E	E	E
iv. Electrocardiograph-oscilloscope-defibrillator	E	E	E	E
v. Internal paddles	E	E	E	-

vi. CVP monitoring equipment	E	E	E	-
vii. Standard intravenous fluids and administration sets	E	E	E	E
viii. Large-bore intravenous catheters	E	E	E	E
ix. Sterile Surgical Sets for				
(1) Airway control/cricothyrotomy	E	E	E	E
(2) Thoracostomy	E	E	E	E
(3) Venous cutdown	E	E	E	E
(4) Central line insertion	E	E	E	-
(5) Thoracotomy	E	E	E	-
(6) Peritoneal lavage	E	E	E	-
x. Arterial catheters	E	E	-	-
xi. Drugs necessary for emergency care	E	E	E	E
xii. X-ray availability 24 hours/day	E	E	E	-
xiii. Broselow tape	E	E	E	E
xiv. Thermal Control Equipment				
(1) For patient	E	E	E	E
(2) For fluids and blood	E	E	E	E
xv. Rapid infuser system	E	E	E	E
xvi. Qualitative end-tidal CO_2 determination	E	E	E	E
c. Communication with EMS vehicles	E	E	E	E
d. Capability to resuscitate, stabilize, and transport pediatric patients[17]	E	E	E	E
6. Operating Room				
a. Immediately available 24 hours/day	E	E	-	-
b. Personnel				
i. In-house 24 hours/day[18]	E	-	-	-
ii. Available 24 hours/day[19]	-	E	E	-
c. Age-Specific Equipment				
i. Cardiopulmonary bypass	E	-	-	-
ii. Operating microscope	E	-	-	-
d. Thermal Control Equipment				
i. For patient	E	E	E	E
ii. For fluids and blood	E	E	E	E
e. X-ray capability including C-arm image intensifier	E	E	E	-
f. Endoscopes, bronchoscope	E	E	E	-
g. Craniotomy instruments	E	E	-	-
h. Equipment for long bone and pelvic fixation	E	E	E	-
i. Rapid infuser system	E	E	E	E
7. Postanesthetic Recovery Room (SICU is acceptable)				
a. Registered nurses available 24 hours/day	E	E	E	-
b. Equipment for monitoring and resuscitation	E	E	E	E
c. Intracranial pressure monitoring equipment	E	E	-	-
i. Pulse oximetry	E	E	E	E
ii. Thermal control	E	E	E	E
8. Intensive or Critical Care Unit for Injured Patients				
a. Registered nurses with trauma training	E	E	E	-
b. Designated surgical director or surgical co-director	E	E	E	-
c. Surgical ICU service physician in-house 24 hours/day[20]	E	-	-	-
d. Surgically directed and staffed ICU service[20]	E	E	-	-
e. Equipment for monitoring and resuscitation	E	E	E	-
f. Intracranial pressure monitoring equipment	E	E	-	-
g. Pulmonary artery monitoring equipment	E	E	E	-
9. Respiratory Therapy Services				
a. Available in-house 24 hours/day	E	E	-	-
b. On-call 24 hours/day	-	-	E	-
10. Radiological Services (Available 24 hours/day)				
a. In-house radiology technologist	E	E	-	-
b. Angiography	E	E	-	-
c. Sonography	E	E	E	-
d. Computed tomography	E	E	E	-
i. In-house CT technician	E	E	-	-
e. Magnetic resonance imaging	E	-	-	-
11. Clinical Laboratory Service (Available 24 hours/day)				

a. Standard analyses of blood, urine, and other body fluids, including microsampling when appropriate	E	E	E	E
b. Blood typing and cross-matching	E	E	E	-
c. Coagulation studies	E	E	E	E
d. Comprehensive blood bank or access to a community central blood bank and adequate storage facilities	E	E	E	-
e. Blood gases and pH determinations	E	E	E	E
f. Microbiology	E	E	E	-
12. Acute Hemodialysis				
a. In-house	E	-	-	-
b. Transfer agreement	-	E	E	E
13. Burn Care—Organized				
a. In-house or transfer agreement with burn center	E	E	E	E
14. Acute Spinal Cord Management				
a. In-house or transfer agreement with regional acute spinal cord injury rehabilitation center	E	E	E	E
F. Rehabilitation Services				
1. Transfer agreement to an approved rehabilitation facility	E	E	E	E
2. Physical therapy	E	E	E	-
3. Occupational therapy	E	E	-	-
4. Speech therapy	E	E	-	-
5. Social Services	E	E	E	-
G. Performance Improvement				
1. Performance improvement programs	E	E	E	E
2. Trauma Registry				
a. In-house	E	E	E	E
b. Participation in state, local, or regional registry	E	E	E	E
3. Audit of all trauma deaths	E	E	E	E
4. Morbidity and mortality review	E	E	E	E
5. Trauma conference – multidisciplinary	E	E	E	-
6. Medical nursing audit	E	E	E	E
7. Review of prehospital trauma care	E	E	E	-
8. Review of times and reasons for trauma-related bypass	E	E	-	-
9. Review of times and reasons for transfer of injured patients	E	E	E	E
10. Performance improvement personnel dedicated to care of injured patients	E	E	-	-
H. Continuing Education/Outreach				
1. Outreach activities[21]	E	E	-	-
2. Residency program[22]	E	-	-	-
3. ATLS provide/participate[23]	E	-	-	-
4. Programs provided by hospital for:				
a. Staff/community physicians (CME)	E	E	E[24]	-
b. Nurses	E	E	E	-
c. Allied health personnel	E	E	E	-
d. Prehospital personnel provision/participation	E	E	E	-
I. Prevention				
1. Prevention program[25]	E	E	-	-
2. Collaboration with existing national, regional, state, and community programs[26]	E	E	E	E
J. Research				
1. Research program[27]	E	-	-	-
2. Trauma registry performance improvement activities	E	E	E	-
3. Identifiable Institutional Review Board process	E	-	-	-
4. Extramural education presentations	E[28]	-	-	-
K. Additional Requirements for Trauma Centers Represented as Caring for Pediatric Trauma Patients[29]				
1. Trauma surgeons credentialed for pediatric trauma care	E	E	-	-
2. Pediatric emergency department area	E	E	-	-
3. Pediatric resuscitation equipment in all patient care areas	E	E	-	-
4. Microsampling	E	E	E	-
5. Pediatric-specific performance improvement program	E	E	E	E
6. Pediatric intensive care unit	E[30]	E[31]	-	-

[1] An individual may not serve as trauma medical director for more than one trauma center at the same time.
[2] For a Level I trauma center, this shall be a full-time position.

[3] This does not apply if emergency medicine physicians do not participate in the care of a hospital's trauma patients.
[4] For this criterion, "immediately available" means that:
1. For a Level I trauma center, a PGY 4 or 5 surgery resident or a trauma surgeon is on the hospital premises at all times; and
2. For all major resuscitations in a Level I, II, or III trauma center:
   a. If advance notice is provided from the field, a trauma surgeon is present in the emergency department upon patient arrival; and
   b. If advance notice is not provided from the field, a trauma surgeon is present in the emergency department:
      i. For a Level I or II trauma center, no later than 15 minutes after patient arrival; or
      ii. For a Level III trauma center, no later than 30 minutes after patient arrival.

The minimum threshold for compliance with #2 is 80%.
A PGY 4 or 5 surgery resident may begin resuscitation while awaiting the arrival of the trauma surgeon, but is not a replacement for the trauma surgeon.

[5] For this criterion, "immediately available" means that:
1. For a Level I trauma center, an anesthesiologist, anesthesiology chief resident, or certified registered nurse anesthetist is on the hospital premises at all times;
2. For a Level II trauma center, an anesthesiologist, anesthesiology chief resident, or certified registered nurse anesthetist is present in the emergency department no later than 15 minutes after patient arrival;
3. For a Level III trauma center, an anesthesiologist, anesthesiology chief resident, or certified registered nurse anesthetist is present in the emergency department no later than 30 minutes after patient arrival; and
4. For a Level I, II, or III trauma center, an anesthesiologist is present for all surgeries.

[6] For this criterion, "immediately available" means that an emergency medicine physician is physically present in the emergency department at all times. However, if emergency medicine physicians do not participate in the care of a hospital's trauma patients, an emergency medicine physician is not required to be immediately available 24 hours per day.

[7] For the criteria in (C)(3)(a)-(l), "promptly available" means that:
1. A physician specialist is present in the emergency department no later than 45 minutes after notification, based on patient need; or
2. For hand surgery and microvascular/replant surgery, the owner has transfer agreements to ensure that a patient in need of hand surgery or microvascular/replant surgery can be expeditiously transferred to a health care institution that has a hand surgeon or microvascular/replant surgeon on the premises.

[8] This criterion is satisfied by a physician authorized by the hospital to perform cardiothoracic surgery.

[9] This criterion is satisfied by a dentist or physician authorized by the hospital to perform oral and maxillofacial surgery. If a physician, the individual shall be a plastic surgeon or an otolaryngologist.

[10] In a Level I or II trauma center, a non-board-certified physician may be included in the trauma service if the physician:
1. If a surgeon, is in the examination process by the American Board of Surgery;
2. If the trauma medical director, is a Fellow of ACS;
3. Unless the trauma medical director, complies with the following:
   a. Has a letter written by the trauma medical director demonstrating that the health care institution's trauma program has a critical need for the physician because of the physician's individual experience or the limited physician resources available in the physician's specialty;
   b. Has successfully completed an accredited residency training program in the physician's specialty, as certified by a letter from the director of the residency training program;
   c. Has current ATLS certification as a provider or instructor, as established by documentation;
   d. Has completed 48 hours of trauma CME within the past three years, as established by documentation;
   e. Has attended at least 50% of the trauma quality assurance and educational meetings, as established by documentation;
   f. Has been a member or attended local, regional, and national trauma organization meetings within the past three years, as established by documentation;
   g. Has a list of patients treated over the past year with accompanying ISS and outcome for each;
   h. Has a quality assurance assessment by the trauma medical director showing that the morbidity and mortality results for the physician's patients compare favorably with the morbidity and mortality results for comparable patients treated by other members of the trauma service; and
   i. Has full and unrestricted privileges in the physician's specialty and in the department with which the physician is affiliated; or

4. Complies with the following:
   a. Has provided exceptional care of trauma patients, as established by documentation such as a quality assurance assessment by the trauma medical director;
   b. Has numerous publications, including publication of excellent research;
   c. Has made numerous presentations; and
   d. Has provided excellent teaching, as established by documentation.

In a Level III trauma center, only the trauma medical director is required to be board-certified.

[11] This criterion applies only to the trauma medical director, the emergency medicine liaison, the neurosurgical trauma liaison, and the orthopaedic trauma liaison. This criterion is satisfied by an average of 16 hours annually, or 48 hours over three years, of verifiable external trauma-related CME. External CME includes programs given by visiting professors or invited speakers and teaching an ATLS course.

[12] Among the trauma surgeons, only the trauma medical director is required to have current ATLS certification. The other trauma surgeons are required to have held ATLS certification at one time. Among the emergency medicine physicians, only non-board-certified physicians are required to have current ATLS certification. The other emergency medicine physicians are required to have held ATLS certification at one time.

[13] Among the trauma surgeons, 50% attendance is required for each member of the trauma surgical core group. In the other specialty areas, 50% attendance is required only for the emergency medicine liaison, the neurosurgical trauma liaison, and the orthopaedic trauma liaison.

[14] Except for Level I trauma centers that care only for pediatric patients, each Level I trauma center shall satisfy one of the following volume performance standards:
1. 1200 trauma admissions per year,
2. 240 admissions with ISS > 15 per year, or
3. An average of 35 patients with ISS > 15 for the trauma panel surgeons per year.

Burn patients may be included in annual trauma admissions if the trauma service, not a separate burn service, is responsible for burn care in the trauma center.

[15] For this criterion, "immediately available" means that for all major resuscitations in a Level I or II trauma center:
1. If advance notice is provided from the field, a trauma surgeon is present in the emergency department upon patient arrival; and
2. If advance notice is not provided from the field, a trauma surgeon is present in the emergency department no later than 15 minutes after patient arrival.

The minimum threshold for compliance with this criterion is 80%.
A PGY 4 or 5 surgery resident may begin resuscitation while awaiting the arrival of the trauma surgeon, but is not a replacement for the trauma surgeon.

[16] For this criterion, "promptly available" means that for all major resuscitations in a Level III trauma center:
1. If advance notice is provided from the field, a trauma surgeon is present in the emergency department upon patient arrival; and
2. If advance notice is not provided from the field, a trauma surgeon is present in the emergency department no later than 30 minutes after patient arrival.

The minimum threshold for compliance with this criterion is 80%.
A PGY 4 or 5 surgery resident may begin resuscitation while awaiting the arrival of the trauma surgeon, but is not a replacement for the trauma surgeon.

[17] A trauma center that does not admit pediatric patients shall be capable of resuscitating, stabilizing, and transporting pediatric trauma patients.

[18] A Level I trauma center shall have a complete operating room team in the hospital at all times, so that an injured patient who requires operative care can receive it in the most expeditious manner. The members of the operating room team shall be assigned to the operating room as their primary function; they cannot also be dedicated to other functions within the institution.

[19] A Level II trauma center shall have a complete operating room team available when needed. The need to have an in-house operating room team depends on a number of things, including the patient population served, the ability to share responsibility for operating room coverage with other hospital staff, prehospital communication, and the size of the community served by the

trauma center. If an out-of-house operating room team is used, then this aspect of care shall be monitored by the performance improvement program.

[20] This requirement may be satisfied by a physician authorized by the hospital to admit patients into the intensive care unit as the attending physician or to perform critical care procedures.

[21] This requirement is met through having an independent outreach program or participating in a collaborative outreach program. "Collaborative outreach program" means an organized effort, including multiple hospitals or sponsored or coordinated by a Regional Council or the Department, through which participating hospitals educate the general public or current or prospective physicians, nurses, prehospital providers, or allied health professionals regarding injury prevention, trauma triage, interfacility transfer of trauma patients, or trauma care.

[22] A Level I trauma center shall have a functional and documented teaching commitment. This requirement may be met through:

1. A trauma fellowship program; or
2. Active participation with one of the following types of residency programs in emergency medicine, general surgery, orthopaedic surgery, or neurosurgery:
   a. An independent residency program;
   b. A regional residency rotation program; or
   c. A collaborative residency program that includes multiple hospitals, with each non-sponsor participating hospital hosting at least one rotation.

[23] This requirement is met through participating in the provision of ATLS courses and having ATLS instructors on staff.

[24] When a Level III trauma center is in an area that contains a Level I or Level II trauma center, this is not required.

[25] This requirement is met through having an independent prevention program or participating in a collaborative prevention program. "Collaborative prevention program" means an organized effort, including multiple hospitals or sponsored or coordinated by a Regional Council or the Department, through which participating health care institutions promote injury prevention through primary, secondary, or tertiary prevention strategies. An independent or collaborative prevention program shall include:

1. Conducting injury control studies,
2. Monitoring the progress and effect of the prevention program,
3. Providing information resources for the public, and
4. Each participating hospital's designating a prevention coordinator who serves as the hospital's spokesperson for prevention and injury control activities.

[26] This requirement is met through participating in a prevention program organized at the national, regional, state, or local community level.

[27] This requirement is met through having an independent research program or participating in a collaborative research program. "Collaborative research program" means an organized effort, including multiple hospitals or sponsored or coordinated by a Regional Council or the Department, through which participating hospitals systematically investigate issues related to trauma and trauma care.
Injury control studies are considered to be research program activities if they have a stated focused hypothesis or research question.

[28] The trauma program shall provide at least 12 educational presentations every three years outside the academically affiliated institutions of the trauma center.

[29] A trauma center is required to comply with the requirements of (K)(1) through (6), in addition to the requirements in (A) through (J), if the trauma center is represented as caring for pediatric trauma patients. "Represented as caring for pediatric trauma patients" means that a trauma center's availability or capability to care for pediatric trauma patients is advertised to the general public, health care providers, or emergency medical services providers through print media, broadcast media, the Internet, or other means such as the EMSystem, administered by the Department.

[30] The trauma center shall have a PICU available on-site.

[31] This requirement may be satisfied by a transfer agreement.

Historical Note

New Exhibit made by final rulemaking at 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4).

ARTICLE 14. TRAUMA REGISTRY; TRAUMA SYSTEM QUALITY ASSURANCE

R9-25-1401. Definitions (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2221, and 36-2225(A)(5) and (6))

The following definitions apply in this Article, unless otherwise specified:

1. "Aggregate trauma data" means a collection of data from the trauma registry that is compiled so that it is not possible to identify a particular trauma patient, trauma patient's family, health care provider, or health care institution.
2. "AIS" means abbreviated injury scale, an anatomic severity scoring system established in Association for the Advancement of Automotive Medicine Committee on Injury Scaling, *Abbreviated Injury Scale (AIS) 2005* (2005), incorporated by reference, including no future editions or amendments, and available from Association for the Advancement of Automotive Medicine, P.O. Box 4176, Barrington, IL 60011-4176, and www.carcrash.org.
3. "ALS base hospital" has the same meaning as "advanced life support base hospital" in A.R.S. 36-2201.
4. "Case" means a patient who meets R9-25-1402(A)(1), (2), or (3).
5. "Category" means a group of related codes within the ICD-9-CM, identified by the first three digits of each code number within the group, and including all code numbers that share the same first three digits.
6. "Data element" means a categorized piece of information.
7. "Data set" means a collection of data elements that includes, for each case, data that complies with Table 1.
8. "Department" means the Arizona Department of Health Services.
9. "ED" means emergency department, an organized area of a hospital that provides unscheduled emergency services, as defined in A.A.C. R9-10-201, 24 hours per day, seven days per week, to individuals who present for immediate medical attention.
10. "EMS" has the same meaning as "emergency medical services" in A.R.S. § 36-2201.
11. "EMS provider" has the same meaning as "emergency medical services provider" in A.R.S. § 36-2201.
12. "GCS" means Glasgow Coma Scale, a scoring system that defines eye, motor, and verbal responses in the patient with injury.
13. "Health care institution" has the same meaning as in A.R.S. § 36-401.
14. "Health care provider" means a caregiver involved in the delivery of trauma services to a patient, whether in a prehospital setting, in a hospital setting, or during rehabilitation.
15. "Hospital" has the same meaning as in A.A.C. R9-10-201.
16. "ICD-9-CM" has the same meaning as in A.A.C. R9-4-101.
17. "ICD-9-CM E-code" means the external cause of injury as coded according to the ICD-9-CM.
18. "ICD-9-CM N-code" means the nature of injury as coded according to the ICD-9-CM.
19. "ICD-9-CM Procedure Code" means the procedure performed on a patient as coded according to the ICD-9-CM.
20. "Injury" means the result of an act that damages, harms, or hurts; unintentional or intentional damage to the body resulting from acute exposure to mechanical, thermal, electrical, or chemical energy or from the absence of such essentials as heat or oxygen.
21. "ISS" has the same meaning as in R9-25-1301.
22. "Owner" has the same meaning as in R9-25-1301.
23. "Patient" means an individual who is sick, injured, or dead and who requires medical monitoring, medical treatment, or transport.
24. "Scene" means a location, other than a health care institution, from which a patient is transported.
25. "Submitting health care institution" means a health care institution that submits data to the trauma registry as provided in R9-25-1402.
26. "Trauma center" means a health care institution that meets the definition of "trauma center" in A.R.S. § 36-2201 or the definition of "trauma center" in A.R.S. § 36-2225.
27. "Trauma registry" has the same meaning as in A.R.S. § 36-2201.
28. "Trauma team" means a group of health care providers organized to provide care to trauma patients.
29. "Trauma team activation" means notification of trauma team members in response to triage information received concerning a patient with injury or suspected injury.
30. "Trauma triage protocol" means a "triage protocol," as defined in R9-25-101, specifically designed for use with patients with injury.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 4301, effective January 12, 2008 (Supp. 07-4).

R9-25-1402. Data Submission Requirements (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2221, and 36-2225(A)(5) and (6))

A. As required under A.R.S. § 36-2221 and R9-25-1313, an owner of a trauma center shall ensure that the data set identified in Table 1 is submitted to the Department, as prescribed in subsection (B), for each patient who meets one or more of the following criteria:

1. A patient with injury or suspected injury who is triaged from a scene to a trauma center or ED based upon the responding EMS provider's trauma triage protocol;
2. A patient with injury or suspected injury for whom a trauma team activation occurs; or
3. A patient with injury who is admitted as a result of the injury or who dies as a result of the injury, who has an ICD-9-CM N-code within categories 800 through 959, and who does not only have:
   a. Late effects of injury or another external cause, as demonstrated by an ICD-9-CM N-code within categories 905 through 909;
   b. A superficial injury or contusion, as demonstrated by an ICD-9-CM N-code within categories 910 through 924;
   c. Effects of a foreign body entering through an orifice, as demonstrated by an ICD-9-CM N-code within categories 930 through 939;
   d. An isolated femoral neck fracture from a same-level fall, as demonstrated by:
      i. An ICD-9-CM N-code within category 820; and
      ii. An ICD-9-CM E-code within category E885 or E886;
   e. An isolated distal extremity fracture from a same-level fall, as demonstrated by:

i. An ICD-9-CM N-code within categories 813 through 817 or within categories 823 through 826; and
ii. An ICD-9-CM E-code within category E885 or E886;
f. An isolated burn, as demonstrated by an ICD-9-CM N-code within categories 940 through 949.

B. An owner of a trauma center shall submit the data required under subsection (A) to the Department:
1. On a quarterly basis according to the following schedule:
   a. For cases identified between January 1 and March 31, so that it is received by the Department by July 1 of the same calendar year;
   b. For cases identified between April 1 and June 30, so that it is received by the Department by October 1 of the same calendar year;
   c. For cases identified between July 1 and September 30, so that it is received by the Department by January 2 of the following calendar year; and
   d. For cases identified between October 1 and December 31, so that it is received by the Department by April 1 of the following calendar year;
2. Through an electronic reporting system authorized by the Department;
3. In a format authorized by the Department; and
4. Along with the following information:
   a. The name and physical address of the trauma center;
   b. The date the trauma data is being submitted to the Department;
   c. The total number of cases for whom trauma data is being submitted;
   d. The quarter and year for which trauma data is being submitted;
   e. The range of ED or hospital arrival dates for the cases for whom trauma data is being submitted;
   f. The name, title, phone number, fax number, and e-mail address of the trauma center's point of contact for the trauma data; and
   g. Any special instructions or comments to the Department from the trauma center's point of contact.

C. An ALS base hospital certificate holder that chooses to submit trauma data to the Department, as provided in A.R.S. § 36-2221, shall comply with the data submission requirements in this Section for an owner of a trauma center.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 4301, effective January 12, 2008 (Supp. 07-4).

Table 1. Trauma Registry Data Set (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2221, and 36-2225(A)(5) and (6))

KEY:

Required for TC Levels I, II, and III = An owner of a hospital designated as a Level I, Level II, or Level III trauma center under Article 13 of this Chapter shall include these data elements in the data submission required under R9-25-1402.

Required for TC Level IV, Non-Designated TC, and ALS Base Hospital = An owner of a health care institution designated as a Level IV trauma center under Article 13 of this Chapter; an owner of a trauma center, as defined in A.R.S. § 36-2201, that is not designated as a trauma center under Article 13 of this Chapter; or an ALS base hospital certificate holder that submits trauma data as provided under A.R.S. § 36-2221 shall include these data elements in the data submission required under R9-25-1402.

* = Only required for hospitals designated as Level I trauma centers under Article 13 of this Chapter.

Field Name/Data Element Description	Required for TC Levels I, II, and III	Required for TC Level IV, Non-Designated TC, and ALS Base Hospital
DEMOGRAPHIC DATA ELEMENTS		
Reporting Facility Site ID	X	X
Registration Number	X	X
Medical Record Number	X	X
Hospital Admission Date	X	X
Admission Status	X	X
Patient Last Name	X	X
Patient First Name	X	X
Patient Middle Initial	X	X
Social Security Number	X	X
Date of Birth	X	X
Age	X	X
Units of Age	X	X
Gender	X	X
Race	X	X
Ethnicity	X	X
Zip Code of Residence	X	
City of Residence	X	
County of Residence	X	
State of Residence	X	X
Country of Residence	X	

Alternate Home Residence	X	
Co-Morbid Conditions (Pre-Existing)	X	
INJURY DATA ELEMENTS		
Injury Date	X	X
Injury Time	X	X
Actual versus Estimated Injury Time	X	
Injury Location ICD-9-CM E-code (E849)	X	X
Street Location of Injury	X	
Zip Code of Injury	X	X
City of Injury	X	X
County of Injury	X	
State of Injury	X	
Primary ICD-9-CM E-code Injury Descriptor	X	X
Additional ICD-9-CM E-code Injury Descriptor	X	
Trauma Type	X	
Work-Related	X	
Patient Occupational Industry	X	
Patient Occupation	X	
Patient Position in Vehicle	X	
Protective Devices	X	X
Child Specific Restraint	X	
Airbag Deployment	X	
Safety Equipment Issues	X	
PREHOSPITAL TRANSPORT DATA ELEMENTS		
EMS Provider Type	X	
Transport Mode (Into Reporting Facility)	X	X
Other Transport Modes	X	
Transport Agency	X	
Run Sheet Available?	X	
Run Sheet Date	X	
Transported From	X	
Date EMS Provider Notified	X	
Time EMS Provider Notified	X	
Date EMS Provider Left for Scene	X	
Time EMS Provider Left for Scene	X	
Date EMS Provider Arrived at Scene	X	
Time EMS Provider Arrived at Scene	X	
Date of EMS Patient Contact	X	
Time of EMS Patient Contact	X	
Date EMS Provider Departed Scene	X	
Time EMS Provider Departed Scene	X	
Date of Arrival at Destination	X	
Time of Arrival at Destination	X	
EMS Destination	X	
Total EMS Response Time (Minutes)	X	
Total EMS Scene Time (Minutes)	X	
Transport Time – Scene to Destination (Minutes)	X	
Total EMS Time (Minutes)	X	
System Access	X	
Triage Criteria	X	X
Date of Measurement of Vital Signs	X	
Time of Measurement of Vital Signs	X	

Initial Field Pulse Rate	X	
Initial Field Respiratory Rate	X	
Initial Field Oxygen Saturation	X	
Field Airway Management Details	X	
Field Intubation Status	X	
Field Paralytic Agent in Effect	X	
Initial Field Systolic Blood Pressure	X	
Initial Field GCS – Eye Opening	X	
Initial Field GCS – Verbal Response	X	
Initial Field GCS – Motor Response	X	
Initial Field GCS – Total	X	
Field Revised Trauma Score	X	
REFERRING/TRANSFER HOSPITAL DATA ELEMENTS		
Interfacility Transfer	X	
Date of Arrival at First Referring Hospital	X	
Time of Arrival at First Referring Hospital	X	
Date of Transfer from First Referring Hospital	X	
Time of Transfer from First Referring Hospital	X	
Transferring Facility (First Referring)	X	
Length of Stay in First Referring Hospital (Hours)	X	
Destination Facility	X	
Date of Arrival at Second Referring Hospital	X	
Time of Arrival at Second Referring Hospital	X	
Date of Transfer from Second Referring Hospital	X	
Time of Transfer from Second Referring Hospital	X	
Transferring Facility (Second Referring)	X	
Length of Stay in Second Referring Hospital (Hours)	X	
Destination Facility	X	
Vital Signs Designation (If First or Second Referring)	X	
Initial Respiratory Rate in Referring Facility	X	
Initial Systolic Blood Pressure in Referring Facility	X	
Initial GCS Total in Referring Facility	X	
Initial Revised Trauma Score in Referring Facility	X	
ED/TRAUMA DATA ELEMENTS		
ED/Hospital Arrival Date	X	X
ED/Hospital Arrival Time	X	X
ED Exit Date	X	X
ED Exit Time	X	X
Length of Stay in ED (Hours)	X	X
Complete Trauma Team Arrival Time	X	
ED Discharge Disposition	X	X
ED Discharge Destination Hospital	X	X
Discharge Transport Agency	X	
Transfer Reason	X	
ED/Hospital Initial Pulse Rate	X	
ED/Hospital Initial Respiratory Rate	X	
ED/Hospital Initial Respiratory Assistance	X	
ED/Hospital Initial Oxygen Saturation	X	
ED/Hospital Initial Supplemental Oxygen	X	
ED/Hospital Intubation Status	X	
ED/Hospital Paralytic Agent in Effect	X	
ED/Hospital Initial Systolic Blood Pressure	X	

ED/Hospital Initial GCS – Eye Opening	X	
ED/Hospital Initial GCS – Verbal Response	X	
ED/Hospital Initial GCS – Motor Response	X	
ED/Hospital Initial GCS – Total	X	
ED/Hospital Initial GCS Assessment Qualifiers	X	
ED/Hospital Initial Temperature	X	
ED/Hospital Initial Units of Temperature	X	
ED/Hospital Initial Temperature Route	X	
ED/Hospital Initial Revised Trauma Score	X	
Alcohol Use Indicator	X	
Blood Alcohol Content (mg/dl)	X	
Drug Use Indicator	X	
Toxicology Substances Found	X	
DISCHARGE DATA ELEMENTS		
Hospital Discharge Date	X	X
Hospital Discharge Time	X	X
Hospital Admission Length of Stay (Days)	X	X
Total Length of Hospital Stay – ED plus Admission (Days)	X	
Final Outcome – Dead or Alive	X	X
Total ICU Length of Stay (Days)	X	X
Total Ventilator Days	X	
Hospital Discharge Disposition	X	X
Hospital Discharge Destination Hospital	X	X
Discharge Transport Agency	X	
Transfer Reason	X	
Autopsy Identification Number	X	
Injury Diagnoses – ICD-9-CM N-codes	X	X
AIS Six-Digit Injury Identifier	X*	
AIS Severity Code	X	
AIS Body Region of Injury	X	
Injury Severity Score	X	
Probability of Survival	X	
ED/Hospital Procedure Location	X	
ED/Hospital Procedure Start Date	X	
ED/Hospital Procedure Start Time	X	
ED/Hospital ICD-9-CM Procedure Codes	X	
Hospital Complications	X	
Primary Method of Payment	X	
Secondary Method of Payment	X	
Total Hospital Charges	X	
Total Reimbursements	X	

Historical Note
New Table 1 made by final rulemaking at 13 A.A.R. 4301, effective January 12, 2008 (Supp. 07-4).

R9-25-1403. Trauma System Data Reports; Requests for Trauma Registry Reports (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2220(A), 36-2221, and 36-2225(A)(5) and (6))

A. The Department shall produce and disseminate to each submitting health care institution a quarterly trauma system data report that includes statewide aggregate trauma data.

B. A person may request to receive a report containing statewide aggregate trauma data for data elements not included in the quarterly trauma system data report by submitting a written public records request to the Department as provided in A.A.C. R9-1-303.

C. The Department shall process a request for a report submitted under subsection (B) as provided in A.A.C. R9-1-303.

D. As provided in A.R.S. § 36-2220(A)(1), Trauma Registry data from which a patient, the patient's family, or the patient's health care provider or facility might be identified is confidential and is not available to the public.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 4301, effective January 12, 2008 (Supp. 07-4).

R9-25-1404. Expired

Historical Note

New Section made by final rulemaking at 13 A.A.R. 4301, effective January 12, 2008 (Supp. 07-4). Section expired under A.R.S. 41-1056(E) at 18 A.A.R. 2153, effective June 30, 2012 (12-3).

R9-25-1405. Confidentiality and Retention of Trauma System Quality Assurance Data (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2220(A), 36-2221, 36-2222(E)(3), 36-2225(A)(5) and (6), 36-2403(A), and 36-2404)

A. As provided in A.R.S. §§ 36-2220(A)(2) and 36-2403(A), all data and documents obtained by the Department or considered by the Department, the State Trauma Advisory Board, or a State Trauma Advisory Board subcommittee for purposes of trauma system quality assurance are confidential and are not available to the public.

B. The Department shall ensure that:

1. Each member of the State Trauma Advisory Board or member of a State Trauma Advisory Board subcommittee who will have access to the data and documents described in subsection (A) executes a written confidentiality statement before being allowed access to the data and documents;
2. All trauma system quality assurance activities are completed in executive session during State Trauma Advisory Board or State Trauma Advisory Board subcommittee meetings;
3. Except for one historical copy, all copies of data and documents described in subsection (A) and used during an executive session are collected at the end of the executive session and destroyed after the State Trauma Advisory Board or State Trauma Advisory Board subcommittee meeting; and
4. Executive session minutes and all copies of data and documents described in subsection (A) are maintained in a secure area and are accessible only to authorized Department employees.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 4301, effective January 12, 2008 (Supp. 07-4). Section heading corrected at request of the Department, Office File No. M12-82, filed March 5, 2012 (Supp. 11-4).

R9-25-1406. Trauma Registry Data Quality Assurance (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2220(A), 36-2221, and 36-2225(A)(5) and (6))

A. To ensure the completeness and accuracy of trauma registry reporting, a submitting health care institution shall allow the Department to review the following, upon prior notice from the Department of at least five business days:

1. The submitting health care institution's database that includes data regarding cases;
2. Patient medical records; and
3. Any record, other than those specified in subsections (A)(1) and (2), that may contain information about diagnostic evaluation or treatment provided to a patient.

B. Upon prior notice from the Department of at least five business days, a submitting health care institution shall provide the Department with all of its patient medical records for a time period specified by the Department, to allow the Department to review the patient medical records and determine whether the submitting health care institution has submitted data to the trauma registry for the cases who received medical services within the time period.

C. For purposes of subsection (B), the Department considers a submitting health care institution to be in compliance with R9-25-1402(A) if the submitting health care institution submitted data to the trauma registry for 97% of the cases who received medical services within the time period.

D. The Department shall return to a submitting health care institution data not submitted in compliance with R9-25-1402 and shall identify the revisions that are needed to bring the data into compliance with R9-25-1402.

E. A submitting health care institution that has trauma registry data returned as provided in subsection (D) shall revise the data as identified by the Department and shall submit the revised data to the Department within 15 business days after the date the Department returned the data or within a longer period agreed upon between the Department and the submitting health care institution.

F. Within 15 business days after receiving a written request from the Department that includes a simulated patient medical record, a submitting health care institution shall prepare and submit to the Department the data set identified in Table 1 for the patient described in the simulated patient medical record.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 4301, effective January 12, 2008 (Supp. 07-4).

36-132. Department of health services; functions; contracts

A. The department shall, in addition to other powers and duties vested in it by law:

1. Protect the health of the people of the state.

2. Promote the development, maintenance, efficiency and effectiveness of local health departments or districts of sufficient population and area that they can be sustained with reasonable economy and efficient administration, provide technical consultation and assistance to local health departments or districts, provide financial assistance to local health departments or districts and services that meet minimum standards of personnel and performance and in accordance with a plan and budget submitted by the local health department or districts to the department for approval, and recommend the qualifications of all personnel.

3. Collect, preserve, tabulate and interpret all information required by law in reference to births, deaths and all vital facts, and obtain, collect and preserve information relating to the health of the people of the state and the prevention of diseases as may be useful in the discharge of functions of the department not in conflict with the provisions of chapter 3 of this title, and sections 36-693, 36-694 and 39-122.

4. Operate such sanitariums, hospitals or other facilities assigned to the department by law or by the governor.

5. Conduct a statewide program of health education relevant to the powers and duties of the department, prepare educational materials and disseminate information as to conditions affecting health, including basic information for the promotion of good health on the part of individuals and communities, and prepare and disseminate technical information concerning public health to the health professions, local health officials and hospitals. In cooperation with the department of education, the department of health services shall prepare and disseminate materials and give technical assistance for the purpose of education of children in hygiene, sanitation and personal and public health, and provide consultation and assistance in community organization to counties, communities and groups of people.

6. Administer or supervise a program of public health nursing, prescribe the minimum qualifications of all public health nurses engaged in official public health work, and encourage and aid in coordinating local public health nursing services.

7. Encourage and aid in coordinating local programs concerning control of preventable diseases in accordance with statewide plans that shall be formulated by the department.

8. Encourage and aid in coordinating local programs concerning maternal and child health, including midwifery, antepartum and postpartum care, infant and preschool health and the health of school children, including special fields such as the prevention of blindness and conservation of sight and hearing.

9. Encourage and aid in the coordination of local programs concerning nutrition of the people of the state.

10. Encourage, administer and provide dental health care services and aid in coordinating local programs concerning dental public health, in cooperation with the Arizona dental association. The

department may bill and receive payment for costs associated with providing dental health care services and shall deposit the monies in the oral health fund established by section 36-138.

11. Establish and maintain adequate serological, bacteriological, parasitological, entomological and chemical laboratories with qualified assistants and facilities necessary for routine examinations and analyses and for investigations and research in matters affecting public health.

12. Supervise, inspect and enforce the rules concerning the operation of public bathing places and public and semipublic swimming pools adopted pursuant to section 36-136, subsection H, paragraph 10.

13. Take all actions necessary or appropriate to ensure that bottled water sold to the public and water used to process, store, handle, serve and transport food and drink are free from filth, disease-causing substances and organisms and unwholesome, poisonous, deleterious or other foreign substances. All state agencies and local health agencies involved with water quality shall provide to the department any assistance requested by the director to ensure that this paragraph is effectuated.

14. Enforce the state food, caustic alkali and acid laws in accordance with chapter 2, article 2 of this title, chapter 8, article 1 of this title and chapter 9, article 4 of this title, and collaborate in the enforcement of the federal food, drug and cosmetic act of 1938 (52 Stat. 1040; 21 United States Code sections 1 through 905).

15. Recruit and train personnel for state, local and district health departments.

16. Conduct continuing evaluations of state, local and district public health programs, study and appraise state health problems and develop broad plans for use by the department and for recommendation to other agencies, professions and local health departments for the best solution of these problems.

17. License and regulate health care institutions according to chapter 4 of this title.

18. Issue or direct the issuance of licenses and permits required by law.

19. Participate in the state civil defense program and develop the necessary organization and facilities to meet wartime or other disasters.

20. Subject to the availability of monies, develop and administer programs in perinatal health care, including:

(a) Screening in early pregnancy for detecting high risk conditions.

(b) Comprehensive prenatal health care.

(c) Maternity, delivery and postpartum care.

(d) Perinatal consultation, including transportation of the pregnant woman to a perinatal care center when medically indicated.

(e) Perinatal education oriented toward professionals and consumers, focusing on early detection and adequate intervention to avert premature labor and delivery.

21. License and regulate the health and safety of group homes for persons with developmental disabilities. The department shall issue a license to an accredited facility for a period of the accreditation, except that no licensing period shall be longer than three years. The department is authorized to conduct an inspection of an accredited facility to ensure that the facility meets health and safety licensure standards. The results of the accreditation survey shall be public information. A copy of the final accreditation report shall be filed with the department of health services. For the purposes of this paragraph, "accredited" means accredited by a nationally recognized accreditation organization.

B. The department may accept from the state or federal government, or any agency of the state or federal government, and from private donors, trusts, foundations or eleemosynary corporations or organizations grants or donations for or in aid of the construction or maintenance of any program, project, research or facility authorized by this title, or in aid of the extension or enforcement of any program, project or facility authorized, regulated or prohibited by this title, and enter into contracts with the federal government, or an agency of the federal government, and with private donors, trusts, foundations or eleemosynary corporations or organizations, to carry out such purposes. All monies made available under this section are special project grants. The department may also expend these monies to further applicable scientific research within this state.

C. The department, in establishing fees authorized by this section, shall comply with title 41, chapter 6. The department shall not set a fee at more than the department's cost of providing the service for which the fee is charged. State agencies are exempt from all fees imposed pursuant to this section.

D. The department may enter into contracts with organizations that perform nonrenal organ transplant operations and organizations that primarily assist in the management of end stage renal disease and related problems to provide, as payors of last resort, prescription medications necessary to supplement treatment and transportation to and from treatment facilities. The contracts may provide for department payment of administrative costs it specifically authorizes.

36-136. Powers and duties of director; compensation of personnel; rules

A. The director shall:

1. Be the executive officer of the department of health services and the state registrar of vital statistics but shall not receive compensation for services as registrar.

2. Perform all duties necessary to carry out the functions and responsibilities of the department.

3. Prescribe the organization of the department. The director shall appoint or remove personnel as necessary for the efficient work of the department and shall prescribe the duties of all personnel. The director may abolish any office or position in the department that the director believes is unnecessary.

4. Administer and enforce the laws relating to health and sanitation and the rules of the department.

5. Provide for the examination of any premises if the director has reasonable cause to believe that on the premises there exists a violation of any health law or rule of the state.

6. Exercise general supervision over all matters relating to sanitation and health throughout the state. When in the opinion of the director it is necessary or advisable, a sanitary survey of the whole or of any part of the state shall be made. The director may enter, examine and survey any source

and means of water supply, sewage disposal plant, sewerage system, prison, public or private place of detention, asylum, hospital, school, public building, private institution, factory, workshop, tenement, public washroom, public restroom, public toilet and toilet facility, public eating room and restaurant, dairy, milk plant or food manufacturing or processing plant, and any premises in which the director has reason to believe there exists a violation of any health law or rule of the state that the director has the duty to administer.

7. Prepare sanitary and public health rules.

8. Perform other duties prescribed by law.

B. If the director has reasonable cause to believe that there exists a violation of any health law or rule of the state, the director may inspect any person or property in transportation through the state, and any car, boat, train, trailer, airplane or other vehicle in which that person or property is transported, and may enforce detention or disinfection as reasonably necessary for the public health if there exists a violation of any health law or rule.

C. The director may deputize, in writing, any qualified officer or employee in the department to do or perform on the director's behalf any act the director is by law empowered to do or charged with the responsibility of doing.

D. The director may delegate to a local health department, county environmental department or public health services district any functions, powers or duties that the director believes can be competently, efficiently and properly performed by the local health department, county environmental department or public health services district if:

1. The director or superintendent of the local health agency, environmental agency or public health services district is willing to accept the delegation and agrees to perform or exercise the functions, powers and duties conferred in accordance with the standards of performance established by the director.

2. Monies appropriated or otherwise made available to the department for distribution to or division among counties or public health services districts for local health work may be allocated or reallocated in a manner designed to ensure the accomplishment of recognized local public health activities and delegated functions, powers and duties in accordance with applicable standards of performance. Whenever in the director's opinion there is cause, the director may terminate all or a part of any delegation and may reallocate all or a part of any funds that may have been conditioned on the further performance of the functions, powers or duties conferred.

E. The compensation of all personnel shall be as determined pursuant to section 38-611.

F. The director may make and amend rules necessary for the proper administration and enforcement of the laws relating to the public health.

G. Notwithstanding subsection H, paragraph 1 of this section, the director may define and prescribe emergency measures for detecting, reporting, preventing and controlling communicable or infectious diseases or conditions if the director has reasonable cause to believe that a serious threat to public health and welfare exists. Emergency measures are effective for no longer than eighteen months.

H. The director, by rule, shall:

1. Define and prescribe reasonably necessary measures for detecting, reporting, preventing and controlling communicable and preventable diseases. The rules shall declare certain diseases reportable. The rules shall prescribe measures, including isolation or quarantine, that are reasonably required to prevent the occurrence of, or to seek early detection and alleviation of, disability, insofar as possible, from communicable or preventable diseases. The rules shall include reasonably necessary measures to control animal diseases transmittable to humans.

2. Define and prescribe reasonably necessary measures, in addition to those prescribed by law, regarding the preparation, embalming, cremation, interment, disinterment and transportation of dead human bodies and the conduct of funerals, relating to and restricted to communicable diseases and regarding the removal, transportation, cremation, interment or disinterment of any dead human body.

3. Define and prescribe reasonably necessary procedures that are not inconsistent with law in regard to the use and accessibility of vital records, delayed birth registration and the completion, change and amendment of vital records.

4. Except as relating to the beneficial use of wildlife meat by public institutions and charitable organizations pursuant to title 17, prescribe reasonably necessary measures to ensure that all food or drink, including meat and meat products and milk and milk products sold at the retail level, provided for human consumption is free from unwholesome, poisonous or other foreign substances and filth, insects or disease-causing organisms. The rules shall prescribe reasonably necessary measures governing the production, processing, labeling, storing, handling, serving and transportation of these products. The rules shall prescribe minimum standards for the sanitary facilities and conditions that shall be maintained in any warehouse, restaurant or other premises, except a meat packing plant, slaughterhouse, wholesale meat processing plant, dairy product manufacturing plant or trade product manufacturing plant. The rules shall prescribe minimum standards for any truck or other vehicle in which food or drink is produced, processed, stored, handled, served or transported. The rules shall provide for the inspection and licensing of premises and vehicles so used, and for abatement as public nuisances of any premises or vehicles that do not comply with the rules and minimum standards. The rules shall provide an exemption relating to food or drink that is:

(a) Served at a noncommercial social event such as a potluck.

(b) Prepared at a cooking school that is conducted in an owner-occupied home.

(c) Not potentially hazardous and prepared in a kitchen of a private home for occasional sale or distribution for noncommercial purposes.

(d) Prepared or served at an employee-conducted function that lasts less than four hours and is not regularly scheduled, such as an employee recognition, an employee fund-raising or an employee social event.

(e) Offered at a child care facility and limited to commercially prepackaged food that is not potentially hazardous and whole fruits and vegetables that are washed and cut on site for immediate consumption.

(f) Offered at locations that sell only commercially prepackaged food or drink that is not potentially hazardous.

(g) Baked and confectionary goods that are not potentially hazardous and that are prepared in a kitchen of a private home for commercial purposes if packaged with a label that clearly states the address of the maker, includes contact information for the maker, lists all the ingredients in the product and discloses that the product was prepared in a home. The label must be given to the final consumer of the product. If the product was made in a facility for individuals with developmental disabilities, the label must also disclose that fact. The person preparing the food or supervising the food preparation must obtain a food handler's card or certificate if one is issued by the local county and must register with an online registry established by the department pursuant to paragraph 13 of this subsection. For the purposes of this subdivision, "potentially hazardous" means baked and confectionary goods that meet the requirements of the food code published by the United States food and drug administration, as modified and incorporated by reference by the department by rule.

(h) A whole fruit or vegetable grown in a public school garden that is washed and cut on-site for immediate consumption.

5. Prescribe reasonably necessary measures to ensure that all meat and meat products for human consumption handled at the retail level are delivered in a manner and from sources approved by the Arizona department of agriculture and are free from unwholesome, poisonous or other foreign substances and filth, insects or disease-causing organisms. The rules shall prescribe standards for sanitary facilities to be used in identity, storage, handling and sale of all meat and meat products sold at the retail level.

6. Prescribe reasonably necessary measures regarding production, processing, labeling, handling, serving and transportation of bottled water to ensure that all bottled drinking water distributed for human consumption is free from unwholesome, poisonous, deleterious or other foreign substances and filth or disease-causing organisms. The rules shall prescribe minimum standards for the sanitary facilities and conditions that shall be maintained at any source of water, bottling plant and truck or vehicle in which bottled water is produced, processed, stored or transported and shall provide for inspection and certification of bottled drinking water sources, plants, processes and transportation and for abatement as a public nuisance of any water supply, label, premises, equipment, process or vehicle that does not comply with the minimum standards. The rules shall prescribe minimum standards for bacteriological, physical and chemical quality for bottled water and for the submission of samples at intervals prescribed in the standards.

7. Define and prescribe reasonably necessary measures governing ice production, handling, storing and distribution to ensure that all ice sold or distributed for human consumption or for the preservation or storage of food for human consumption is free from unwholesome, poisonous, deleterious or other foreign substances and filth or disease-causing organisms. The rules shall prescribe minimum standards for the sanitary facilities and conditions and the quality of ice that shall be maintained at any ice plant, storage and truck or vehicle in which ice is produced, stored, handled or transported and shall provide for inspection and licensing of the premises and vehicles, and for abatement as public nuisances of ice, premises, equipment, processes or vehicles that do not comply with the minimum standards.

8. Define and prescribe reasonably necessary measures concerning sewage and excreta disposal, garbage and trash collection, storage and disposal, and water supply for recreational and summer camps, campgrounds, motels, tourist courts, trailer coach parks and hotels. The rules shall prescribe minimum standards for preparation of food in community kitchens, adequacy of excreta disposal, garbage and trash collection, storage and disposal and water supply for recreational and summer camps, campgrounds, motels, tourist courts, trailer coach parks and hotels and shall provide for inspection of these premises and for abatement as public nuisances of any premises or facilities that do not comply with the rules. Primitive camp and picnic grounds offered by this state or a political

subdivision of this state are exempt from rules adopted pursuant to this paragraph but are subject to approval by a county health department under sanitary regulations adopted pursuant to section 36-183.02. For the purposes of this paragraph, "primitive camp and picnic grounds" means camp and picnic grounds that are remote in nature and without accessibility to public infrastructure such as water, electricity and sewer.

9. Define and prescribe reasonably necessary measures concerning the sewage and excreta disposal, garbage and trash collection, storage and disposal, water supply and food preparation of all public schools. The rules shall prescribe minimum standards for sanitary conditions that shall be maintained in any public school and shall provide for inspection of these premises and facilities and for abatement as public nuisances of any premises that do not comply with the minimum standards.

10. Prescribe reasonably necessary measures to prevent pollution of water used in public or semipublic swimming pools and bathing places and to prevent deleterious health conditions at these places. The rules shall prescribe minimum standards for sanitary conditions that shall be maintained at any public or semipublic swimming pool or bathing place and shall provide for inspection of these premises and for abatement as public nuisances of any premises and facilities that do not comply with the minimum standards. The rules shall be developed in cooperation with the director of the department of environmental quality and shall be consistent with the rules adopted by the director of the department of environmental quality pursuant to section 49-104, subsection B, paragraph 12.

11. Prescribe reasonably necessary measures to keep confidential information relating to diagnostic findings and treatment of patients, as well as information relating to contacts, suspects and associates of communicable disease patients. In no event shall confidential information be made available for political or commercial purposes.

12. Prescribe reasonably necessary measures regarding human immunodeficiency virus testing as a means to control the transmission of that virus, including the designation of anonymous test sites as dictated by current epidemiologic and scientific evidence.

13. Establish an online registry of food preparers that are authorized to prepare food for commercial purposes pursuant to paragraph 4 of this subsection.

I. The rules adopted under the authority conferred by this section shall be observed throughout the state and shall be enforced by each local board of health or public health services district, but this section does not limit the right of any local board of health or county board of supervisors to adopt ordinances and rules as authorized by law within its jurisdiction, provided that the ordinances and rules do not conflict with state law and are equal to or more restrictive than the rules of the director.

J. The powers and duties prescribed by this section do not apply in instances in which regulatory powers and duties relating to public health are vested by the legislature in any other state board, commission, agency or instrumentality, except that with regard to the regulation of meat and meat products, the department of health services and the Arizona department of agriculture within the area delegated to each shall adopt rules that are not in conflict.

K. The director, in establishing fees authorized by this section, shall comply with title 41, chapter 6. The department shall not set a fee at more than the department's cost of providing the service for which the fee is charged. State agencies are exempt from all fees imposed pursuant to this section.

L. After consultation with the state superintendent of public instruction, the director shall prescribe the criteria the department shall use in deciding whether or not to notify a local school district that a

pupil in the district has tested positive for the human immunodeficiency virus antibody. The director shall prescribe the procedure by which the department shall notify a school district if, pursuant to these criteria, the department determines that notification is warranted in a particular situation. This procedure shall include a requirement that before notification the department shall determine to its satisfaction that the district has an appropriate policy relating to nondiscrimination of the infected pupil and confidentiality of test results and that proper educational counseling has been or will be provided to staff and pupils.

M. Until the department adopts exemptions by rule as required by subsection H, paragraph 4, subdivision (f) of this section, food and drink are exempt from the rules prescribed in subsection H of this section if offered at locations that sell only commercially prepackaged food or drink that is not potentially hazardous, without a limitation on its display area.

N. Until the department adopts exemptions by rule as required by subsection H, paragraph 4, subdivision (h) of this section, a whole fruit or vegetable grown in a public school garden that is washed and cut on-site for immediate consumption is exempt from the rules prescribed in subsection H of this section.

36-2202. Duties of the director; qualifications of medical director

A. The director shall:

1. Appoint a medical director of the emergency medical services and trauma system.

2. Adopt standards and criteria for the denial or granting of certification and recertification of emergency medical care technicians. These standards shall allow the department to certify qualified emergency medical care technicians who have completed statewide standardized training required under section 36-2204, paragraph 1 and a standardized certification test required under section 36-2204, paragraph 2 or who hold valid certification with a national certification organization. Before the director may consider approving a statewide standardized training or a standardized certification test, or both, each of these must first be recommended by the medical direction commission and the emergency medical services council to ensure that the standardized training content is consistent with national education standards and that the standardized certification tests examines comparable material to that examined in the tests of a national certification organization.

3. Adopt standards and criteria that pertain to the quality of emergency care pursuant to section 36-2204.

4. Adopt rules necessary to carry out this chapter. Each rule shall identify all sections and subsections of this chapter under which the rule was formulated.

5. Adopt reasonable medical equipment, supply, staffing and safety standards, criteria and procedures for issuance of a certificate of registration to operate an ambulance.

6. Maintain a state system for recertifying emergency medical care technicians, except as otherwise provided by section 36-2202.01, that is independent from any national certification organization recertification process. This system shall allow emergency medical care technicians to choose to be recertified under the state or the national certification organization recertification system subject to subsection H of this section.

B. Emergency medical technicians who choose the state recertification process shall recertify in one of the following ways:

1. Successfully completing an emergency medical technician refresher course approved by the department.

2. Successfully completing an emergency medical technician challenge course approved by the department.

3. For emergency medical care technicians who are currently certified at the emergency medical technician level by the department, attesting on a form provided by the department that the applicant holds a valid and current cardiopulmonary resuscitation certification, has and will maintain documented proof of a minimum of twenty-four hours of continuing medical education within the last two years consistent with department rules and has functioned in the capacity of an emergency medical technician for at least two hundred forty hours during the last two years.

C. After consultation with the emergency medical services council the director may authorize pilot programs designed to improve the safety and efficiency of ambulance inspections for governmental or quasi-governmental entities that provide emergency medical services in this state.

D. The rules, standards and criteria adopted by the director pursuant to subsection A, paragraphs 2, 3, 4 and 5 of this section shall be adopted in accordance with title 41, chapter 6, except that the director may adopt on an emergency basis pursuant to section 41-1026 rules relating to the regulation of ambulance services in this state necessary to protect the public peace, health and safety in advance of adopting rules, standards and criteria as otherwise provided by this subsection.

E. The director may waive the requirement for compliance with a protocol adopted pursuant to section 36-2205 if the director determines that the techniques, drug formularies or training makes the protocol inconsistent with contemporary medical practices.

F. The director may suspend a protocol adopted pursuant to section 36-2205 if the director does all of the following:

1. Determines that the rule is not in the public's best interest.

2. Initiates procedures pursuant to title 41, chapter 6 to repeal the rule.

3. Notifies all interested parties in writing of the director's action and the reasons for that action. Parties interested in receiving notification shall submit a written request to the director.

G. To be eligible for appointment as the medical director of the emergency medical services and trauma system, the person shall be qualified in emergency medicine and shall be licensed as a physician in one of the states of the United States.

H. Applicants for certification shall apply to the director for certification. Emergency medical care technicians shall apply for recertification to the director every two years. The director may extend the expiration date of an emergency medical care technician's certificate for thirty days. The department shall establish a fee for this extension by rule. Emergency medical care technicians shall pass an examination administered by the department as a condition for recertification only if required to do so

by the advanced life support base hospital's medical director or the emergency medical care technician's medical director.

I. The medical director of the emergency medical services and trauma system is exempt from title 41, chapter 4, articles 5 and 6 and is entitled to receive compensation pursuant to section 38-611, subsection A.

J. The standards, criteria and procedures adopted by the director pursuant to subsection A, paragraph 5 of this section shall require that ambulance services serving a rural or wilderness certificate of necessity area with a population of less than ten thousand persons according to the most recent United States decennial census have at least one ambulance attendant as defined in section 36-2201, paragraph 6, subdivision (a) and one ambulance attendant as defined in section 36-2201, paragraph 6, subdivision (b) staffing an ambulance while transporting a patient and that ambulance services serving a population of ten thousand persons or more according to the most recent United States decennial census have at least one ambulance attendant as defined in section 36-2201, paragraph 6, subdivision (a) and one ambulance attendant as defined in section 36-2201, paragraph 6, subdivision (a), (c), (d) or (e) staffing an ambulance while transporting a patient.

K. If the department determines there is not a qualified administrative medical director, the department shall ensure the provision of administrative medical direction for an emergency medical technician if the emergency medical technician meets all of the following criteria:

1. Is employed by a nonprofit or governmental provider employing less than twelve full-time emergency medical technicians.

2. Stipulates to the inability to secure a physician who is willing to provide administrative medical direction.

3. Stipulates that the provider agency does not provide administrative medical direction for its employees.

36-2208. Bureau of emergency medical services and trauma system

A. There is established within the department a bureau of emergency medical services and trauma system that is responsible for coordinating, establishing and administering a statewide system of emergency medical services, trauma care and a trauma registry.

B. This chapter does not prevent any individual, law enforcement officer, public agency or member of a city, town, fire district or volunteer fire department from rendering on-site emergency medical care or, if, in terms of the existing medical situation, it is deemed not advisable to await the arrival of an ambulance, from transporting emergency medical patients to a hospital or an emergency receiving facility, except that if any patient objects on religious grounds, that patient shall not be administered any medical treatment or be transported to a hospital or an emergency receiving facility.

C. The director shall develop an annual statewide emergency medical and trauma services plan and submit that plan to the council for review and approval. The statewide plan shall then be submitted to the governor for final adoption. Before submitting the plan to the governor, the director shall accept comments from the authorized local agencies and governmental entities.

D. A local emergency medical services coordinating system shall develop a regional emergency medical services plan that includes a needs assessment and submit the plan to the director and to the authorized local agencies within the area. The regional plans shall be integrated into the statewide plan by the department.

E. The state plan shall contain a budget component for funding local and state emergency medical services systems from the emergency medical services operating fund established pursuant to section 36-2218 based on the needs assessment of the local emergency medical services coordinating system plans. The components shall be included in the department's budget through the normal appropriation process.

36-2221. Trauma center data; requirements; confidentiality; violation; classification

A. Trauma centers shall submit to the department a uniform data set for the trauma patient as prescribed by the department. Advanced life support base hospitals that are not trauma centers may also submit this data to the department. The director shall identify the categories of patients who are to be reported as trauma patients under this section.

B. The department shall provide quarterly trauma system data reports to each hospital and designated trauma center submitting data.

C. The department may authorize other persons and organizations to use state trauma registry data:

1. To study the sources and causes of trauma.

2. To evaluate the cost, quality, efficacy and appropriateness of diagnostic, therapeutic, rehabilitative and preventive services and programs that are related to trauma.

D. Information collected by the state trauma registry that can identify an individual is confidential and may be used only pursuant to this section. A person who discloses confidential information in violation of this section is guilty of a class 3 misdemeanor.

36-2225. Statewide emergency medical services and trauma system; definitions

A. The department shall develop and administer a statewide emergency medical services and trauma system to implement the Arizona emergency medical services and trauma system plan. The department shall adopt rules to establish standards for the following:

1. Injury prevention activities to decrease the incidence of trauma and decrease the societal cost of preventable mortality and morbidity.

2. Public access to prehospital emergency medical services.

3. A statewide network of trauma centers that provide trauma care and to which trauma patients can be transported.

4. A trauma center designation and dedesignation process for health care institutions that provide trauma care. The department may adopt rules that:

(a) Allow for designation based on:

(i) A health care institution's verification as a trauma facility by a national verification organization.

(ii) A determination by a national verification organization that a health care institution meets the state standards established by rule for designation as a trauma center.

(iii) A determination by the department that a health care institution meets the state standards established by rule for designation as a trauma center.

(b) Require that trauma centers submit data to the trauma registry.

5. Trauma system evaluation and quality review through the collection and analysis of data.

6. Protection of confidential patient care and trauma registry information.

B. For the purposes of this section:

1. "National verification organization" means the American college of surgeons committee on trauma or other nationally recognized organization that verifies the ability of health care institutions to provide trauma services at various levels.

2. "Trauma center" means a health care institution that is designated pursuant to rules adopted by the department to provide a specific level of trauma care.

BOARD OF BEHAVIORAL HEALTH EXAMINERS
Title 4, Chapter 6, Article 2, General Provisions

New Section:	R4-6-215
Repeal:	R4-6-215

GOVERNOR'S REGULATORY REVIEW COUNCIL
M E M O R A N D U M

MEETING DATE: September 6, 2017 **AGENDA ITEM: D-12**

TO: Members of the Governor's Regulatory Review Council ("Council")

FROM: Chris Kleminich, Staff Attorney

DATE: August 24, 2017

SUBJECT: **BOARD OF BEHAVIORAL HEALTH EXAMINERS (R-17-0910)**
Title 4, Chapter 6, Article 2, General Provisions

New Section: R4-6-215
Repeal: R4-6-215

Purpose of the Agency and Summary of What the Rulemaking Does

The purpose of the Board of Behavioral Health Examiners (Board) is to "promote the safe and professional practice of behavioral health services." Laws 2013, Ch. 242, § 24.

As part of a 2015 exempt rulemaking, the Board added its fees to rule with the prices published. Before then, R4-6-215 listed the fees the Board could collect, but the prices were voted on annually by the Board and communicated to the public on a fee schedule. The 2015 rulemaking also established three new fees and increased two others. As part of the exempt rulemaking process, the Board indicates that it took public feedback on all the proposed rules, held three public hearings, and testified in front of the Joint Legislative Budget Committee.

Under A.R.S. § 41-1008(E), unless the Board's fees are established through the regular rulemaking process, the Board will no longer be able to charge its fees as of October 31, 2017. The rulemaking sets forth the same fees established in 2015 and does not increase any fees.

Exemption or Request and Approval for Exception from the Moratorium

The Board received an exception from the moratorium on March 29, 2017.

Substantive or Procedural Concerns

None.

1. Are the rules legal, consistent with legislative intent, and within the agency's statutory authority?

Yes. As general authority, the Board cites to A.R.S. § 32-3253(A)(1), under which the Board must "[a]dopt rules consistent with and necessary or proper to carry out the purposes of this chapter [Title 32, Chapter 33, Behavioral Health Professionals]." As specific authority, the Board cites to A.R.S. § 32-3272. A.R.S. § 32-3272(D) states that the Board must "establish fees to produce monies that approximate the cost of maintaining the [B]oard."

2. Are the rules written in a manner that is clear, concise, and understandable to the general public?

Yes. The rule is clear, concise, and understandable.

3. Does the agency adequately address the comments on the proposed rules and any supplemental proposals?

Yes. The Board indicates that it received no comments on the rulemaking and no one attended the oral proceeding on June 21, 2017.

4. Are the final rules a substantial change, considered as a whole, from the proposed rules and any supplemental proposals?

No. No changes have been made between the proposed rule and the final rule.

5. Does the preamble disclose a reference to any study relevant to the rules that the agency reviewed and either did or did not rely on in the agency's evaluation of or justification for the rules?

No. The Board indicates that it did not review or rely upon any study for the rulemaking.

6. Are the rules more stringent than corresponding federal law and, if so, is there statutory authority that allows the agency to exceed the requirements of federal law?

No. The Board indicates that no federal law is directly applicable to the rule.

7. Do the rules require a permit or license and if so, does the agency use a general permit or is any exception applicable under A.R.S. § 41-1037?

Yes. The Board indicates that the licenses it issues are general permits consistent with A.R.S. § 41-1037 because they are issued to qualified individuals or entities to conduct activities that are substantially similar in nature.

8. Do the rules establish a new fee or contain a fee increase?

No. The fees set forth in the rule are already charged by the Board.

9. Conclusion

The Board is requesting an immediate effective date under A.R.S. § 41-1032(A)(2), as the Board will otherwise no longer be able to charge its fees and meet its statutory mandate under A.R.S. § 32-3272(D) as of October 31, 2017. This analyst recommends approval.

GOVERNOR'S REGULATORY REVIEW COUNCIL
M E M O R A N D U M

MEETING DATE: September 6, 2017 **AGENDA ITEM: D-12**

TO: Members of the Governor's Regulatory Review Council ("Council")

FROM: GRRC Economic Team

DATE: August 24, 2017

SUBJECT: **BOARD OF BEHAVIORAL HEALTH EXAMINERS (R-17-0910)**
Title 4, Chapter 6, Article 2, General Provisions

New Section: R4-6-215
Repeal: R4-6-215

The economic analysis team has reviewed the economic, small business, and consumer impact statement (EIS) and makes the following comments. These comments are made to assist the Council in its review and may be used as the Council determines.

In 2015, the Board added published prices to its fees established in R4-6-215. The 2015 exempt rulemaking also established three new fees and increased two others. Because the fees set forth in this rulemaking are identical to those currently in R4-6-215, and are only being put through the regular rulemaking process to meet the statutory requirements of A.R.S. § 41-1008(E), the Board believes that the economic impact of this rulemaking to be very minimal. If the fees established during the Board's exempt rulemaking cease to be effective, the Board will no longer be able to collect a fee from regionally accredited colleges or universities that wish to have their curriculum reviewed by the Board for approval, or to collect fees for certain public record requests including mailing lists and electronic records.

The Board does not anticipate the need to hire full-time employees because of this rulemaking.

1. **<u>Costs and Benefits for:</u>**

a. The implementing agency

The Board incurred the minimal cost of completing this rulemaking and will incur the cost of implementing and enforcing it. If the fees cease to be effective, the economic impact would mainly be to the Board. The Board would have to provide services with no ability to collect fees.

b. Political subdivisions:

Political subdivisions are not directly affected by the rulemaking.

c. Businesses:

License holders may be businesses directly affected by the rulemaking. The economic impact on license holders is anticipated to be minimal as the Board's fees would remain at current levels.

d. Small businesses:

Same as for businesses generally.

e. Consumers directly affected by the rulemaking:

The Board believes the rulemaking will have little or no economic impact on consumers.

2. <u>Do the probable benefits outweigh the probable costs?</u>

Based on the information provided, the Board indicates that the benefits of the rule outweigh the costs.

3. <u>Analysis of methods to reduce the small business impact:</u>

The Board indicates that no other methods can be used to reduce the impact on small businesses while maintaining protection for public health and safety.

4. <u>The probable effect on state revenues:</u>

If approved, the proposed rulemaking will have no direct effect on state revenues. If returned, the state general fund will be negatively impacted due to the loss of revenue of fees collected by the Board.

5. <u>Analysis of any less intrusive or less costly alternative methods:</u>

The Board believes this is the least costly and least intrusive method. The Board notes that the fees are already included in rule and went through a public feedback period in 2015 when established under exempt rulemaking.

6. <u>Whether an analysis was submitted to the agency regarding the rule's impact on the competitiveness of businesses in this state as compared to the competitiveness of businesses in other states:</u>

No analysis was submitted that compares the rule's impact of the competitiveness of businesses in this state to the impact on businesses in other states.

7. A description of any data on which a rule is based with an explanation of how the data was obtained and why the data is acceptable data, and the methods used by the agency to evaluate the costs and benefits in the EIS.

The Board indicates that no outside data or studies were used in the development of the rule.

8. Conclusion:

The submitted economic, small business and consumer impact statement is generally accurate, and contains the information required for compliance with A.R.S. §§ 41-1035, 41-1052(D)(1-3), and 41-1055. This analyst recommends that the proposed rule be approved.

Christopher Kleminich

From: Donna Dalton <donna.dalton@azbbhe.us>
Sent: Wednesday, July 12, 2017 8:28 AM
To: Christopher Kleminich
Cc: Tobi Zavala
Subject: Fwd: Rulemaking
Attachments: AZBBHE EIS 2017 rulemaking final.docx; NOTICE OF FINAL RULEMAKING.rtf

Hi Chris,

I appreciate your help through this process for our fees that were established under exempt rulemaking. I have forwarded Mara Mellstrom's email approving our request for exemption to the moratorium for your records, and attached you will find the Notice of Final Rulemaking and EIS. Please let me know if there is anything else needed from the Board, and which GRRC study session you expect to review our materials so I can add to our calendars.

Thanks!

Donna Dalton
Deputy Director
AZ Board of Behavioral Health Examiners
3443 North Central Avenue, Suite 1700
Phoenix, AZ 85012
Office: (602) 542-1811
Fax: (602) 364-0890

Board website: www.azbbhe.us

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To ensure compliance with the open meeting law, recipients of this message should not forward it to other members of the public body. Members of the public body may reply to this message, but they should not send a copy of their reply to other members.

---------- Forwarded message ----------
From: **Mara Mellstrom** <mmellstrom@az.gov>
Date: Wed, Mar 29, 2017 at 9:59 AM
Subject: Re: Rulemaking
To: Donna Dalton <donna.dalton@azbbhe.us>
Cc: Tobi Zavala <tobi.zavala@azbbhe.us>

Hi Donna —

I apologize for the delay. Your exemption request is approved.

Regards,

Mara Mellstrom
Policy Advisor
Office of the Arizona Governor

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 6. BOARD OF BEHAVIORAL HEALTH EXAMINERS

PREAMBLE

1. Article, Part, or Section Affected (as applicable)	**Rulemaking Action**
R4-6-215	Repeal
R4-6-215	New Section

2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):

Authorizing statute: A.R.S. § 32-3253

Implementing statute: A.R.S. § 32-3272

3. The effective date for the rules and the reason the agency selected the effective date:

Under A.R.S. § 41-1032(A)(2), the Board is requesting the rules be effective when filed with the Office of the Secretary of State.

a. If the agency selected a date earlier than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):

The Board is requesting an immediate effective date under A.R.S. § 41-1032(A)(2). Under A.R.S. § 41-1008(E), several of the Board's fees will cease to be effective on 10/31/2017 if this rulemaking is not in effect by that time.

b. If the agency selected a date later than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):

Not applicable

4. Citations to all related notices published in the *Register* as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:

Notice of Rulemaking Docket Opening: 23 A.A.R. 1045, May 5, 2017

Notice of Proposed Rulemaking: 23 A.A.R. 1007, May 5, 2017

5. The agency's contact person who can answer questions about the rulemaking:

Name: Donna Dalton, Deputy Director

Address: AZ Board of Behavioral Health Examiners
3443 N Central Ave., Suite 1700
Phoenix, AZ 85012

Telephone: (602) 542-1882

Fax: (602) 364-0890

E-mail: donna.dalton@azbbhe.us

Web site: www.azbbhe.us

6. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:

The Board began an exempt rulemaking in 2013 to implement major statutory changes in Laws 2013, Chapter 242. In June of 2015, the Board received approval from Ted Vogt at the Governor's Office to proceed with the exempt rulemaking despite the Governor's moratorium on rulemaking set forth in Executive Order 2015-01. The Board's Notice of Final Exempt Rulemaking was published on November 6, 2015 and the new rules became effective on November 1, 2015.

As part of the Final Exempt Rulemaking, the Board added its fees to rule with the prices published. Previously, the fee rule listed the fees the Board could collect, but the prices were voted on annually by the Board and communicated to the public on a fee schedule. In the exempt rulemaking, the Board established three new fees and increased two others. Under A.R.S. § 41-1008(E), these fees will cease to be effective on October 31, 2017, unless the fees are made through the regular rulemaking process. This rulemaking makes the fees through the regular rulemaking process. The rulemaking establishes the same fees established in the exempt rulemaking and does not increase the fees.

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

The Board did not review or rely on any study relevant to the rules.

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

The rules do not diminish the authority of political subdivisions of this state.

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

Because the fees contained in the rule being amended through this rulemaking are currently in rule, and are only being put through the regular rulemaking to meet the statutory requirements of A.R.S. § 41-1008(E), the Board believes the economic impact to be very minimal.

If the five fees established/increased during exempt rulemaking cease to be effective , the Board will no

longer be able to collect a fee from regionally accredited colleges or universities that wish to have their curriculum reviewed by the Board for approval, or to collect a fees for certain public record requests including mailing lists, and electronic records.

The Board publishes a book of its rules and statutes for applicants and licensees who prefer a print version rather than electronic, and charges a nominal fee to offset production and shipping costs. This fee would also cease to be effective as it was increased under exempt rulemaking from $5 to $10 to account for rising costs. If the Board is no longer able to collect the $10 fee, it would be responsible for all the publishing and shipping costs which could cost several thousand dollars annually.

10. A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:

No changes were made to the proposed rulemaking.

11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:

The Board received no written comments regarding the rulemaking. No one attended the oral proceeding on June 21, 2017.

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

None

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

For all four disciplines, the licenses issued by the Board are general permits consistent with A.R.S. § 41-1037 because they are issued to qualified individuals or entities to conduct activities that are substantially similar in nature.

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

None of the rules is more stringent than federal law. No federal law is directly applicable to the subject of any of the rules in this rulemaking.

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

No analysis was submitted.

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

No materials are incorporated by reference.

14. Whether the rule was previously made, amended or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:

Not applicable.

15. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 6. BOARD OF BEHAVIORAL HEALTH EXAMINERS

ARTICLE 2. GENERAL PROVISIONS

Section
R4-6-215. ~~Fees and Charges~~ Fees and Charges

ARTICLE 2. GENERAL PROVISIONS

R4-6-215. ~~Fees and Charges~~ Fees and Charges

~~**A.** Under the authority provided by A.R.S. § 32-3272, the Board establishes and shall collect the following fees:~~

~~1. Application for license by examination: $250;~~
~~2. Application for license by endorsement: $250;~~
~~3. Issuance of license for non-independent level of practice (LBSW, LMSW, LAC, LSAT, LASAC, and LAMFT): $100;~~
~~4. Issuance of license for independent level of practice (LCSW, LPC, LISAC, and LMFT): $250;~~
~~5. Application for a temporary license: $50;~~
~~6. Application for approval of educational program: $500;~~
~~7. Application for approval of an educational program change: $250~~
~~8. Biennial renewal of first area of licensure: $350;~~
~~9. Biennial renewal of each additional area of licensure if all licenses are renewed at the same time: $175;~~
~~10. Late renewal penalty: $100 in addition to the biennial renewal fee;~~
~~11. Inactive status request: $100; and~~
~~12. Late inactive status request: $100 in addition to the inactive status request fee.~~

~~**B.** The Board shall charge the following amounts for the services it provides:~~

~~1. Issuing a duplicate license: $25;~~
~~2. Criminal history background check: $40;~~
~~3. Paper copy of records: $.50 per page after the first four pages;~~
~~4. Electronic copy of records: $25;~~
~~5. Copy of a Board meeting audio recording: $20;~~
~~6. Verification of licensure: $20 per discipline or free if downloaded from the Board's web site;~~
~~7. Board's rules and statutes book: $10 or free if downloaded from the Board's web site;~~
~~8. Mailing list of licensees: $150, and~~
~~9. Returned check due to insufficient funds: $50.~~

~~**C.** The application fees in subsections (A)(1) and (2) are non-refundable. Other fees established in subsection (A) are not refundable unless the provisions of A.R.S. § 41-1077 apply.~~

~~**D.** The Board shall accept payment of fees and charges as follows:~~

~~1. For an amount of $40 or less, a personal or business check;~~
~~2. For amounts greater than $40, a certified check, cashier's check, or money order; and~~
~~3. By proof of online payment by credit card for the following:~~
~~a. All fees in subsection (A);~~
~~b. The charge in subsection (B)(2) for a criminal history background check; and~~
~~c. The charge in subsection (B)(8) for a mailing list of licensees.~~

~~**E.** An applicant shall make payment for a criminal history background check separate from payment for other fees and charges.~~

A. Under the authority provided by A.R.S. § 32-3272, the Board establishes and shall collect the following fees:

1. Application for license by examination: $250;
2. Application for license by endorsement: $250;
3. Issuance of license for non-independent level of practice (LBSW, LMSW, LAC, LSAT, LASAC, and LAMFT): $100;
4. Issuance of license for independent level of practice (LCSW, LPC, LISAC, and LMFT): $250;
5. Application for a temporary license: $50;
6. Application for approval of educational program: $500;

7. Application for approval of an educational program change: $250
8. Biennial renewal of first area of licensure: $350;
9. Biennial renewal of each additional area of licensure if all licenses are renewed at the same time: $175;
10. Late renewal penalty: $100 in addition to the biennial renewal fee;
11. Inactive status request: $100; and
12. Late inactive status request: $100 in addition to the inactive status request fee.

B. The Board shall charge the following amounts for the services it provides:

1. Issuing a duplicate license: $25;
2. Criminal history background check: $40;
3. Paper copy of records: $.50 per page after the first four pages;
4. Electronic copy of records: $25;
5. Copy of a Board meeting audio recording: $20;
6. Verification of licensure: $20 per discipline or free if downloaded from the Board's web site;
7. Board's rules and statutes book: $10 or free if downloaded from the Board's web site;
8. Mailing list of licensees: $150, and
9. Returned check due to insufficient funds: $50.

C. The application fees in subsections (A)(1) and (2) are non-refundable. Other fees established in subsection (A) are not refundable unless the provisions of A.R.S. § 41-1077 apply.

D. The Board shall accept payment of fees and charges as follows:

1. For an amount of $40 or less, a personal or business check;
2. For amounts greater than $40, a certified check, cashier's check, or money order; and
3. By proof of online payment by credit card for the following:
   a. All fees in subsection (A);
   b. The charge in subsection (B)(2) for a criminal history background check; and
   c. The charge in subsection (B)(8) for a mailing list of licensees.

E. An applicant shall make payment for a criminal history background check separate from payment for other fees and charges.

ECONOMIC, SMALL BUSINESS, AND CONSUMER IMPACT STATEMENT[1]

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 6. BOARD OF BEHAVIORAL HEALTH EXAMINERS

1. Identification of the rulemaking:

The Board increased or established fees in rule through an exempt rulemaking that became effective on November 1, 2015. Because of A.R.S. § 41-1008(E), it is necessary for the Board to repeal the fee rule made under an exemption and adopt through the regular rulemaking process a new Section that includes the same fee rule.

a. The conduct and its frequency of occurrence that the rule is designed to change:

Without the completion of this rulemaking, five fees that were established or increased under exempt rulemaking will cease to be effective on October 31, 2017, pursuant to A.R.S. § 41-1008(E). This will cause harm to the state and the Board by requiring the Board to provide services without charge.

b. The harm resulting from the conduct the rule is designed to change and the likelihood it will continue to occur if the rule is not made:

Two of the fees that will cease to be effective allow the Board to review curriculum from regionally accredited colleges or universities pursuant to A.R.S. § 32-3253(14), which expedites the licensing process for applicants attending non-accredited educational programs. The other three fees that will cease to be effective allow the Board to produce lists of licensees for the public, fulfill public record requests electronically, and provide a book of the Board's rules and statutes to individuals upon request.

c. The estimated change in frequency of the targeted conduct expected from the rule change:

When the rulemaking is completed, the Board may continue to collect fees for the five services. Since the inception of the fees in 2015, the Board has processed approximately 7 applications from universities requesting to have their educational program reviewed, an average of 5 requests monthly for licensee lists, an average of 20 requests monthly for electronic public records, and 3 requests to purchase a rules/statute book which were made available in May of 2017. The Board anticipates this frequency to continue.

[1] If adequate data are not reasonably available, the agency shall explain the limitations of the data, the methods used in an attempt to obtain the data, and characterize the probable impacts in qualitative terms. (A.R.S. § 41-1055(C)).

2. A brief summary of the information included in the economic, small business, and consumer impact statement:

   Because the fees in the rulemaking are already in rule, and are only being put through the regular rulemaking process to meet the statutory requirements of A.R.S. § 41-1008(E), the Board believes the economic impact to be very minimal.

   If the fees cease to be effective, the economic impact would mainly be to the Board, not the consumers. The Board would have to provide services with no ability to collect fees.

3. The person to contact to submit or request additional data on the information included in the economic, small business, and consumer impact statement:

   Name: Donna Dalton, Deputy Director
   Address: 3443 N. Central Ave., Suite 1700
   Phoenix, AZ 85012
   Telephone: (602) 542-1811
   Fax: (602) 364-0890
   E-mail: donna.dalton@azbbhe.us
   Web site: www.azbbhe.us

4. Persons who will be directly affected by, bear the costs of, or directly benefit from the rulemaking:

   The Board incurred the cost of completing the rulemaking. These costs are minimal. The Board has the benefit of continuing to collect fees established in rule to maintain operations. The state general fund also benefits from the fees collected by the Board.

5. Cost-benefit analysis:

   a. Costs and benefits to state agencies directly affected by the rulemaking including the number of new full-time employees at the implementing agency required to implement and enforce the proposed rule:

      The Board is the only state agency directly affected by the rulemaking. Its benefits and costs are discussed in item 4. The Board will not need an additional full-time employee to implement and enforce the rulemaking.

   b. Costs and benefits to political subdivisions directly affected by the rulemaking:

      No political subdivisions are directly affected by the rulemaking.

c. Costs and benefits to businesses directly affected by the rulemaking:

Expedited application processing benefits local businesses that require licensed professionals to fill positions. Most businesses who request public records from the Board such as professional associations, legal firms, continuing education providers, etc request the records electronically, so the benefit outweighs the minimal cost. Providing paper copies of requests for public records is outdated and inefficient.

6. Impact on private and public employment:

The Board expects there will be no impact on private or public employment.

7. Impact on small businesses[2]:

a. Identification of the small business subject to the rulemaking:

The Board expects there will be no impact on small businesses.

b. Administrative and other costs required for compliance with the rulemaking:

Because the fees are currently in rule, there are no added administrative or other costs to comply with the rulemaking.

c. Description of methods that may be used to reduce the impact on small businesses:

There is no anticipated impact on small businesses, so it is not possible to reduce.

8. Cost and benefit to private persons and consumers who are directly affected by the rulemaking:

Expedited application processing benefits applicants seeking employment through local businesses that require licensed professionals. Consumers who are considering where to obtain their education will also benefit because the Board maintains a list of approved educational programs. For private persons or consumers requesting public records, most prefer to receive them electronically, so if the Board were unable to provide this service, they would revert to providing paper copies which is outdated and inefficient.

9. Probable effects on state revenues:

If the fees cease to be effective, and the Board is unable to collect them for services provided, the state revenue (10% to general fund) would be decreased accordingly based on the volume.

[2] Small business has the meaning specified in A.R.S. § 41-1001(21).

10. Less intrusive or less costly alternative methods considered:

No less intrusive or less costly alternative method was considered because the fees are already included in rule and went through a public feedback period in 2015 when established under exempt rulemaking.

R4-6-215. Fees and Charges

A. Under the authority provided by A.R.S. § 32-3272, the Board establishes and shall collect the following fees:
1. Application for license by examination: $250;
2. Application for license by endorsement: $250;
3. Issuance of license for non-independent level of practice (LBSW, LMSW, LAC, LSAT, LASAC, and LAMFT): $100;
4. Issuance of license for independent level of practice (LCSW, LPC, LISAC, and LMFT): $250;
5. Application for a temporary license: $50;
6. Application for approval of educational program: $500;
7. Application for approval of an educational program change: $250
8. Biennial renewal of first area of licensure: $350;
9. Biennial renewal of each additional area of licensure if all licenses are renewed at the same time: $175;
10. Late renewal penalty: $100 in addition to the biennial renewal fee;
11. Inactive status request: $100; and
12. Late inactive status request: $100 in addition to the inactive status request fee.

B. The Board shall charge the following amounts for the services it provides:
1. Issuing a duplicate license: $25;
2. Criminal history background check: $40;
3. Paper copy of records: $.50 per page after the first four pages;
4. Electronic copy of records: $25;
5. Copy of a Board meeting audio recording: $20;
6. Verification of licensure: $20 per discipline or free if downloaded from the Board's web site;
7. Board's rules and statutes book: $10 or free if downloaded from the Board's web site;
8. Mailing list of licensees: $150, and
9. Returned check due to insufficient funds: $50.

C. The application fees in subsections (A)(1) and (2) are non-refundable. Other fees established in subsection (A) are not refundable unless the provisions of A.R.S. § 41-1077 apply.

D. The Board shall accept payment of fees and charges as follows:
1. For an amount of $40 or less, a personal or business check;
2. For amounts greater than $40, a certified check, cashier's check, or money order; and
3. By proof of online payment by credit card for the following:
   a. All fees in subsection (A);
   b. The charge in subsection (B)(2) for a criminal history background check; and
   c. The charge in subsection (B)(8) for a mailing list of licensees.

E. An applicant shall make payment for a criminal history background check separate from payment for other fees and charges.

Historical Note

New Section R4-6-215 renumbered from R4-6-213 and amended by final exempt rulemaking pursuant to Laws 2015, Chapter 154, § 10, at 21 A.A.R. 2630, effective November 1, 2015 (Supp. 15-4).

32-3253. Powers and duties

A. The board shall:

1. Adopt rules consistent with and necessary or proper to carry out the purposes of this chapter.

2. Administer and enforce this chapter, rules adopted pursuant to this chapter and orders of the board.

3. Issue a license by examination, endorsement or temporary recognition to, and renew the license of, each person who is qualified to be licensed pursuant to this chapter. The board must issue or deny a license within one hundred eighty days after the applicant submits a completed application.

4. Establish a licensure fee schedule annually, by a formal vote at a regular board meeting.

5. Collect fees and spend monies.

6. Keep a record of all persons licensed pursuant to this chapter, actions taken on all applications for licensure, actions involving renewal, suspension, revocation or denial of a license or probation of licensees and the receipt and disbursal of monies.

7. Adopt an official seal for attestation of licensure and other official papers and documents.

8. Conduct investigations and determine on its own motion if a licensee or an applicant has engaged in unprofessional conduct, is incompetent or is mentally or physically unable to engage in the practice of behavioral health.

9. Conduct disciplinary actions pursuant to this chapter and board rules.

10. Establish and enforce standards or criteria of programs or other mechanisms to ensure the continuing competence of licensees.

11. Establish and enforce compliance with professional standards and rules of conduct for licensees.

12. Engage in a full exchange of information with the licensing and disciplinary boards and professional associations for behavioral health professionals in this state and other jurisdictions.

13. Subject to section 35-149, accept, expend and account for gifts, grants, devises and other contributions, money or property from any public or private source, including the federal government. Monies received under this paragraph shall be deposited, pursuant to sections 35-146 and 35-147, in special funds for the purpose specified, which are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

14. Adopt rules regarding the application for and approval of educational curricula of regionally accredited colleges or universities with a program not otherwise accredited by an organization or entity recognized by the board that are consistent with the requirements of this chapter and maintain a list of those programs. Approvals shall be valid for a period of five years if no changes of curricula are made that are inconsistent with the requirements of this chapter or board rule.

15. Maintain a registry of licensees who have met the educational requirements to provide supervision as required pursuant to this chapter to applicants in the same profession.

16. Adopt rules to allow approval of persons who wish to provide supervision pursuant to this chapter and who are not licensed by the board and who are licensed in a profession other than the profession in which the applicant is seeking licensure.

17. Recognize not more than four hundred hours of psychoeducation for work experience required pursuant to sections 32-3293, 32-3301, 32-3311 and 32-3321.

18. Adopt rules regarding the use of telepractice beginning on November 1, 2015.

B. The board may join professional organizations and associations organized exclusively to promote the improvement of the standards of the practice of behavioral health, protect the health and welfare of the public or assist and facilitate the work of the board.

C. The board may enter into stipulated agreements with a licensee for the confidential treatment, rehabilitation and monitoring of chemical dependency or psychiatric, psychological or behavioral health disorders in a program provided pursuant to subsection D of this section. A licensee who materially fails to comply with a program shall be terminated from the confidential program. Any records of the licensee who is terminated from a confidential program are no longer confidential or exempt from the public records law, notwithstanding any law to the contrary. Stipulated agreements are not public records if the following conditions are met:

1. The licensee voluntarily agrees to participate in the confidential program.

2. The licensee complies with all treatment requirements or recommendations including participation in approved programs.

3. The licensee refrains from professional practice until the return to practice has been approved by the treatment program and the board.

4. The licensee complies with all monitoring requirements of the stipulated agreement, including random bodily fluid testing.

5. The licensee's professional employer is notified of the licensee's chemical dependency or medical, psychiatric, psychological or behavioral health disorders and participation in the confidential program and is provided a copy of the stipulated agreement.

D. The board shall establish a confidential program for the monitoring of licensees who are chemically dependent or who have psychiatric, psychological or behavioral health disorders that may impact their ability to safely practice and who enroll in a rehabilitation program that meets the criteria prescribed by the board. The licensee shall be responsible for the costs associated with rehabilitative services and monitoring. The board may take further action if a licensee refuses to enter into a stipulated agreement or fails to comply with the terms of a stipulated agreement. In order to protect the public health and safety, the confidentiality requirements of this subsection do not apply if a licensee does not comply with the stipulated agreement.

E. The board shall audio record all meetings and maintain all audio and video recordings or stenographic records of interviews and meetings for a period of three years from when the record was created.

32-3272. Fees

A. For issuance of a license pursuant to this chapter, including application fees, the board shall establish and charge reasonable fees not to exceed five hundred dollars.

B. For renewal of a license pursuant to this chapter, the board shall establish and charge reasonable fees not to exceed five hundred dollars. The board shall not increase fees pursuant to this subsection more than twenty-five dollars each year.

C. The board by rule may adopt a fee for applications for approval of educational curricula pursuant to section 32-3253, subsection A, paragraph 15.

D. The board shall establish fees to produce monies that approximate the cost of maintaining the board.

DEPARTMENT OF ENVIRONMENTAL QUALITY
Title 18, Chapter 9, Article 9, Arizona Pollutant Discharge Elimination System

GOVERNOR'S REGULATORY REVIEW COUNCIL
ANALYSIS OF FIVE-YEAR REVIEW REPORT

MEETING DATE: September 6, 2017 **AGENDA ITEM: E-1**

TO: Members of the Governor's Regulatory Review Council ("Council")

FROM: Nicholas Young, Legal Intern

DATE : August 23, 2017

SUBJECT: **DEPARTMENT OF ENVIRONMENTAL QUALITY (F-17-0704)**
Title 18, Chapter 9, Article 9, Arizona Pollutant Discharge Elimination System

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COMMENTS ON THE FIVE-YEAR-REVIEW REPORT

Purpose of the Agency and Number of Rules in the Report

The purpose of the Department of Environmental Quality (Department) is to "[f]ormulate policies, plans and programs to…protect the environment." A.R.S. § 49-104. This five-year-review covers 26 rules set forth in A.A.C. Title 18, Chapter 9, Article 9, which contains the Department's rules on the Arizona Pollution Discharge Elimination System (AZPDES), the program governing facilities that discharge pollutants from municipal or non-municipal point sources into navigable waters. Among other things, the rules cover public notice of a draft permit to discharge, issuance or denial of a permit, and modification or termination of a permit. The rules governing the AZPDES program are divided as follows:

- Part A. General Requirements
- Part B. Individual Permits
- Part C. General Permits
- Part D. Animal Feeding Operations and Concentrated Animal Feeding Operations

Year that Each Rule was Last Amended or Newly Made

These rules became effective December 7, 2001, and the rules were amended in 2002 and 2004.

Proposed Action

The Department plans to make the following amendments to the rules:

- **R18-9-A902:** Subsection (A) has a description of the transition process from NPDES to the AZPDES program, which is no longer relevant as it already occurred and should be deleted. Subsection (F) may also be modified because this phase-in provision is specific to the timeframe within which ADEQ received permitting authority and only applies to the initial permitting of small MS4s. The dates in subsection (F)(1) need to be updated. There may be a need to add language to become compliant with EPA's *Water Transfers Rule,* 73 Fed. Reg. 33697 (Mar. 13, 2008) and *Pesticides to the Waters of US in Compliance with FIFRA Rule,* 71 Fed. Reg. 68483 (Nov. 27, 2006).
- **R18-9-A905:** The citation to R9-14-610(B), in subsection (B)(4), needs to be updated to R9-14-610(C). The 2003 Code of Federal Regulations that is incorporated by reference is no longer current.
- **R18-9-A906:** This section is no longer current as it relies on provisions of the 2003 version of 40 CFR, Part 403.
- **R18-9-A907:** The Department plans to amend this rule to allow the Department to notify the public via the Department website of an individual permit being prepared or denied or when the Department considers the issuance of a general permit.
- **R18-9-A908:** The Department plans to amend this rule to allow the Department to notify the public via the Department website of EPA responses to public comments, EPA Reviews, and EPA Hearings.
- **R18-9-B901:** Under subsection (B)(1), the reference to 40 CFR § 122.21(l) needs to be changed to 40 CFR § 122.21(k).
- **R18-9-B904:** The term "NPDES" in subsection (C) could be deleted as there are not state NPDES permits since the Department attained delegation.
- **R18-9-B906:** The references to the federal pretreatment program rules are incorrectly numbered and must be changed.
- **R18-9-C901:** Subsection (C)(2) could be rewritten to better communicate that under 40 CFR § 122.28(b)(2)(iv), the Department has authority to create general permits in the future that do not require the submission of a Notice of Intent.
- **All Part D Rules:** The rules are no longer consistent with federal rules and need to be amended, possibly by incorporating by reference the most recent federal rules.

Substantive or Procedural Concerns

None.

Analysis of the agency's report pursuant to criteria in A.R.S. § 41-1056 and R1-6-301:

1. <u>Has the agency certified that it is in compliance with A.R.S. § 41-1091?</u>

Yes. The Department has certified its compliance with A.R.S. § 41-1091.

2. <u>Has the agency analyzed the rules' effectiveness in achieving their objectives?</u>

Yes. The Department indicates that the rules are generally effective in achieving their objectives; with the exception of the rules noted in the "Proposed Action" section of this memo.

3. <u>Has the agency received any written criticisms of the rules during the last five years, including any written analysis questioning whether the rules are based on valid scientific or reliable principles or methods?</u>

No. The Department has not received any written criticisms of the rules during the last five years.

4. <u>Has the agency analyzed whether the rules are authorized by statute?</u>

Yes, the Department cites to both general and specific authority. Under A.R.S. § 49-203(A)(2), the Department shall "[a]dopt, by rule, a permit program that is consistent with but no more stringent than the requirements of the clean water act for the point source discharge of any pollutant or combination of pollutants into navigable waters." Additionally, under A.R.S. § 49-255.01, "[t]he director shall adopt rules to establish an AZPDES permit program consistent with the requirements of sections 402(b) and 402(p) of the clean water act.

5. <u>Has the agency analyzed the rules' consistency with other rules and statutes?</u>

Yes. The Department indicates that the rules are generally consistent with other rules and statutes, however several incorporations by reference should be updated to current EPA rules. Additionally, concentrated animal feeding operation (Part D) rules should be updated to reflect current federal requirements.

6. <u>Has the agency analyzed the current enforcement status of the rules?</u>

Yes. The Department indicates the rules are enforced as written, with the following exceptions:

- **R19-9-A905:** Due to recent litigation, part of this rule is enforced only as far as it is consistent with *NRDC V. U.S. EPA*, 526 F.3D 591 (9th Cir. 2008).
- **Part D:** These rules were based on EPA's 2003 Concentrated Animal Feeding Operation (CAFO) rules, which have been subjected to recent litigation. The litigation has led to less stringent current EPA rules, and the Department only enforces its rules to the level of federal stringency.

7. Has the agency analyzed whether the rules are clear, concise, and understandable?

Yes. The Department indicates the rules are generally clear, concise, and understandable.

8. Has the agency analyzed whether:

a. The rules are more stringent than corresponding federal law?

Yes. The Department indicates that the rules are generally not more stringent than corresponding federal law, with the exception of Part D.

b. There is statutory authority to exceed the requirements of federal law?

No. The rules were not intended to exceed the requirements of federal law, but do so because of changing EPA regulation. The rules are only enforced to the level of federal stringency.

9. For rules adopted after July 29, 2010, has the agency analyzed whether:

a. The rules require issuance of a regulatory permit, license or agency authorization?

Not applicable. The rules were adopted prior to July 29, 2010.

b. It is in compliance with the general permit requirements of A.R.S. § 41-1037 or explained why it believes an exception applies?

Not applicable.

10. Has the agency indicated whether it completed the course of action identified in the previous five-year-review report?

Yes. The Department indicates that in the previous five-year-review report, approved by the Council on March 6, 2012, the Department proposed to amend R18-9-A902, R18-9-A906, R18-9-B901, R18-9-B904, R18-9-B906, R18-9-C901, and Part D, and submit a Notice of Final Rulemaking by December 2012. However, the Department was unable to make the proposed changes due to limited resources.

Conclusion

The Department plans to submit a Notice of Final Rulemaking to the Council by December 2018, with the amendments mentioned above. The report meets the requirements of A.R.S. § 41-1056 and R1-6-301. This analyst recommends the report be approved.

GOVERNOR'S REGULATORY REVIEW COUNCIL
M E M O R A N D U M

MEETING DATE: September 6, 2017 **AGENDA ITEM: E-1**

TO: Members of the Governor's Regulatory Review Council

FROM: GRRC Economic Team

DATE : August 23, 2017

SUBJECT: **DEPARTMENT OF ENVIRONMENTAL QUALITY (F-17-0704)**
Title 18, Chapter 9, Article 9, Arizona Pollutant Discharge Elimination System

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The economic analysis team has reviewed the five-year-review report's economic, small business, and consumer impact comparison and makes the following comments.

1. Economic Impact Comparison

The economic, small business, and consumer impact statement (EIS) from the most recent Department of Environmental Quality (Department) rulemaking completed in 2001 was reviewed for Article 9. The Article 9 rules reviewed address procedures involved in the Arizona Pollutant Discharge Elimination System (AZPDES). An AZPDES permit is required for a point source discharge of any pollutant to navigable water.

Key stakeholders that are impacted are the Department, the public, and those who have operations that would require obtaining an AZPDES permit, such as wastewater treatment plants, industrial facilities, and mines. The permit is also required for storm water discharged from municipalities, construction projects, and certain industrial facilities. The Department is impacted by the implementation and administration of the rules. The public is impacted by the assurance of their general welfare. The associated businesses, government, projects, etc. that require a permit are impacted by costs and compliance associated with the permit.

The Department concludes that the economic impact has generally been as predicted in the prior EIS for the rules in the Article cited above.

2. Has the agency determined that the rules impose the least burden and costs to persons regulated by the rules?

The Department determines that the rules impose the least burden and costs necessary to achieve the underlying regulatory and statutory objective.

3. Was an analysis submitted to the agency under A.R.S. § 41-1056(A)(7)?

No analysis was submitted to the Department by another person that compares the rules' impact on this state's business competitiveness to the impact on businesses in other states under A.R.S. § 41-1056(A)(7).

4. Conclusion

After review, staff concludes that the report complies with A.R.S. § 41-1056 and recommends approval.

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

Douglas A. Ducey
Governor

Misael Cabrera
Director

RECEIVED
APR 26 2017
GRRC

April 26, 2017

Ms. Nicole A. Ong, Chair
Governor's Regulatory Review Council
100 N. 15th Avenue, Suite 305
Phoenix, AZ 85007

Re: Five Year Rule Review Report, Title 18, Chapter 9, Article 9 (AZPDES)

Dear Ms. Ong:

The Arizona Department of Environmental Quality has reviewed Title 18, Chapter 9, Article 9 pursuant to A.R.S. § 41-1056 and A.A.C. R1-6-301 and one hard copy of the report is enclosed. An electronic copy of the report will be sent via email, along with electronic copies of the rules being reviewed, the general and specific statutes authorizing the rules, and the applicable economic, small business, and consumer impact statements. ADEQ anticipates submitting rulemakings to the Council for certain sections in this article, as described in the enclosed report.

I certify that this agency is in compliance with A.R.S. § 41-1091.

You may contact Heidi Haggerty with questions on the report at (602) 771-4815 or email at hh4@azdeq.gov.

Sincerely,

Misael Cabrera
Director

Enclosures: Five-Year Review Report
Current Rule
General and Specific Authorizing Statutes
2001, 2002, and 2003 Economic Impact Statements

FIVE-YEAR REVIEW REPORT

TITLE. 18 ENVIRONMENTAL QUALITY

CHAPTER 9. DEPARTMENT OF ENVIRONMENTAL QUALITY

WATER POLLUTION CONTROL

ARTICLE 9. ARIZONA POLLUTANT DISCHARGE ELIMINATION SYSTEM

I. Information That Is Identical For All Rules in Title 18, Chapter 9, Article 9 (unless stated otherwise in the Section-by-Section Analysis)

1. Authorization of rules by existing statutes:

A.R.S. §§ 49-203(A)(2), 49-255.01, and 49-255.02

2. Objective of the rules:

The Arizona Pollutant Discharge Elimination System (AZPDES) is Arizona's version of the National Pollutant Discharge Elimination System Permit (NPDES) Program, which implements Section 402 of the Clean Water Act. In December 2002, Arizona was delegated authority from the U.S. Environmental Protection Agency (EPA) to implement the NPDES Permit Program. An AZPDES permit is required for a point source discharge of any pollutant to a navigable water under A.R.S. §§ 49-255(2) and 49-255.01(A). The Arizona Department of Environmental Quality (ADEQ) issues both general and individual AZPDES permits for a maximum of five years. Those facilities covered under a previous individual or general permit that intend to continue to discharge must reapply every five years.

Facilities that typically obtain an AZPDES permit include wastewater treatment plants, industrial facilities, and mines. An AZPDES general permit is also required for stormwater discharges from municipalities, construction projects, and certain industrial facilities. Another industry regulated under individual permits is a Concentrated Animal Feeding Operation (CAFO).

Title 18, Arizona Administrative Code, Chapter 9, Article 9 (Arizona Pollutant Discharge Elimination System) governs the AZPDES program, divided as follows:

- **Part A. General Requirements**
- **Part B. Individual Permits**
- **Part C. General Permits**
- **Part D. Animal Feeding Operations and Concentrated Animal Feeding Operations**

The AZPDES rules in 18 A.A.C. 9, Article 9, became effective December 7, 2001. Based on EPA's requirement for ADEQ to conform to the Clean Water Act, some rules were amended in a rulemaking effective June 5, 2002. ADEQ again amended some rules in response to revisions in EPA's NPDES program, including adding new sections governing the Animal Feeding Operation/Concentrated Animal Feeding Operation (AFO/CAFO) industry, effective February 2, 2004.

3. Effectiveness of the rules in achieving the objectives:

The rules are generally effective in achieving their objective, except as otherwise stated below.

4. Analysis of consistency with state and federal statutes and rules:

The rules are generally consistent with the administrative rules, statutes, and constitutions of Arizona and the United States, except as otherwise stated in the section by section analysis.

Overall, several federal incorporations by reference should be updated to align with current EPA rules, including, for example, the electronic reporting requirements and pretreatment rules. In addition, concentrated animal feeding operation rules should be updated to align with current federal requirements.

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

Unless otherwise stated below, these rules are generally enforced as written through agency permitting and compliance procedures. Where rules are not consistent with federal rules because of outdated incorporations by reference, ADEQ either uses general incorporated authority to ensure that permits are adequately protective (e.g. 40 CFR 122.43(a), incorporated at R18-9-A905(A)(3)(c)), or recommends compliance with the federal rule. The CAFO rules in Part D are enforced only to the level of federal stringency. ADEQ only permits one CAFO under these rules.

6. Analysis of clarity, conciseness, and understandability:

ADEQ believes that the rules are generally clear, concise, and understandable.

7. Summary of the written criticisms of the rule 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:

ADEQ has not received any written criticisms on the rules within the past five years.

8. Comparison of economic, small business, and consumer impact with economic impact statement:

ADEQ described probable economic impacts in qualitative and quantitative terms in the economic impact statement prepared in 2001 when the rules were promulgated, and again in 2003 when the CAFO rules were added. In 2002, ADEQ made minor amendments to three rules based on EPA's request to conform to the Clean Water Act, but the 2002 amendments did not change the economic impact.

In 2001, EPA’s delegation of the NPDES program to Arizona was not expected to have any negative consequences, because state agencies and business entities were already subject to NPDES program requirements, and regulated entities were expected to benefit from the faster processing of applications and the elimination of the requirement to submit applications and monthly reporting data to both EPA and ADEQ. ADEQ believes that the qualitative assessments of the economic impacts to the rules in 2003 were accurate and any costs have been minor. Overall, ADEQ believes that the impact of Article 9 rules on the state’s economy, small business and consumers has not changed since the effective date.

However, one change affecting the economic impact statement is ADEQ's establishment of fees for the AZPDES program. Due to several years of funding cuts, in 2010 ADEQ was granted statutory authority to charge fees for AZPDES permits, and established those fees in 18 A.A.C. 14, Article 1

(Water Quality Protection Fees.) The new fee rules became effective July 1, 2011.

9. Any analysis submitted to ADEQ by another person that compares the rules' impact on Arizona's business competitiveness to the impact on businesses in other states:

ADEQ has not received any analysis submitted by another person that compares the rules' impact on Arizona's business competitiveness to the impact on businesses in other states.

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

The Governor's Regulatory Review Council approved the last Five-Year Review report at its March 6, 2012 meeting. ADEQ previously proposed to submit a Notice of Final Rulemaking by December 2012 to do the following rules, R18-9-A902(F)(1), -A906, -B901, -B904, -B906, -C901, and Part D. However, because of resource constraints and uncertainty due to potential federal rule changes, these changes were not made.

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.

ADEQ believes that these rules impose the least burden and costs to regulated persons, including paperwork and other compliance costs, necessary to achieve the underlying regulatory and statutory objective.

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.

Overall, the rules in Parts A through C are not more stringent than federal law, however, some are inconsistent with federal law. All of the rules in Part D are more stringent than federal law, but are only enforced to the level of federal stringency.

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.

These rules were adopted before 2010.

14. Proposed course of action:

ADEQ proposes courses of action for several rules, as noted in the Section-by-Section Analysis because several of the rules are inconsistent with EPA requirements. ADEQ anticipates it will submit a notice of final rulemaking by December 2018.

PART A. GENERAL REQUIREMENTS

I. Information That Is Identical For All Rules in Title 18, Chapter 9, Article 9, Part A (unless stated otherwise in the Section-by-Section Analysis)

2. Objective of the rules:

Part A establishes general provisions that apply to the remaining Parts in Article 9.

II. Section-by-Section of Rules

R18-9-A901. Definitions

2. Objective of the rules:

The definition section defines important terms used in 18 A.A.C. Chapter 9, Article 9 so that the rules are understandable to the general public, such as acronyms and words with uncommon meanings.

3. Analysis of effectiveness of the rules in achieving the objective:

The rule effectively defines important terms used in the rules.

5. Agency enforcement of the rule:

Definitions are not enforceable but are used in enforcement of the rules.

R18-9-A902. AZPDES Permit Transition, Applicability and Exclusions

2. Objective of the rule:

This rule establishes how ADEQ will provide notice to Arizona NPDES permit holders of the transfer of NPDES coverage to the AZPDES program and defines discharge categories which may require a permit and those which are excluded. The rule also explains the Director's authority to designate a municipal separate storm sewer system (MS4) to obtain an AZPDES stormwater permit.

3. Analysis of effectiveness of the rules in achieving the objectives:

The rule effectively describes the extent of the rules and clearly outlines who must comply with the rules and who are exempt. However, subsection (A) describing the transition process from NPDES to the AZPDES program is no longer relevant as it already occurred and could be deleted. Subsection (F) may also be repealed because this phase-in provision is specific to the timeframe within which ADEQ received permitting authority and only applies to the initial permitting of small MS4s. ADEQ may need to add additional permitting exclusions to comply with EPA's *Water Transfers Rule*, 73 Fed. Reg. 33697 (Mar. 13, 2008) and *Pesticides to the Waters of US in Compliance with FIFRA Rule*, 71 Fed. Reg. 68483 (Nov. 27, 2006).

4. Analysis of consistency with state and federal statutes and rules:

EPA finalized a 2006 version of the rule 40 CFR § 122.26 entitled, *Amendments to the National Pollutant Discharge Elimination System Regulations for Storm Water Discharges Associated with Oil and Gas Exploration, Production, Processing or Treatment Operations or Transmission Facilities*, 71 Fed. Reg. 33,628 (Jun. 12, 2006). That rule was vacated by the U.S. Court of Appeals for the Ninth Circuit in 2008 in *NRDC v. U.S. EPA*, 526 F.3d 591 (9th Cir. 2008). EPA has not since updated its code in response to the court ruling. ADEQ's language in R18-9-A902(G)(7) currently mirrors the

language in 33 U.S.C. § 1342(l)(2) (CWA § 402(l)(2)), consistent with EPA's previous 2003 40 CFR § 122.26 rule and consistent with federal law in light of the court ruling.

5. Agency enforcement of the rule:

ADEQ complied with this rule in transitioning to entities permitted under NPDES to the AZPDES program. The rule continues to be enforced as it explains the types of discharges that can be regulated under the AZPDES program.

14. Proposed course of action:

In 2012, ADEQ proposed that the Notice of Final Rulemaking would be submitted to the Council by December 2012**.** However, because of resource constraints, federal rule changes, and uncertainty due to federal court challenges, these changes were not made.

ADEQ currently anticipates submitting a Notice of Final Rulemaking to the Council by December 2018.

R18-9-A903. Prohibitions

2. Objective of the rule:

This rule establishes the conditions under which ADEQ will not issue a permit.

3. Analysis of effectiveness of the rules in achieving the objectives:

The rule effectively establishes which discharges are not allowed under the program and provides specific criteria for permit denial.

5. Agency enforcement of the rule:

ADEQ complies with this rule in determining when not to issue a permit.

R18-9-A904. Effect of a Permit

2. Objective of the rule:

This rule advises AZPDES permittees of the proprietary and legal limitations of the discharge permit.

3. Analysis of effectiveness of the rules in achieving the objectives:

The rule effectively explains that the permit does not confer a property right nor is it a license to harm any person or property or evade the law of other jurisdictions.

5. Agency enforcement of the rule:

This rule is enforced as it explains what constitutes compliance under the permit.

R18-9-A905. Program Standards

2. Objective of the rule:

This rule incorporates by reference federal regulations, specifically 40 CFR sections and appendices, containing NPDES program requirements and pollutant test procedures.

3. Analysis of effectiveness of the rules in achieving the objectives:

The rule effectively incorporates by reference all federal regulations necessary to administer the AZPDES program such as program requirements, decision-making and permit requirements, standards, and pollutant test-procedures.

4. Analysis of consistency with state and federal statutes and rules:

The 2003 Code of Federal Regulations that is incorporated by reference is no longer current, specifically in sections 122.21, 122.22, 122.26, 122.33, 122.34, 122.35, 122.41, 122.42, 122.43, 122.44, 122.48, 122.62, and Parts 125, 136, 403, 412, 420, 423, 430, 431, 432, 435, 437, 438, 439, 442, 450, 451, 455, 465, and 503. Also, the citation in subsection (B)(4) to R9-14-610(B) needs to be updated to R9-14-610(C). This rule needs to be updated.

5. Agency enforcement of the rule:

ADEQ complies with the provisions of this rule for any determinations under the AZPDES program. However, this rule is only enforced to the level of current federal stringency. For example, 40 CFR § 122.26 will only be enforced as far as it is consistent with federal law in accordance with *NRDC v. U.S. EPA*, 526 F.3d 591 (9th Cir. 2008).

10. Previous course of action:

In 2012, ADEQ proposed that the Notice of Final Rulemaking would be submitted to the Council by December 2012**.** However, because of resource constraints, federal rule changes, and uncertainty due to federal court challenges, these changes were not made.

14. Proposed course of action:

ADEQ currently anticipates submitting a Notice of Final Rulemaking to the Council by December 2018.

R18-9-A906. General Pretreatment Regulations for Existing and New Sources of Pollution

2. Objective of the rule:

This rule explains the pretreatment process, provides a list of appropriate treatment technologies, and defines the scope of the pretreatment application.

3. Analysis of effectiveness of the rules in achieving the objectives:

The rule is effective in explaining what pretreatment means and how it applies to new and existing sources of pollution.

4. Analysis of consistency with state and federal statutes and rules:

This section is no longer current as it relies on the provisions of the 2003 version of 40 CFR, Part 403. EPA issued a Pretreatment Streamlining Rule in 2005, which was an effort to achieve better environmental results at a lower cost with increased regulatory flexibility by allowing equivalent concentration-based limits in lieu of flow-based mass limits for certain industrial categories. This rule needs to be updated by amendment to the incorporation by reference of 40 CFR Part 403 in R18-9-A905.

5. Agency enforcement of the rule:

ADEQ complies with the provisions of this rule for any determinations regarding a pretreatment

program. However, ADEQ may recommend that permittees comply with current federal pretreatment rules.

14. Proposed course of action:

In 2012, ADEQ proposed that the Notice of Final Rulemaking would be submitted to the Council by December 2012**.** However, because of resource constraints and uncertainty due to potential federal rule changes, these changes were not made.

ADEQ currently anticipates submitting a Notice of Final Rulemaking to the Council by December 2018.

R18-9-A907. Public Notice

2. Objective of the rule:

This rule establishes the public notice process when ADEQ prepares a draft individual permit, denies an individual permit, or considers issuing a general permit outlined in R18-9-C901.

3. Analysis of effectiveness of the rules in achieving the objectives:

The rule effectively explains how ADEQ proceeds with a notice to the public when an individual permit is prepared or denied or when ADEQ considers the issuance of a general permit. However, ADEQ believes that notice could be more efficiently achieved via the Department's website for many permits, except major permit or permits that include sewage sludge application plans, because notice for those permits is still required via newspaper by 40 CFR § 124.10(c)(2)(i). Notice via the Department's website is likely to reach the same size audience for less cost and personnel time.

5. Agency enforcement of the rule:

ADEQ complies with the provisions in this rule as part of the public notice process for AZPDES individual and general permits.

14. Proposed course of action:

ADEQ anticipates submitting a Notice of Final Rulemaking to the Council by December 2018.

R18-9-A908. Public Participation, EPA Review, EPA Hearing

2. Objective of the rule:

This rule explains how the EPA or any interested person may comment in writing during the 30 days following public notice for an individual or general permit application. The rule provides requirements on how ADEQ will respond to the comments and establishes criteria for the Director on how to respond to the public participation and public hearing processes.

3. Analysis of effectiveness of the rules in achieving the objectives:

The rule effectively provides a forum for both the public and the EPA to comment and participate in the permit development process, and establishes how ADEQ will deal with comments from the public and EPA. However, ADEQ believes that notice could be more efficiently achieved via the Department's website for many permits, except major permit or permits that include sewage sludge application plans, because notice for those permits is still required via newspaper by 40 CFR § 124.10(c)(2)(i). Notice via the Department's website is likely to reach the same size audience for less

cost and personnel time.

5. Status of the enforcement of the rules:

ADEQ complies with the provisions in this rule as part of the public participation process for AZPDES individual and general permits.

14. Proposed course of action:

ADEQ anticipates submitting a Notice of Final Rulemaking to the Council by December 2018.

R18-9-A909. Petitions

2. Objective of the rule:

This rule establishes the requirements for any person wanting to petition the Director for a general permit, an individual permit covering a discharge into an MS4, or an individual permit when a general permit is authorized.

3. Analysis of effectiveness of the rules in achieving the objectives:

This rule effectively explains what the petition shall contain before applying for a general permit.

5. Agency enforcement of the rules:

This rule is enforced as it explains the reasons for submitting a petition to the Director.

PART B. INDIVIDUAL PERMITS

I. Information That Is Identical For All Rules in Title 18, Chapter 9, Article 9, Part B (unless stated otherwise in the Section-by-Section Analysis)

2. Objective of the rules:

Part B establishes the provisions for ADEQ to issue AZPDES individual permits.

5. Agency enforcement of the rules:

An AZPDES permit is required for a point source discharge of any pollutant to a navigable water under A.R.S. §§ 49-255(2) and 49-255.01(A). ADEQ enforces these rules in reviewing and in determining whether to approve or deny an application for an AZPDES permit. Under Arizona Revised Statutes, Title 49, Chapter 2, Article 4, ADEQ has authority to take enforcement action for a violation of these AZPDES rules, or a permit condition issued pursuant to these rules. ADEQ's enforcement policies and strategies are described in the ADEQ Compliance and Enforcement Handbook, which is a consolidation of existing compliance and enforcement policies, procedures, and guidelines used by ADEQ when initiating and escalating enforcement.

II. Section-by-Section of Rules

R18-9-B901. Individual Permit Application

2. Objective of the rule:

This rule explains the individual permit application process and provides for the Director's authority to consolidate permit applications or grant a waiver.

3. Analysis of effectiveness of the rules in achieving the objectives:

This rule is effective in describing how any owner or operator of a facility with a point source discharge to a water of the U.S. may apply for an individual permit and establishes that the Director may waive a permit requirement for a MS4 operator or join two or more permit applications together.

4. Analysis of consistency with state and federal statutes and rules:

Subsection (B)(1)(a) references 40 CFR § 122.21(l), which is not incorporated by reference in R18-9-A905(A)(1)(b). The reference should be changed to 40 CFR § 122.21(k), because subsection (l) discusses new sources in states that do not have delegation of the NPDES program.

10. Previous course of action:

In 2012, ADEQ proposed that the Notice of Final Rulemaking would be submitted to the Council by December 2012**.** However, because of resource constraints these changes were not made.

14. Proposed course of action:

ADEQ currently anticipates submitting a Notice of Final Rulemaking to the Council by December 2018.

R18-9-B902. Requested Coverage Under a General Permit

2. Objective of the rule:

This rule provides an owner or operator the opportunity to seek revocation of an individual permit where the source is excluded from the general permit solely because it already had an individual permit.

3. Analysis of effectiveness of the rules in achieving the objectives:

This rule effectively explains that the individual permit shall be revoked when the Director determines that the permittee qualifies for coverage under the general permit.

R18-9-B903. Individual Permit Issuance or Denial

2. Objective of the rule:

This rule provides for the Director's issuance of an individual permit and to establish a process in the case of a denied individual permit application, which includes written notice to the permittee, appellate rights, public comment, and a specified time period.

3. Analysis of effectiveness of the rules in achieving the objectives:

This rule is effective in explaining what happens after ADEQ makes a decision on an individual permit application.

R18-9-B904. Individual Permit Duration, Reissuance, and Continuation

2. Objective of the rule:

This rule explains that the individual permit is effective for a fixed term of not more than five years and that it may be reissued or continued pending receipt of a completed application filed within 180 days of the permit expiration date.

3. Analysis of effectiveness of the rules in achieving the objectives:

This rule effectively establishes the requirements for renewing an individual permit and that the permit may be continued beyond its expiration date if an application has been submitted at least 180 days before the permit ends.

6. Analysis of clarity, conciseness, and understandability:

The term "NPDES" in subsection (C) could be deleted as there are no state NPDES permits since ADEQ attained delegation.

10. Previous course of action:

In 2012, ADEQ proposed that the Notice of Final Rulemaking would be submitted to the Council by December 2012**.** However, because of resource constraints these changes were not made.

14. Proposed course of action:

ADEQ currently anticipates submitting a Notice of Final Rulemaking to the Council by December 2018.

R18-9-B905. Individual Permit Transfer

2. Objective of the rule:

This rule establishes the conditions under which an individual permit may be transferred.

3. Analysis of effectiveness of the rules in achieving the objectives:

This rule effectively establishes a process of how an individual permit may be transferred to a new permittee in the same or modified manner noting that the Director may choose to revoke and reissue the permit.

R18-9-B906. Modification, Revocation and Reissuance, and Termination of Individual Permits

2. Objective of the rule:

This rule establishes the parameters under which an individual permit may be modified, revoked and reissued, or terminated. In instances when a permit is modified or revoked and reissued, a permittee must comply with the existing permit until a new permit is issued.

3. Analysis of effectiveness of the rules in achieving the objectives:

This rule effectively establishes the basis of ADEQ's authority to modify, revoke and reissue, or terminate an individual permit.

6. Analysis of clarity, conciseness, and understandability:

Subsection (B)(1)(h) references the federal pretreatment program rules as incorporated by reference in R18-9-A905(A)(7)(b), which is incorrect. The pretreatment program incorporation by reference was renumbered to R18-9-A905(A)(8) in the 2003 amendments but no conforming change was made to R18-9-B906. However, R18-9-B906(B)(1)(h) clearly references "pretreatment," as does R18-9-A905(A)(8)(b), while R18-9-A905(A)(7) does not. Also, there are no additional subsections to (7), where there is an (a) and (b) under subsection (A)(8).

10. Previous course of action:

In 2012, ADEQ proposed to contact the Secretary of State's office of as to whether this error could be corrected by a letter under A.A.C. R1-1-109(B). However, these changes were not made and these changes could be more efficiently made in an anticipated rulemaking.

14. Proposed course of action:

ADEQ currently anticipates submitting a Notice of Final Rulemaking to the Council by December 2018.

R18-9-B907. Individual Permit Variances

2. Objective of the rule:

This rule describes the process of applying for an individual permit variance.

3. Analysis of effectiveness of the rule in achieving the objectives:

This rule effectively provides the parameters under which the Director reviews and decides whether to grant or deny an individual permit variance, and the parameters for forwarding the grant of an individual permit variance to the EPA.

PART C. GENERAL RIGHTS

I. Information That Is Identical For All Rules in Title 18, Chapter 9, Article 9, Part C (unless stated otherwise in the Section-by-Section Analysis)

2. Objective of the rules:

Part C establishes the provisions for ADEQ to issue AZPDES general permits.

5. Agency enforcement of the rules:

An AZPDES permit is required for a point source discharge of any pollutant to a navigable water under A.R.S. §§ 49-255(2) and 49-255.01(A). ADEQ enforces these rules in reviewing and in determining whether to approve or deny an application for an AZPDES permit. Under Arizona Revised Statutes, Title 49, Chapter 2, Article 4, ADEQ has authority to take enforcement action for a violation of these AZPDES rules, or a permit condition issued pursuant to these rules. ADEQ's enforcement policies and strategies are described in the ADEQ Compliance and Enforcement Handbook, which is a consolidation of existing compliance and enforcement policies, procedures, and guidelines used by ADEQ when initiating and escalating enforcement.

II. Section-by-Section of Rules

R18-9-C901. General Permit Issuance

2. Objective of the rule:

This rule is to establish a procedure to issue general permits for one or multiple discharge categories.

3. Analysis of effectiveness of the appendix in achieving the objectives:

This rule effectively provides the necessary application steps and corresponding ADEQ actions when applying for a general permit for discharge within a geographic area corresponding to existing geographic or political boundaries.

6. Analysis of clarity, conciseness, and understandability:

Subsection (C)(2) could be rewritten to better communicate that under 40 CFR § 122.28(b)(2)(iv), ADEQ has authority to create general permits in the future that do not require the submission of a Notice of Intent.

10. Previous course of action:

In 2012, ADEQ proposed that the Notice of Final Rulemaking would be submitted to the Council by December 2012**.** However, because of resource constraints, these changes were not made.

14. Proposed course of action:

ADEQ currently anticipates submitting a Notice of Final Rulemaking to the Council by December 2018.

R18-9-C902. Required and Requested Coverage Under an Individual Permit

2. Objective of the rule:

This rule explains when a general permit holder may be required or choose to seek an individual permit and to describe that process.

3. Analysis of effectiveness of the rules in achieving the objectives:

This rule effectively lists criteria for why the Director may ask a general permit holder to obtain an individual permit.

R18-9-C903. General Permit Duration, Reissuance, and Continuation

2. Objective of the rule:

This rule explains that the general permit is effective for no more than five years and that it is administratively continued until reissued, or replaced.

3. Analysis of effectiveness of the rules in achieving the objectives:

This rule effectively establishes the duration of a general permit and explains how continued coverage is handled when the general permit expires before reissuance or replacement.

R18-9-C904. Change of Ownership or Operator Under a General Permit

2. Objective of the rule:

This rule establishes the procedure for handling a change of facility ownership.

3. Analysis of effectiveness of the rules in achieving the objectives:

This rule effectively requires the existing owner or operator and the new owner or operator to comply with the change of ownership conditions within the time-frames specified in the rule.

R18-9-C905. General Permit Modification and Revocation and Reissuance

2. Objective of the rule:

This rule explains that the Director may modify or revoke a general permit for reasons listed in 40 CFR 122.62(a) and (b).

3. Analysis of effectiveness of the rules in achieving the objectives:

This rule effectively establishes that there is authority and circumstances under which a general permit may be modified or revoked and reissued.

PART D. ANIMAL FEEDING OPERATIONS AND CONCENTRATED ANIMAL FEEDING OPERATIONS

I. Information That Is Identical For All Rules in Title 18, Chapter 9, Article 9, Part D (unless stated otherwise in the Section-by-Section Analysis)

2. Objective of the rules:

Part D covers the AZPDES permitting requirements for CAFOs.

3. Effectiveness of the rules in achieving their objective:

The federal requirements have changed over time so that these rules are no longer effective in conveying applicability and requirements to the regulated community. The regulated community is generally aware of what is required according to federal law, but these rules should be clarified and updated to be more effective in providing notice of such requirements.

4. Analysis of consistency with state and federal statutes and rules:

While the AZPDES CAFO rules are all generally understandable, have clear objectives, and are effective in achieving those objectives, ADEQ's CAFO rules are no longer consistent with federal rules and will need to be amended, possibly by incorporating by reference the most recent federal rules.

ADEQ's CAFO rules, promulgated in 2003 and effective February 2, 2004, were based on EPA's 2003 CAFO rules (40 C.F.R. §§ 122.23, 122.42, and Part 412). The federal CAFO rules were subject to litigation causing EPA to amend its rules in 2006 and 2008. *See Waterkeeper Alliance et al. v. U.S. EPA*, 399 F.3d 486 (2d Cir. 2005). Litigation over the 2008 federal CAFO rules concluded with a decision in another case that vacated one requirement of the 2008 rules. *National Pork Producers Council v. U.S. EPA*, 635 F.3d 738 (5th Cir. 2011).

The EPA revised its CAFO rules to be consistent with the case rulings. For the *Waterkeeper Alliance* case, EPA modified its rules in *Revised NPDES Permit Regulation*, 73 Fed. Reg. 70418 (Nov. 20, 2008). For the *National Pork Producers* case, EPA made modified its rules in *NPDES Permit Regulation for CAFOs*, 77 Fed. Reg. 44494 (Jul. 30, 2012).

ADEQ’s rules are in some ways more restrictive than current federal regulations. State rules presumptively require all CAFOs to apply for coverage unless they have “no potential to discharge” to a water of the United States. Federal rules now only require CAFOs that discharge or propose to discharge to a water of the U.S. to apply for coverage. ADEQ only interprets and enforces its rules to the level of federal stringency. However, now that EPA has updated its CAFO rules in compliance with court decisions, ADEQ intends to update all of its CAFO rules to align with federal rules.

5. Agency enforcement of the rules:

An AZPDES permit is required for a point source discharge of any pollutant to a navigable water under A.R.S. §§ 49-255(2) and 49-255.01(A). ADEQ enforces these rules in reviewing and in determining whether to approve or deny an application for an AZPDES permit within the context of federal requirements.

As noted above, where ADEQ’s rules are more stringent than the federal rule, ADEQ only interprets and enforces these rules to the level of federal stringency. ADEQ only has one CAFO permitted under the AZPDES program.

8. Comparison of economic, small business, and consumer impact with economic impact statement:

ADEQ described probable economic impacts in qualitative and quantitative terms in the economic impact statement prepared in 2003 when the CAFO rules were added. The CAFO rules and accompanying permits were the last Clean Water Act program delegated to ADEQ. ADEQ believes that the qualitative assessments of the economic impacts to the rules in 2003 were accurate and any costs have been minor. Overall, ADEQ believes that the impact of the Article 9 rules on the state's economy, small business and consumers has not changed since the effective date.

However, there are some changes from the 2003 economic impact statement due to the changes in federal rules. In 2003, ADEQ predicted that 121 CAFOs would be subject to regulation. This was based on the 2003 requirement that all large CAFOs that discharged or had the potential to discharge had to have permit coverage. Under EPA's 2008 rules, only a CAFO that discharges requires permit coverage. Out of approximately 100 CAFOs in Arizona, only one CAFO has chosen to maintain coverage under an AZPDES permit. However, ADEQ believes that few CAFOs in Arizona discharge to a surface water, so adopting EPA's 2008 rules would have minimal impact.

Also, in 2003, ADEQ was prohibited by statute from charging fees for the AZPDES program. Due to funding cuts, in 2010 ADEQ was granted statutory authority to charge fees for AZPDES permits, and established those fees in 18 A.A.C. 14, Article 1 (Water Quality Protection Fees.) The new fee rules became effective July 1, 2011.

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.

Under Part D, all CAFOs are presumed to discharge or have potential to discharge and thus must obtain permit coverage, unless each facility proves otherwise. Because this presumption is not consistent with current federal law, several provisions in these rules are more stringent than federal law and are not enforced. ADEQ ensures that CAFOs are not presumptively required to obtain a permit unless they are discharging or proposing to discharge to a Water of the U.S.

14. Proposed course of action:

In 2012, ADEQ proposed that the Notice of Final Rulemaking would be submitted to the Council by December 2012**.** However, because of resource constraints, federal rule changes, and uncertainty due to federal court challenges, these changes were not made.

ADEQ currently anticipates submitting a Notice of Final Rulemaking to the Council by December 2018. In this action, ADEQ, working with stakeholders, intends to update these rules to align with current federal law at 40 CFR 122.23.

II. Section-by-Section of Rules

R18-9-D901. CAFO Designations

2. Objective of the rule:

This rule defines a CAFO designation, notifies the owner of two or more adjoining animal feeding operations contributing a pollutant to waters of the United States that they are subject to the discharge permit requirements of this Article, and establishes that a CAFO that significantly contributes a pollutant to waters of the United States is required to comply with this Article.

R18-9-D902. AZPDES Permit Coverage Requirements

2. Objective of the rule:

This rule establishes which CAFOs are required to comply with this Article, to list the exceptions for permit coverage, and to define that the land application of manure, litter, or process wastewater by the CAFO may be subject to AZPDES permit requirements.

3. Analysis of effectiveness of the rules in achieving the objectives:

This rule effectively establishes when an owner or operator of a CAFO must submit an application for either an individual or a general permit. However, ADEQ ensures that CAFOs are not presumptively required to obtain a permit unless they are discharging or proposing to discharge to a water of the U.S.

R18-9-D903. No Potential to Discharge Determinations for Large CAFOs

2. Objective of the rule:

This rule provides an owner or operator of a CAFO with a procedure for requesting the CAFO's removal from the requirements of this Article when the CAFO has not had a pollutant discharge within the last five years from either the production area or land application area.

5. Agency enforcement of the rules:

ADEQ does not enforce this rule in its entirety, as it is more stringent than federal law.

R18-9-D904. AZPDES Permit Coverage Deadlines

2. Objective of the rule:

This rule specifies that a CAFO owner must obtain and maintain permit coverage and to establish deadlines for applying for permit coverage.

R18-9-D905. Closure Requirements

2. Objective of the rule:

This rule establishes the closure requirements for a CAFO, including an operation cessation plan and reporting date.

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ARTICLE 8. REPEALED

Article 8, consisting of Sections R18-9-801 through R18-9-819, repealed by final rulemaking at 7 A.A.R. 235, effective December 8, 2000 (Supp. 00-4).

Article 3 consisting of Sections R9-8-311 through R9-8-361 renumbered as Article 8, Sections R18-9-801 through R18-9-819 (Supp. 87-3).

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ARTICLE 9. ARIZONA POLLUTANT DISCHARGE ELIMINATION SYSTEM

Editor's Note: The recodification at 7 A.A.R. 2522 described below erroneously moved Sections into 18 A.A.C. 9, Article 9. Those Sections were actually recodified to 18 A.A.C. 9, Article 10. See the Historical Notes for more information (Supp. 01-4).

Article 9, consisting of Sections R18-9-901 through R18-9-914 and Appendix A, recodified from 18 A.A.C. 13, Article 15 at 7 A.A.R. 2522, effective May 24, 2001 (Supp. 01-2).

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ARTICLE 10. ARIZONA POLLUTANT DISCHARGE ELIMINATION SYSTEM – DISPOSAL, USE, AND TRANSPORTATION OF BIOSOLIDS

Article 10, consisting of Sections R18-9-1001 through R18-9-1014 and Appendix A, recodified from 18 A.A.C. 13, Article 15 at 7 A.A.R. 2522, effective May 24, 2001 (Supp. 01-2).

Section

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Historical Note

Amended effective April 18, 1979 (Supp. 79-2). Amended effective February 20, 1980 (Supp. 80-1). Amended by adding subsections (I) and (J) effective June 8, 1981 (Supp. 81-3). Amended subsections (A), (F) and (H) effective October 2, 1986 (Supp. 86-5). Former Section R9-8-314 renumbered without change as Section R18-9-804 (Supp. 87-3). Amended effective July 25, 1990 (Supp. 90-3). Section repealed by final rulemaking at 7 A.A.R. 235, effective December 8, 2000 (Supp. 00-4).

R18-9-805. Repealed

Historical Note

Adopted effective April 18, 1979 (Supp. 79-2). Amended effective October 2, 1986 (Supp. 86-5). Former Section R9-8-315 renumbered without change as Section R18-9-805 (Supp. 87-3). Amended effective July 25, 1990 (Supp. 90-3). Section repealed by final rulemaking at 7 A.A.R. 235, effective December 8, 2000 (Supp. 00-4).

R18-9-806. Repealed

Historical Note

Adopted effective October 2, 1986 (Supp. 86-5). Former Section R9-8-317 renumbered without change as Section R18-9-806 (Supp. 87-3). Section repealed by final rulemaking at 7 A.A.R. 235, effective December 8, 2000 (Supp. 00-4).

R18-9-807. Repealed

Historical Note

Former Section R9-8-321 renumbered without change as Section R18-9-807 (Supp. 87-3). Section repealed by final rulemaking at 7 A.A.R. 235, effective December 8, 2000 (Supp. 00-4).

R18-9-808. Repealed

Historical Note

Former Section R9-8-323 renumbered without change as Section R18-9-808 (Supp. 87-3). Amended effective July 25, 1990 (Supp. 90-3). Section repealed by final rulemaking at 7 A.A.R. 235, effective December 8, 2000 (Supp. 00-4).

R18-9-809. Repealed

Historical Note

Former Section R9-8-324 renumbered without change as Section R18-9-809 (Supp. 87-3). Section repealed by final rulemaking at 7 A.A.R. 235, effective December 8, 2000 (Supp. 00-4).

R18-9-810. Repealed

Historical Note

Former Section R9-8-325 renumbered without change as Section R18-9-810 (Supp. 87-3). Section repealed by final rulemaking at 7 A.A.R. 235, effective December 8, 2000 (Supp. 00-4).

R18-9-811. Repealed

Historical Note

Former Section R9-8-326 repealed, new Section R9-8-326 adopted effective October 2, 1986 (Supp. 86-5). Former Section R9-8-326 renumbered without change as Section R18-9-811 (Supp. 87-3). First entry in Historical Note corrected to reflect Section numbers at time of rule repeal and adoption by changing R18-9-326 to R9-8-326 (Supp. 96-4). Section repealed by final rulemaking at 7 A.A.R. 235, effective December 8, 2000 (Supp. 00-4).

R18-9-812. Repealed

Historical Note

Former Section R9-8-327 renumbered without change as Section R18-9-812 (Supp. 87-3). Section repealed by final rulemaking at 7 A.A.R. 235, effective December 8, 2000 (Supp. 00-4).

R18-9-813. Repealed

Historical Note

Amended effective April 18, 1979 (Supp. 79-2). Former Section R9-8-329 renumbered without change as Section R18-9-813 (Supp. 87-3). Section repealed by final rulemaking at 7 A.A.R. 235, effective December 8, 2000 (Supp. 00-4).

R18-9-814. Repealed

Historical Note

Former Section R9-8-331 renumbered without change as Section R18-9-814 (Supp. 87-3). Amended effective October 19, 1989 (Supp. 89-4). Section repealed by final rulemaking at 7 A.A.R. 235, effective December 8, 2000 (Supp. 00-4).

R18-9-815. Repealed

Historical Note

Former Section R9-8-332 renumbered without change as Section R18-9-815 (Supp. 87-3). Section repealed by final rulemaking at 7 A.A.R. 235, effective December 8, 2000 (Supp. 00-4).

R18-9-816. Repealed

Historical Note

Former Section R9-8-351 renumbered without change as Section R18-9-816 (Supp. 87-3). Section repealed by final rulemaking at 7 A.A.R. 235, effective December 8, 2000 (Supp. 00-4).

R18-9-817. Repealed

Historical Note

Former Section R9-8-352 renumbered without change as Section R18-9-817 (Supp. 87-3). Section repealed by final rulemaking at 7 A.A.R. 235, effective December 8, 2000 (Supp. 00-4).

R18-9-818. Repealed

Historical Note

Former Section R9-8-353 renumbered without change as Section R18-9-818 (Supp. 87-3). Section repealed by final rulemaking at 7 A.A.R. 235, effective December 8, 2000 (Supp. 00-4).

R18-9-819. Repealed

Historical Note

Former Section R9-8-361 renumbered without change as Section R18-9-819 (Supp. 87-3). Amended effective December 1, 1988 (Supp. 88-4). Section repealed by final rulemaking at 7 A.A.R. 235, effective December 8, 2000 (Supp. 00-4).

ARTICLE 9. ARIZONA POLLUTANT DISCHARGE ELIMINATION SYSTEM

Editor's Note: The recodification at 7 A.A.R. 2522 described below erroneously moved Sections into 18 A.A.C. 9, Article 9. Those Sections were actually recodified to 18 A.A.C. 9, Article 10. See the Historical Notes for more information (Supp. 01-4).

Article 9, consisting of Sections R18-9-901 through R18-9-914 and Appendix A, recodified from 18 A.A.C. 13, Article 15 at 7 A.A.R. 2522, effective May 24, 2001 (Supp. 01-2).

PART A. GENERAL REQUIREMENTS

R18-9-A901. Definitions

In addition to the definitions in A.R.S. § 49-201 and 49-255, the following terms apply to this Article:

1. "Animal confinement area" means any part of an animal feeding operation where animals are restricted or confined including open lots, housed lots, feedlots, confinement houses, stall barns, free stall barns, milkrooms, milking centers, cowyards, barnyards, medication pens, walkers, animal walkways, and stables.
2. "Animal feeding operation" means a lot or facility (other than an aquatic animal production facility) where the following conditions are met:
   a. Animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and
   b. Crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.
3. "Aquaculture project" means a defined managed water area that uses discharges of pollutants into that designated project area for the maintenance or production of harvestable freshwater plants or animals. For purposes of this definition, "designated project area" means the portion or portions of the navigable waters within which the permittee or permit applicant plans to confine the cultivated species using a method or plan of operation, including physical confinement, that on the basis of reliable scientific evidence, is expected to ensure that specific individual organisms comprising an aquaculture crop will enjoy increased growth attributable to the discharge of pollutants, and be harvested within a defined geographic area.
4. "Border area" means 100 kilometers north and south of the Arizona-Sonora, Mexico border.
5. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.
6. "CAFO" means any large concentrated animal feeding operation, medium concentrated animal feeding operation, or animal feeding operation designated under R18-9-D901.
7. "Concentrated aquatic animal production facility" means a hatchery, fish farm, or other facility that contains, grows, or holds aquatic animals in either of the following categories:
   a. Cold-water aquatic animals. Cold-water fish species or other cold-water aquatic animals (including the Salmonidae family of fish) in a pond, raceway, or other similar structure that discharges at least 30 days per year, but does not include:
      i. A facility that produces less than 9,090 harvest weight kilograms (approximately 20,000 pounds) of aquatic animals per year; and
      ii. A facility that feeds the aquatic animals less than 2,272 kilograms (approximately 5,000 pounds) of food during the calendar month of maximum feeding.
   b. Warm-water aquatic animals. Warm-water fish species or other warm-water aquatic animals (including the Ameiuride, Centrarchidae, and Cyprinidae families of fish) in a pond, raceway, or other similar structure that discharges at least 30 days per year, but does not include:
      i. A closed pond that discharges only during periods of excess runoff; or
      ii. A facility that produces less than 45,454 harvest weight kilograms (approximately 100,000 pounds) of aquatic animals per year.
8. "Daily discharge" means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the day.
9. "Discharge of a pollutant" means any addition of any pollutant or combination of pollutants to a navigable water from any point source.
   a. The term includes the addition of any pollutant into a navigable water from:
      i. A treatment works treating domestic sewage;
      ii. Surface runoff that is collected or channeled by man;
      iii. A discharge through a pipe, sewer, or other conveyance owned by a state, municipality, or other person that does not lead to a treatment works; and
      iv. A discharge through a pipe, sewer, or other conveyance, leading into a privately owned treatment works.
   b. The term does not include an addition of a pollutant by any industrial user as defined in A.R.S. § 49-255(4).
10. "Draft permit" means a document indicating the Director's tentative decision to issue, deny, modify, revoke and reissue, terminate, or reissue a permit.
    a. A notice of intent to terminate a permit is a type of draft permit unless the entire discharge is permanently terminated by elimination of the flow or by connection to a POTW, but not by land application or disposal into a well.
    b. A notice of intent to deny a permit is a type of draft permit.
    c. A proposed permit or a denial of a request for modification, revocation and reissuance, or termination of a permit, are not draft permits.
11. "EPA" means the U.S. Environmental Protection Agency.
12. "General permit" means an AZPDES permit issued under 18 A.A.C. 9, Article 9, authorizing a category of discharges within a geographical area.
13. "Individual permit" means an AZPDES permit for a single point source, a single facility, or a municipal separate storm sewer system.
14. "Land application area," for purposes of Article 9, Part D, means land under the control of an animal feeding operation owner or operator, whether it is owned, rented, or leased, to which manure, litter, or process wastewater from the production area is or may be applied.
15. "Large concentrated animal feeding operation" means an animal feeding operation that stables or confines at least the number of animals specified in any of the following categories:
    a. 700 mature dairy cows, whether milked or dry;
    b. 1,000 veal calves;

c. 1,000 cattle other than mature dairy cows or veal calves. Cattle includes heifers, steers, bulls, and cow and calf pairs;
d. 2,500 swine each weighing 55 pounds or more;
e. 10,000 swine each weighing less than 55 pounds;
f. 500 horses;
g. 10,000 sheep or lambs;
h. 55,000 turkeys;
i. 30,000 laying hens or broilers, if the animal feeding operation uses a liquid manure handling system;
j. 125,000 chickens (other than laying hens), if the animal feeding operation uses other than a liquid manure handling system;
k. 82,000 laying hens, if the animal feeding operation uses other than a liquid manure handling system;
l. 30,000 ducks, if the animal feeding operation uses other than a liquid manure handling system; or
m. 5,000 ducks, if the animal feeding operation uses a liquid manure handling system.

16. "Large municipal separate storm sewer system" means a municipal separate storm sewer that is either:
    a. Located in an incorporated area with a population of 250,000 or more as determined by the 1990 Decennial Census by the Bureau of the Census;
    b. Located in a county with an unincorporated urbanized area with a population of 250,000 or more, according to the 1990 Decennial Census by the Bureau of Census, but not a municipal separate storm sewer that is located in an incorporated place, township, or town within the county; or
    c. Owned or operated by a municipality other than those described in subsections (16)(a) and (16)(b) and that are designated by the Director under R18-9-A902(D)(2) as part of the large municipal separate storm sewer system.
17. "Manure" means any waste or material mixed with waste from an animal including manure, bedding, compost and raw materials, or other materials commingled with manure or set aside for disposal.
18. "Manure storage area" means any part of an animal feeding operation where manure is stored or retained including lagoons, run-off ponds, storage sheds, stockpiles, under-house or pit storages, liquid impoundments, static piles, and composting piles.
19. "Medium concentrated animal feeding operation" means an animal feeding operation in which:
    a. The type and number of animals that it stables or confines falls within any of the following ranges:
        i. 200 to 699 mature dairy cows, whether milked or dry;
        ii. 300 to 999 veal calves;
        iii. 300 to 999 cattle other than mature dairy cows or veal calves. Cattle includes heifers, steers, bulls, and cow and calf pairs;
        iv. 750 to 2,499 swine each weighing 55 pounds or more;
        v. 3,000 to 9,999 swine each weighing less than 55 pounds;
        vi. 150 to 499 horses;
        vii. 3,000 to 9,999 sheep or lambs;
        viii. 16,500 to 54,999 turkeys;
        ix. 9,000 to 29,999 laying hens or broilers, if the animal feeding operation uses a liquid manure handling system;
        x. 37,500 to 124,999 chickens (other than laying hens), if the animal feeding operation uses other than a liquid manure handling system;
        xi. 25,000 to 81,999 laying hens, if the animal feeding operation uses other than a liquid manure handling system;
        xii. 10,000 to 29,999 ducks, if the animal feeding operation uses other than a liquid manure handling system; or
        xiii. 1,500 to 4,999 ducks, if the animal feeding operation uses a liquid manure handling system; and
    b. Either one of the following conditions are met:
        i. Pollutants are discharged into a navigable water through a man-made ditch, flushing system, or other similar man-made device; or
        ii. Pollutants are discharged directly into a navigable water that originates outside of and passes over, across, or through the animal feeding operation or otherwise comes into direct contact with the animals confined in the operation.
20. "Medium municipal separate storm sewer system" means a municipal separate storm sewer that is either:
    a. Located in an incorporated area with a population of 100,000 or more but less than 250,000, as determined by the 1990 Decennial Census by the Bureau of the Census; or
    b. Located in a county with an unincorporated urbanized area with a population of 100,000 or more but less than 250,000 as determined by the 1990 Decennial Census by the Bureau of the Census; or
    c. Owned or operated by a municipality other than those described in subsections (20)(a) and (20)(b) and that are designated by the Director under R18-9-A902(D)(2) as part of the medium municipal separate storm sewer system.
21. "MS4" means municipal separate storm sewer system.
22. "Municipal separate storm sewer" means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, and storm drains):
    a. Owned or operated by a state, city, town county, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or a designated and approved management agency under section 208 of the Clean Water Act (33 U.S.C. 1288) that discharges to waters of the United States;
    b. Designed or used for collecting or conveying stormwater;
    c. That is not a combined sewer; and
    d. That is not part of a POTW.
23. "Municipal separate storm sewer system" means all separate storm sewers defined as "large," "medium," or "small" municipal separate storm sewer systems or any municipal separate storm sewers on a system-wide or jurisdiction-wide basis as determined by the Director under R18-9-C902(A)(1)(g)(i) through (iv).
24. "New discharger" includes an industrial user and means any building, structure, facility, or installation:
    a. From which there is or may be a discharge of pollutants;

b. That did not commence the discharge of pollutants at a particular site before August 13, 1979;
c. That is not a new source; and
d. That has never received a finally effective NPDES or AZPDES permit for discharges at that site.

25. "New source" means any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:
    a. After the promulgation of standards of performance under section 306 of the Clean Water Act (33 U.S.C. 1316) that are applicable to the source, or
    b. After the proposal of standards of performance in accordance with section 306 of the Clean Water Act (33 U.S.C. 1316) that are applicable to the source, but only if the standards are promulgated under section 306 (33 U.S.C. 1316) within 120 days of their proposal.
26. "NPDES" means the National Pollutant Discharge Elimination System, which is the national program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits, and imposing and enforcing pretreatment and biosolids requirements under sections 307 (33 U.S.C. 1317), 318 (33 U.S.C. 1328), 402 (33 U.S.C. 1342), and 405 (33 U.S.C. 1345) of the Clean Water Act.
27. "Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014 et seq.)), heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water. It does not mean:
    a. Sewage from vessels; or
    b. Water, gas, or other material that is injected into a well to facilitate production of oil or gas, or water derived in association with oil and gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of this state, and if the state determines that the injection or disposal will not result in the degradation of ground or surface water resources. (40 CFR 122.2)
28. "POTW" means a publicly owned treatment works.
29. "Process wastewater," for purposes of Article 9, Part D, means any water that comes into contact with a raw material, product, or byproduct including manure, litter, feed, milk, eggs, or bedding and water directly or indirectly used in the operation of an animal feeding operation for any or all of the following:
    a. Spillage or overflow from animal or poultry watering systems;
    b. Washing, cleaning, or flushing pens, barns, manure pits, or other animal feeding operation facilities;
    c. Direct contact swimming, washing, or spray cooling of animals; or
    d. Dust control.
30. "Proposed permit" means an AZPDES permit prepared after the close of the public comment period (including EPA review), and any applicable public hearing and administrative appeal, but before final issuance by the Director. A proposed permit is not a draft permit.
31. "Pretreatment" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater before or instead of discharging or otherwise introducing the pollutants into a POTW.
32. "Production area," for purposes of Article 9, Part D, means the animal confinement area, manure storage area, raw materials storage area, and waste containment areas. Production area includes any egg washing or egg processing facility and any area used in the storage, handling, treatment, or disposal of animal mortalities.
33. "Raw materials storage area" means the part of an animal feeding operation where raw materials are stored including feed silos, silage bunkers, and bedding materials.
34. "Silviculture point source" means any discernible, confined, and discrete conveyance related to rock crushing, gravel washing, log sorting, or log storage facilities that are operated in connection with silvicultural activities and from which pollutants are discharged into navigable waters. The term does not include nonpoint source silvicultural activities such as nursery operations, site preparation, reforestation and subsequent cultural treatment, thinning, prescribed burning, pest and fire control, harvesting operations, surface drainage, or road construction and maintenance from which there is natural runoff. For purposes of this definition:
    a. "Log sorting and log storage facilities" means facilities whose discharge results from the holding of unprocessed wood, for example, logs or round wood with or without bark held in self-contained bodies of water or stored on land if water is applied intentionally on the logs.
    b. "Rock crushing and gravel washing facilities" mean facilities that process crushed and broken stone, gravel, and riprap.
35. "Small municipal separate storm sewer system" means a separate storm sewer that is:
    a. Owned or operated by the United States, a state, city, town, county, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the Clean Water Act (33 U.S.C. 1288) that discharge to navigable waters.
    b. Not defined as a "large" or "medium" municipal separate storm sewer system or designated under R18-9-A902(D)(2).
    c. Similar to municipal separate storm sewer systems such as systems at military bases, large hospital or prison complexes, universities, and highways and other thoroughfares. The term does not include a separate storm sewer in a very discrete area such as an individual building.
36. "Stormwater" means stormwater runoff, snow melt runoff, and surface runoff and drainage.
37. "Treatment works treating domestic sewage" means a POTW or any other sewage sludge or waste water treatment device or system, regardless of ownership (including federal facilities), used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated for the disposal of sewage sludge. This definition does not include septic tanks or similar devices. For purposes of this definition, "domestic sewage" includes waste and wastewater from humans or household operations that are discharged to or otherwise enter a treatment works.

38. "Waste containment area" means any part of an animal feeding operation where waste is stored or contained including settling basins and areas within berms and diversions that separate uncontaminated stormwater.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5879, effective December 7, 2001 (Supp. 01-4). Amended by final rulemaking at 9 A.A.R. 5564, effective February 2, 2004 (Supp. 03-4).

R18-9-A902. AZPDES Permit Transition, Applicability, and Exclusions

A. Upon the effective date of EPA approval of the AZPDES program, the Department shall, under A.R.S. Title 49, Chapter 2, Article 3.1 and Articles 9 and 10 of this Chapter, administer any permit authorized or issued under the NPDES program, including an expired permit that EPA has continued in effect under 40 CFR 122.6.

1. The Director shall give a notice to all Arizona NPDES permittees, except NPDES permittees located on and discharging in Indian Country, and shall publish a notice in one or more newspapers of general circulation in the state. The notice shall contain:
   a. The effective date of EPA approval of the AZPDES program;
   b. The name and address of the Department;
   c. The name of each individual permitted facility and its permit number;
   d. The title of each general permit administered by the Department;
   e. The name and address of the contact person, to which the permittee will submit notification and monitoring reports;
   f. Information specifying the state laws equivalent to the federal laws or regulations referenced in a NPDES permit; and
   g. The name, address, and telephone number of a person from whom an interested person may obtain further information about the transition.
2. The Department shall provide the following entities with a copy of the notice:
   a. Each county department of health, environmental services, or comparable department;
   b. Each Arizona council of government, tribal government, the states of Utah, Nevada, New Mexico, and California, and EPA Region 9;
   c. Any person who requested, in writing, notification of the activity;
   d. The Mexican Secretaria de Medio Ambiente y Recursos Naturales, and
   e. The United States Section of the International Boundary and Water Commission.
3. If a timely application for a NPDES permit is submitted to EPA before approval of the AZPDES program, the applicant may continue the process with EPA or request the Department to act on the application. In either case, the Department shall issue the permit.
4. The terms and conditions under which the permit was issued remain the same until the permit is modified.

B. Article 9 of this Chapter applies to any "discharge of a pollutant." Examples of categories that result in a "discharge of a pollutant" and may require an AZPDES permit include:

1. CAFOs;
2. Concentrated aquatic animal production facilities;
3. Case-by-case designation of concentrated aquatic animal production facilities;
   a. The Director may designate any warm- or cold-water aquatic animal production facility as a concentrated aquatic animal production facility upon determining that it is a significant contributor of pollution to navigable waters. The Director shall consider the following factors when making this determination:
      i. The location and quality of the receiving waters of the United States;
      ii. The holding, feeding, and production capacities of the facility;
      iii. The quantity and nature of the pollutants reaching navigable waters; and
      iv. Any other relevant factor;
   b. A permit application is not required from a concentrated aquatic animal production facility designated under subsection (B)(3)(a) until the Director conducts an onsite inspection of the facility and determines that the facility should and could be regulated under the AZPDES permit program;
4. Aquaculture projects;
5. Manufacturing, commercial, mining, and silviculture point sources;
6. POTWs;
7. New sources and new dischargers;
8. Stormwater discharges:
   a. Associated with industrial activity as defined under 40 CFR 122.26(b)(14), incorporated by reference in R18-9-A905(A)(1)(d). The Department shall not consider a discharge to be a discharge associated with industrial activity if the discharge is composed entirely of stormwater and meets the conditions of no exposure as defined under 40 CFR 122.26(g), incorporated by reference in R18-9-A905(A)(1)(d);
   b. From a large, medium, or small MS4;
   c. From a construction activity, including clearing, grading, and excavation, that results in the disturbance of:
      i. Equal to or greater than one acre or;
      ii. Less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one acre; but
      iii. Not including routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility;
   d. Any discharge that the Director determines contributes to a violation of a water quality standard or is a significant contributor of pollutants to a navigable water, which may include a discharge from a conveyance or system of conveyances (including roads with drainage systems and municipal streets) used for collecting and conveying stormwater runoff or a system of discharges from municipal separate storm sewers.

C. Articles 9 and 10 of this Chapter apply to the following biosolids categories and may require an AZPDES permit:

1. Treatment works treating domestic sewage that would not otherwise require an AZPDES permit; and
2. Using, applying, generating, marketing, transporting, and disposing of biosolids.

D. Director designation of MS4s.

1. The Director may designate and require any small MS4 located outside of an urbanized area to obtain an AZPDES stormwater permit. The Director shall base this designation on whether a stormwater discharge results in or

has the potential to result in an exceedance of a water quality standard, including impairment of a designated use, or another significant water quality impact, including a habitat or biological impact.

a. When deciding whether to designate a small MS4, the Director shall consider the following criteria:
   i. Discharges to sensitive waters,
   ii. Areas with high growth or growth potential,
   iii. Areas with a high population density,
   iv. Areas that are contiguous to an urbanized area,
   v. Small MS4s that cause a significant contribution of pollutants to a navigable water,
   vi. Small MS4s that do not have effective programs to protect water quality, and
   vii. Any other relevant criteria.
b. The same requirements for small MS4s designated under 40 CFR 122.32(a)(1) apply to permits for designated MS4s not waived under R18-9-B901(A)(3).

2. The Director may designate an MS4 as part of a large or medium system due to the interrelationship between the discharges from a designated storm sewer and the discharges from a municipal separate storm sewer described under R18-9-A901(16)(a) and (b), or R18-9-A901(20)(a) or (b), as applicable. In making this determination, the Director shall consider the following factors:
   a. Physical interconnections between the municipal separate storm sewers;
   b. The location of discharges from the designated municipal separate storm sewer relative to discharges from municipal separate storm sewers described in R18-9-A901(16)(a) and R18-9-A901(20)(a);
   c. The quantity and nature of pollutants discharged to a navigable water;
   d. The nature of the receiving waters; and
   e. Any other relevant factor.
3. The Director shall designate a small MS4 that is physically interconnected with a MS4 that is regulated by the AZPDES program if the small MS4 substantially contributes to the pollutant loading of the regulated MS4.

E. Petitions. The Director may, upon a petition, designate as a large, medium or small MS4, a municipal separate storm sewer located within the boundaries of a region defined by a stormwater management regional authority based on a jurisdictional, watershed, or other appropriate basis that includes one or more of the systems described in R18-9-A901(16), R18-9-A901(20) or R18-9-A901(35), as applicable.

F. Phase-ins.
1. The Director may phase-in permit coverage for a small MS4 serving a jurisdiction with a population of less than 10,000 if a phasing schedule is developed and implemented for approximately 20 percent annually of all small MS4s that qualify for the phased-in coverage.
   a. If the phasing schedule is not yet approved for permit coverage, the Director shall, by December 9, 2002, determine whether to issue an AZPDES permit or allow a waiver under R18-9-B901(A)(3) for each eligible MS4.
   b. All regulated MS4s shall have coverage under an AZPDES permit no later than March 8, 2007.
2. The Director may provide a waiver under R18-9-B901(A)(3) for any municipal separate storm sewage system operating under a phase-in plan.

G. Exclusions. The following discharges do not require an AZPDES permit:
1. Discharge of dredged or fill material into a navigable water that is regulated under section 404 of the Clean Water Act (33 U.S.C. 1344);
2. The introduction of sewage, industrial wastes, or other pollutants into POTWs by indirect dischargers. Plans or agreements to switch to this method of disposal in the future do not relieve dischargers of the obligation to have and comply with a permit until all discharges of pollutants to a navigable water are eliminated. This exclusion does not apply to the introduction of pollutants to privately owned treatment works or to other discharges through a pipe, sewer, or other conveyance owned by the state, a municipality, or other party not leading to treatment works;
3. Any discharge in compliance with the instructions of an on-scene coordinator under 40 CFR 300, The National Oil and Hazardous Substances Pollution Contingency Plan; or 33 CFR 153.10(e), Control of Pollution by Oil and Hazardous Substances, Discharge Removal;
4. Any introduction of pollutants from a nonpoint source agricultural or silvicultural activity, including stormwater runoff from an orchard, cultivated crop, pasture, rangeland, and forest land, but not discharges from a concentrated animal feeding operation, concentrated aquatic animal production facility, silvicultural point source, or to an aquaculture project;
5. Return flows from irrigated agriculture;
6. Discharges into a privately owned treatment works, except as the Director requires under 40 CFR 122.44(m), which is incorporated by reference in R18-9-A905(A)(3)(d);
7. Discharges from conveyances for stormwater runoff from mining operations or oil and gas exploration, production, processing or treatment operations, or transmission facilities, composed entirely of flows from conveyances or systems of conveyances, including pipes, conduits, ditches, and channels, used for collecting and conveying precipitation runoff and that are not contaminated by contact with or that has not come into contact with, any overburden, raw material, intermediate products, finished product, byproduct, or waste product located on the site of the operations.

H. Conditional no exposure exclusion.
1. Discharges composed entirely of stormwater are not considered stormwater discharges associated with an industrial activity if there is no exposure, and the discharger satisfies the conditions under 40 CFR 122.26(g), which is incorporated by reference in R18-9-A905(A)(1)(d).
2. For purposes of this subsection:
   a. "No exposure" means that all industrial materials and activities are protected by a storm resistant shelter to prevent exposure to rain, snow, snowmelt, and runoff.
   b. "Industrial materials or activities" include material handling equipment or activities, industrial machinery, raw materials, intermediate products, by-products, final products, or waste products.
   c. "Material-handling activities" include storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product, or waste product.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5879, effective December 7, 2001 (Supp. 01-4). Amended by final rulemaking at 8 A.A.R. 2704, effective June 5, 2002 (Supp. 02-2). Amended by final rulemaking at 9 A.A.R.

5564, effective February 2, 2004 (Supp. 03-4).

R18-9-A903. Prohibitions

The Director shall not issue a permit:

1. If the conditions of the permit do not provide for compliance with the applicable requirements of A.R.S. Title 49, Chapter 2, Article 3.1; 18 A.A.C. 9, Articles 9 and 10; and the Clean Water Act;
2. Before resolution of an EPA objection to a draft or proposed permit under R18-9-A908(C);
3. If the imposition of conditions cannot ensure compliance with the applicable water quality requirements from Arizona or an affected state or tribe, or a federally promulgated water quality standard under 40 CFR 131.31;
4. If in the judgment of the Secretary of the U.S. Army, acting through the Chief of Engineers, the discharge will substantially impair anchorage and navigation in or on any navigable water;
5. For the discharge of any radiological, chemical, or biological warfare agent, or high-level radioactive waste;
6. For any discharge inconsistent with a plan or plan amendment approved under section 208(b) of the Clean Water Act (33 U.S.C. 1288); and
7. To a new source or a new discharger if the discharge from its construction or operation will cause or contribute to the violation of a water quality standard. The owner or operator of a new source or new discharger proposing to discharge into a water segment that does not meet water quality standards or is not expected to meet those standards even after the application of the effluent limitations required under R18-9-A905(A)(8), and for which the Department has performed a wasteload allocation for the proposed discharge, shall demonstrate before the close of the public comment period that:
   a. There are sufficient remaining wasteload allocations to allow for the discharge, and
   b. The existing dischargers into the segment are subject to schedules of compliance designed to bring the segment into compliance with water quality standards.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5879, effective December 7, 2001 (Supp. 01-4). Amended by final rulemaking at 8 A.A.R. 2704, effective June 5, 2002 (Supp. 02-2).

R18-9-A904. Effect of a Permit

A. Except for a standard or prohibition imposed under section 307 of the Clean Water Act (33 U.S.C. 1317) for a toxic pollutant that is injurious to human health and standards for sewage sludge use or disposal under Article 10 of this Chapter, compliance with an AZPDES permit during its term constitutes compliance, for purposes of enforcement, with Article 9 of this Chapter. However, the Director may modify, revoke and reissue, suspend, or terminate a permit during its term for cause under R18-9-B906.

B. The issuance of a permit does not convey any property rights of any sort, or any exclusive privilege.

C. The issuance of a permit does not authorize any injury to a person or property or invasion of other private rights, or any infringement of federal, state, or local law, or regulations.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5879, effective December 7, 2001 (Supp. 01-4).

R18-9-A905. AZPDES Program Standards

A. Except for subsection (A)(11), the following 40 CFR sections and appendices, July 1, 2003 edition, as they apply to the NPDES program, are incorporated by reference, do not include any later amendments or editions of the incorporated matter, and are on file with the Department:

1. General program requirements.
   a. 40 CFR 122.7;
   b. 40 CFR 122.21, except 40 CFR 122.21(a) through (e) and (l);
   c. 40 CFR 122.22;
   d. 40 CFR 122.26, except 40 CFR 122.26(c)(2), and 40 CFR 122.26(e)(2);
   e. 40 CFR 122.29;
   f. 40 CFR 122.32;
   g. 40 CFR 122.33;
   h. 40 CFR 122.34;
   i. 40 CFR 122.35;
   j. 40 CFR 122.62(a) and (b).
2. Procedures for Decision making.
   a. 40 CFR 124.8, except 40 CFR 124.8(b)(3); and
   b. 40 CFR 124.56.
3. Permit requirements and conditions.
   a. 40 CFR 122.41, except 40 CFR 122.41(a)(2) and (a)(3);
   b. 40 CFR 122.42;
   c. 40 CFR 122.43;
   d. 40 CFR 122.44;
   e. 40 CFR 122.45;
   f. 40 CFR 122.47;
   g. 40 CFR 122.48; and
   h. 40 CFR 122.50.
4. Criteria and standards for the national pollutant discharge elimination system. 40 CFR 125, subparts A, B, D, H, and I.
5. Toxic pollutant effluent standards. 40 CFR 129.
6. Secondary treatment regulation. 40 CFR 133.
7. Guidelines for establishing test procedures for the analysis of pollutants, 40 CFR 136.
8. Effluent guidelines and standards.
   a. General provisions, 40 CFR 401; and
   b. General pretreatment regulations for existing and new sources of pollution, 40 CFR 403 and Appendices A, D, E, and G.
9. Effluent limitations guidelines. 40 CFR 405 through 40 CFR 471.
10. Standards for the use or disposal of sewage sludge. 40 CFR 503, Subpart C.
11. The following substitutions apply to the material in subsections (A)(1) through (A)(10):
    a. Substitute the term AZPDES for any reference to NPDES;
    b. Except for 40 CFR 122.21(f) through (q), substitute R18-9-B901 (individual permit), and R18-9-C901 (general permit), for any reference to 40 CFR 122.21;
    c. Substitute Articles 9 and 10 of this Chapter for any reference to 40 CFR 122;
    d. Substitute R18-9-C901 for any reference to 40 CFR 122.28;
    e. Substitute R18-9-B901 (individual permit), and R18-9-C901 (general permit), for any reference to 40 CFR 122 subpart B;
    f. Substitute Articles 9 and 10 of this Chapter for any reference to 40 CFR 123;
    g. Substitute Articles 9 and 10 of this Chapter for any reference to 40 CFR 124;

h. Substitute R18-9-1006 for any reference to 40 CFR 503.32; and
i. Substitute R18-9-1010 for any reference to 40 CFR 503.33.

B. A person shall analyze a pollutant using a test procedure for the pollutant specified by the Director in an AZPDES permit. If the Director does not specify a test procedure for a pollutant in an AZPDES permit, a person shall analyze the pollutant using:
1. A test procedure listed in 40 CFR 136, which is incorporated by reference in subsection (A)(7);
2. An alternate test procedure approved by the EPA as provided in 40 CFR 136;
3. A test procedure listed in 40 CFR 136, with modifications allowed by the EPA and approved as a method alteration by the Arizona Department of Health Services under A.A.C. R9-14-610(B); or
4. If a test procedure for a pollutant is not available under subsection (B)(1) through (B)(3), a test procedure listed in A.A.C. R9-14-612 or approved under A.A.C. R9-14-610(B).

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5879, effective December 7, 2001 (Supp. 01-4). Amended by final rulemaking at 8 A.A.R. 2704, effective June 5, 2002 (Supp. 02-2). Amended by final rulemaking at 9 A.A.R. 5564, effective February 2, 2004 (Supp. 03-4).

R18-9-A906. General Pretreatment Regulations for Existing and New Sources of Pollution

A. The reduction or alteration of a pollutant may be obtained by physical, chemical, or biological processes, process changes, or by other means, except as prohibited under 40 CFR 403.6(d), which is incorporated by reference in R18-9-A905(A)(8)(b). Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loading that might interfere with or otherwise be incompatible with the POTW. However, if wastewater from a regulated process is mixed in an equalization facility with unregulated wastewater or with wastewater from another regulated process, the effluent from the equalization facility shall meet an adjusted pretreatment limit calculated under 40 CFR 403.6(e), which is incorporated by reference in R18-9-A905(A)(8)(b).

B. Pretreatment applies to:
1. Pollutants from non-domestic sources covered by pretreatment standards that are indirectly discharged, transported by truck or rail, or otherwise introduced into POTWs;
2. POTWs that receive wastewater from sources subject to national pretreatment standards; and
3. Any new or existing source subject to national pretreatment standards.

C. National pretreatment standards do not apply to sources that discharge to a sewer that is not connected to a POTW.

D. For purposes of this Section the terms "National Pretreatment Standard" and "Pretreatment Standard" mean any regulation containing pollutant discharge limits promulgated by EPA under section 307(b) and (c) of the Clean Water Act (33 U.S.C. 1317), which applies to Industrial Users. This term includes prohibitive discharge limits established under 40 CFR 403.5.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5879, effective December 7, 2001 (Supp. 01-4).

R18-9-A907. Public Notice

A. Individual permits.
1. The Director shall publish a notice that a draft individual permit has been prepared, or a permit application has been tentatively denied, in one or more newspapers of general circulation where the facility is located. The notice shall contain:
   a. The name and address of the Department;
   b. The name and address of the permittee or permit applicant and if different, the name of the facility or activity regulated by the permit;
   c. A brief description of the business conducted at the facility or activity described in the permit application;
   d. The name, address, and telephone number of a person from whom an interested person may obtain further information, including copies of the draft permit, fact sheet, and application;
   e. A brief description of the comment procedures, the time and place of any hearing, including a statement of procedures to request a hearing (unless a hearing has already been scheduled), and any other procedure by which the public may participate in the final permit decision;
   f. A general description of the location of each existing or proposed discharge point and the name of the receiving water;
   g. For sources subject to section 316(a) of the Clean Water Act, a statement that the thermal component of the discharge is subject to effluent limitations under the Clean Water Act, section 301 (33 U.S.C. 1311) or 306 (33 U.S.C. 1316) and a brief description, including a quantitative statement, of the thermal effluent limitations proposed under section 301 (33 U.S.C. 1311) or 306 (33 U.S.C. 1316);
   h. Requirements applicable to cooling water intake structures at new facilities subject to 40 CFR 125, subpart I; and
   i. Any additional information considered necessary to the permit decision.
2. The Department shall provide the applicant with a copy of the draft individual permit.
3. Copy of the notice. The Department shall provide the following entities with a copy of the notice:
   a. The applicant or permittee;
   b. Any user identified in the permit application of a privately owned treatment works;
   c. Any affected federal, state, tribal, or local agency, or council of government;
   d. Federal and state agencies with jurisdiction over fish, shellfish, and wildlife resources, the Arizona Historic Preservation Office, and the U.S. Army Corps of Engineers;
   e. Each applicable county department of health, environmental services, or comparable department;
   f. Any person who requested, in writing, notification of the activity; and
   g. The Secretaria de Medio Ambiente y Recursos Naturales and the United States Section of the International Boundary and Water Commission, if the Department is aware the effluent discharge is expected to reach Sonora, Mexico, either through surface water or groundwater.

B. General permits. If the Director considers issuing a general permit applicable to a category of discharge under R18-9-C901, the Director shall publish a general notice of the draft

permit in the *Arizona Administrative Register*. The notice shall contain:
1. The name and address of the Department,
2. The name of the person to contact regarding the permit,
3. The general permit category,
4. A brief description of the proposed general permit,
5. A map or description of the permit area,
6. The web site or any other location where the proposed general permit may be obtained, and
7. The ending date for public comment.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5879, effective December 7, 2001 (Supp. 01-4). Amended by final rulemaking at 9 A.A.R. 5564, effective February 2, 2004 (Supp. 03-4).

R18-9-A908. Public Participation, EPA Review, EPA Hearing

A. Public comment period.
1. The Director shall accept written comments from any interested person before a decision is made on any notice published under R18-9-A907(A) or (B).
2. The public comment period begins on the publication date of the notice and extends for 30 calendar days.
3. The Director may extend the comment period to provide commenters a reasonable opportunity to participate in the decision-making process.
4. If any data, information, or arguments submitted during the public comment period appear to raise substantial new questions concerning a permit, the Director may reopen or extend the comment period to provide interested persons an opportunity to comment on the information or arguments submitted. Comments filed during a reopened comment period are limited to the substantial new questions that caused its reopening.
   a. Corps of Engineers.
      i. If the District Engineer advises the Director that denying the permit or imposing specified conditions upon a permit is necessary to avoid any substantial impairment of anchorage or navigation, then the Director shall deny the permit or include the specified conditions in the permit.
      ii. A person shall use the applicable procedures of the Corps of Engineers Review and not the procedures under this Article to appeal the denial of a permit or conditions specified by the District Engineer.
      iii. If the conditions are stayed by a court of competent jurisdiction or by applicable procedures of the Corps of Engineers, those conditions are considered stayed in the AZPDES permit for the duration of that stay.
   b. If an agency with jurisdiction over fish, wildlife, or public health advises the Director in writing that the imposition of specified conditions upon the permit is necessary to avoid substantial impairment of fish, shellfish, or wildlife resource, the Director may include the specified conditions in the permit to the extent they are determined necessary to carry out the provisions of the Clean Water Act.

B. Public hearing.
1. The Director shall provide notice and conduct a public hearing to address a draft permit or denial regarding a final decision if:
   a. Significant public interest in a public hearing exists, or
   b. Significant issues or information have been brought to the attention of the Director during the comment period that was not considered previously in the permitting process.
2. If, after publication of the notice under R18-9-A907, the Director determines that a public hearing is necessary, the Director shall schedule a public hearing and publish notice of the public hearing at least once, in one or more newspapers of general circulation where the facility is located. The notice for public hearing shall contain:
   a. The date, time, and place of the hearing;
   b. Reference to the date of a previous public notice relating to the proposed decision, if any; and
   c. A brief description of the nature and purpose of the hearing, including reference to the applicable laws and rules.
3. The Department shall accept written public comment until the close of the hearing or until a later date specified by the person presiding at the public hearing.

C. EPA review of draft and proposed permits.
1. Individual permits.
   a. The Department shall send a copy of the draft permit to EPA.
   b. If EPA objects to the draft permit within 30 days from the date of receipt of the draft permit, the EPA comment period is extended to 90 days from the date of receipt of the draft permit and the substantive review time-frame is suspended until EPA makes a final determination.
   c. If, based on public comments, the Department revises the draft permit, the Department shall send EPA a copy of the proposed permit. If EPA objects to the proposed permit within 30 days from the date of receipt of the proposed permit, the EPA comment period is extended to 90 days from the date of receipt of the proposed permit and the substantive review time-frame is suspended until EPA makes a final determination.
   d. If EPA withdraws its objection to the draft or proposed permit or does not submit specific objections within 90 days, the Director shall issue the permit.
2. General permits. The Director shall send a copy of the draft permit to EPA and comply with the following review procedure for EPA comments:
   a. If EPA objects to the draft permit within 90 days from receipt of the draft permit, the Department shall not issue the permit until the objection is resolved;
   b. If, based on public comments, the Department revises the draft permit, the Department shall send EPA a copy of the proposed permit. If EPA objects to the proposed permit within 90 days from receipt of the proposed permit, the Department shall not issue the permit until the objection is resolved;
   c. If EPA withdraws its objection to the draft or proposed permit or does not submit specific objections within 90 days, the Director shall issue the permit.

D. EPA hearing. Within 90 days of receipt by the Director of a specific objection by EPA, the Director or any interested person may request that EPA hold a public hearing on the objection.
1. If following the public hearing EPA withdraws the objection, the Director shall issue the permit.
2. If a public hearing is not held, and EPA reaffirms the original objection, or modifies the terms of the objection, and the Director does not resubmit a permit revised to

meet the EPA objection within 90 days of receipt of the objection, EPA may issue the permit for one term. Following the completion of the permit term, authority to issue the permit reverts to the Department.

3. If a public hearing is held and EPA does not withdraw an objection or modify the terms of the objection, and the Director does not resubmit a permit revised to meet the EPA objection within 30 days of notification of the EPA objection, EPA may issue the permit for one permit term. Following the completion of the permit term, authority to issue the permit reverts to the Department.
4. If EPA issues the permit instead of the Director, the Department shall close the application file.

E. Final permit determination.
1. Individual permits. At the same time the Department notifies a permittee or an applicant of the final individual permit determination, the Department shall send, through regular mail, a notice of the determination to any person who submitted comments or attended a public hearing on the final individual permit determination. The Department shall:
   a. Specify the provisions, if any, of the draft individual permit that have been changed in the final individual permit determination, and the reasons for the change; and
   b. Briefly describe and respond to all significant comments on the draft individual permit or the permit application raised during the public comment period, or during any hearing.
2. General permits. The Director shall publish a general notice of the final permit determination in the *Arizona Administrative Register*. The notice shall:
   a. Specify the provisions, if any, of the draft general permit that have been changed in the final general permit determination, and the reasons for the change;
   b. Briefly describe and respond to all significant comments on the draft general permit raised during the public comment period, or during any hearing; and
   c. Specify where a copy of the final general permit may be obtained.
3. The Department shall make the response to comments available to the public.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5879, effective December 7, 2001 (Supp. 01-4).

R18-9-A909. Petitions

A. Any person may submit a petition to the Director requesting:
1. The issuance of a general permit;
2. An individual permit covering any discharge into an MS4 under 40 CFR 122.26(f), which is incorporated by reference in R18-9-A905(A)(1)(d); or
3. An individual permit under R18-9-C902(B)(1).

B. The petition shall contain:
1. The name, address, and telephone number of the petitioner;
2. The location of the facility;
3. The exact nature of the petition, and
4. Evidence of the validity of the petition.

C. The Department shall provide the permittee with a copy of the petition.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5879, effective December 7, 2001 (Supp. 01-4).

PART B. INDIVIDUAL PERMITS

R18-9-B901. Individual Permit Application

A. Time to apply.
1. Any person who owns or operates a facility covered by R18-9-A902(B) or R18-9-A902(C), shall apply for an AZPDES individual permit at least 180 days before the date of the discharge or a later date if granted by the Director, unless the person:
   a. Is exempt under R18-9-A902(G);
   b. Is covered by a general permit under Article 9, Part C of this Chapter; or
   c. Is a user of a privately owned treatment works, unless the Director requires a permit under 40 CFR 122.44(m).
2. Construction. Any person who proposes a construction activity under R18-9-A902(B)(9)(c) or R18-9-A902(B)(9)(d) and wishes coverage under an individual permit, shall apply for the individual permit at least 90 days before the date on which construction is to commence.
3. Waivers.
   a. Unless the Director grants a waiver under 40 CFR 122.32, a person operating a small MS4 is regulated under the AZPDES program.
   b. The Director shall review any waiver granted under subsection (A)(3)(a) at least every five years to determine whether any of the information required for granting the waiver has changed.

B. Application. An individual permit applicant shall submit the following information on an application obtained from the Department. The Director may require more than one application from a facility depending on the number and types of discharges or outfalls.
1. Discharges, other than stormwater.
   a. The information required under 40 CFR 122.21(f) through (l);
   b. The signature of the certifying official required under 40 CFR 122.22;
   c. The name and telephone number of the operator, if the operator is not the applicant; and
   d. Whether the facility is located in the border area, and, if so:
      i. A description of the area into which the effluent discharges from the facility may flow, and
      ii. A statement explaining whether the effluent discharged is expected to cross the Arizona-Sonora, Mexico border.
2. Stormwater. In addition to the information required in subsection (B)(1)(c) and (B)(1)(d):
   a. For stormwater discharges associated with industrial activity, the application requirements under 40 CFR 122.26(c)(1);
   b. For large and medium MS4s, the application requirements under 40 CFR 122.26(d);
   c. For small MS4s:
      i. A stormwater management program under 40 CFR 122.34, and
      ii. The application requirements under 40 CFR 122.33.

C. Consolidation of permit applications.
1. The Director may consolidate two or more permit applications for any facility or activity that requires a permit under Articles 9 and 10 of this Chapter.
2. Whenever a facility or activity requires an additional permit under Articles 9 and 10 of this Chapter, the Director may coordinate the expiration date of the new permit with

the expiration date of an existing permit so that all permits expire simultaneously. The Department may then consolidate the processing of the subsequent applications for renewal permits.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5879, effective December 7, 2001 (Supp. 01-4).

R18-9-B902. Requested Coverage Under a General Permit

An owner or operator may request that an individual permit be revoked, if a source is excluded from a general permit solely because it already has an individual permit.

1. The Director shall grant the request for revocation of an individual permit upon determining that the permittee otherwise qualifies for coverage under a general permit.
2. Upon revocation of the individual permit, the general permit applies to the source.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5879, effective December 7, 2001 (Supp. 01-4).

R18-9-B903. Individual Permit Issuance or Denial

A. Once the application is complete, the Director shall tentatively decide whether to prepare a draft permit or to deny the application.

B. Permit issuance. If, based upon the information obtained by or available to the Department under R18-9-A907, R18-9-A908, and R18-9-B901, the Director determines that an applicant complies with A.R.S. Title 49, Chapter 2, Article 3.1 and Articles 9 and 10 of this Chapter, the Director shall issue a permit that is effective as prescribed in A.R.S. 49-255.01(H).

C. Permit denial.

1. If the Director decides to deny the permit application, the Director shall provide the applicant with a written notice of intent to deny the permit application. The written notification shall include:
   a. The reason for the denial with reference to the statute or rule on which the denial is based;
   b. The applicant's right to appeal the denial with the Water Quality Appeals Board under A.R.S. § 49-323, the number of days the applicant has to file a protest challenging the denial, and the name and telephone number of the Department contact person who can answer questions regarding the appeals process; and
   c. The applicant's right to request an informal settlement conference under A.R.S. §§ 41-1092.03(A) and 41-1092.06.
2. The Director shall provide an opportunity for public comment under R18-9-A907 and R18-9-A908 on a denial.
3. The decision of the Director to deny the permit application takes effect 30 days after the decision is served on the applicant, unless the applicant files an appeal under A.R.S. 49-255.01(H)(1).

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5879, effective December 7, 2001 (Supp. 01-4).

R18-9-B904. Individual Permit Duration, Reissuance, and Continuation

A. Permit duration.

1. An AZPDES individual permit is effective for a fixed term of not more than five years. The Director may issue a permit for a duration that is less than the full allowable term.
2. If the Director does not reissue a permit within the period specified in the permit, the permit expires, unless it is continued under subsection (C).
3. If a permittee of a large or medium MS4 allows a permit to expire by failing to reapply within the time period specified in subsection (B), the permittee shall submit a new application under R18-9-B901 and follow the application requirements under 40 CFR 122.26(d), which is incorporated by reference in R18-9-A905(A)(1)(d).

B. Permit reissuance.

1. A permittee shall reapply for an individual permit at least 180 days before the permit expiration date.
2. Unless otherwise specified in the permit, an annual report submitted 180 days before the permit expiration date satisfies the reapplication requirement for an MS4 permit. The annual report shall contain:
   a. The name, address, and telephone number of the MS4;
   b. The name, address, and telephone number of the contact person;
   c. The status of compliance with permit conditions, including an assessment of the appropriateness of the selected best management practices and progress toward achieving the selected measurable goals for each minimum measure;
   d. The results of any information collected and analyzed, including monitoring data, if any;
   e. A summary of the stormwater activities planned for the next reporting cycle;
   f. A change in any identified best management practices or measurable goals for any minimum measure; and
   g. Notice of relying on another governmental entity to satisfy some of the permit obligations.

C. Continuation. A NPDES or AZPDES individual permit may continue beyond its expiration date if:

1. The permittee has submitted a complete application for an AZPDES individual permit at least 180 days before the expiration date of the existing permit and the permitted activity is of a continuing nature; and
2. The Department is unable, through no fault of the permittee, to issue an AZPDES individual permit on or before the expiration date of the existing permit.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5879, effective December 7, 2001 (Supp. 01-4).

R18-9-B905. Individual Permit Transfer

A. A permittee may request the Director to transfer an individual permit to a new permittee. The Director may modify, or revoke and reissue the permit to identify the new permittee, or make a minor modification to identify the new permittee.

B. Automatic transfer. The Director may automatically transfer an individual permit to a new permittee if:

1. The current permittee notifies the Director by certified mail at least 30 days in advance of the proposed transfer date and includes a written agreement between the existing and new permittee containing a specific date for transfer of permit responsibility, coverage, and liability between them; and
2. The Director does not notify the existing permittee and the proposed new permittee of the Director's intent to modify, or revoke and reissue the permit. A modification under this subsection may include a minor modification specified in R18-9-B906(B).

Historical Note
New Section made by final rulemaking at 7 A.A.R. 5879, effective December 7, 2001 (Supp. 01-4).

R18-9-B906. Modification, Revocation and Reissuance, and Termination of Individual Permits

A. Permit modification, revocation and reissuance.
1. The Director may modify, or revoke and reissue an individual permit for any of the following reasons:
   a. The Director receives a written request from an interested person;
   b. The Director receives information, such as when inspecting a facility;
   c. The Director receives a written request to modify, or revoke and reissue a permit from a permittee as required in the individual permit; or
   d. After review of a permit file, the Director determines one or more of the causes listed under 40 CFR 122.62(a) or (b) exists.
      i. If the Director decides a written request is not justified under 40 CFR 122.62 or subsection (B), the Director shall send the requester a brief written response giving a reason for the decision.
      ii. The denial of a request for modification, or revocation and reissuance is not subject to public notice, comment, or hearing under R18-9-A907 and R18-9-A908(A) and (B).
2. If the Director tentatively decides to modify, or revoke and reissue an individual permit, the Director shall prepare a draft permit incorporating the proposed changes. The Director may request additional information and, in the case of a modified permit, may require the submission of an updated application.
   a. Modified individual permit. The Director shall reopen only the modified conditions when preparing a new draft permit and process the modifications.
   b. Revoked and reissued individual permit.
      i. The permittee shall submit a new application.
      ii. The Director shall reopen the entire permit just as if the permit had expired and was being reissued.
3. During any modification, or revocation and reissuance proceeding, the permittee shall comply with all conditions of the existing permit until a new final permit is issued.

B. Minor modifications.
1. Upon consent of the permittee, the Director may make any of the following modifications to an individual permit:
   a. Correct typographical errors;
   b. Update a permit condition that changed as a result of updating an Arizona water quality standard;
   c. Require more frequent monitoring or reporting by the permittee;
   d. Change an interim compliance date in a schedule of compliance, provided the new date is not more than 120 days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement;
   e. Allow for a change in ownership or operational control of a facility, if no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees has been submitted to the Director;
   f. Change the construction schedule for a new source discharger. The change shall not affect a discharger's obligation to have all pollution control equipment installed and in operation before the discharge;
   g Delete a point source outfall if the discharge from that outfall is terminated and does not result in a discharge of pollutants from other outfalls except under permit limits;
   h. Incorporate conditions of a POTW pretreatment program approved under 40 CFR 403.11 and 40 CFR 403.18, which is incorporated by reference in R18-9-A905(A)(7)(b) as enforceable conditions of the permit, and
   i. Annex an area by a municipality.
2. Any modification processed under subsection (B)(1) is not subject to the public notice provision under R18-9-A907 or public participation procedures under R18-9-A908.

C. Permit termination.
1. The Director may terminate an individual permit during its term or deny reissuance of a permit for any of the following causes:
   a. The permittee's failure to comply with any condition of the permit;
   b. The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant fact;
   c. The Director determined that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination; or
   d. A change occurs in any condition that requires either a temporary or permanent reduction or elimination of any discharge, sludge use, or disposal practice controlled by the permit, for example, a plant closure or termination of discharge by connection to a POTW.
2. If the Director terminates a permit during its term or denies a permit renewal application for any cause listed in subsection (C)(1), the Director shall issue a Notice of Intent to Terminate, except when the entire discharge is terminated.
   a. Unless the permittee objects to the termination notice within 30 days after the notice is sent, the termination is final at the end of the 30 days.
   b. If the permittee objects to the termination notice, the permittee shall respond in writing to the Director within 30 days after the notice is sent.
   c. Expedited permit termination. If a permittee requests an expedited permit termination procedure, the permittee shall certify that the permittee is not subject to any pending state or federal enforcement actions, including citizen suits brought under state or federal law.
   d. The denial of a request for termination is not subject to public notice, comment, or hearing under R18-9-A907 and R18-9-A908(A) and (B).

Historical Note
New Section made by final rulemaking at 7 A.A.R. 5879, effective December 7, 2001 (Supp. 01-4).

R18-9-B907. Individual Permit Variances

A. The Director may grant or deny a request for any of the following variances:

1. An extension under section 301(i) of the Clean Water Act (33 U.S.C. 1311) based on a delay in completion of a POTW;
2. After consultation with EPA, an extension under section 301(k) of the Clean Water Act (33 U.S.C. 1311) based on the use of innovative technology;
3. A variance under section 316(a) of the Clean Water Act (33 U.S.C. 1326) for thermal pollution, or
4. A variance under R18-11-122 for a water quality standard.

B. The Director may deny, forward to EPA with a written concurrence, or submit to EPA without recommendation a completed request for:
1. A variance based on the economic capability of the applicant under section 301(c) of the Clean Water Act (33 U.S.C. 1311); or
2. A variance based on water quality related effluent limitations under 302(b)(2) (33 U.S.C. 1312) of the Clean Water Act.

C. The Director may deny or forward to EPA with a written concurrence a completed request for:
1. A variance based on the presence of fundamentally different factors from those on which an effluent limitations guideline is based; and
2. A variance based upon water quality factors under section 301(g) of the Clean Water Act (33 U.S.C. 1311).

D. If the Department approves a variance under subsection (A) or if EPA approves a variance under subsection (B) or (C), the Director shall prepare a draft permit incorporating the variance. Any public notice of a draft permit for which a variance or modification has been approved or denied shall identify the applicable procedures for appealing the decision.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5879, effective December 7, 2001 (Supp. 01-4).

PART C. GENERAL PERMITS

R18-9-C901. General Permit Issuance

A. The Director may issue a general permit to cover one or more categories of discharges, sludge use, or disposal practices, or facilities within a geographic area corresponding to existing geographic or political boundaries, if the sources within a covered category of discharges are either:
1. Stormwater point sources; or
2. One or more categories of point sources other than stormwater point sources, or one or more categories of treatment works treating domestic sewage, if the sources, or treatment works treating domestic sewage, within each category all:
   a. Involve the same or substantially similar types of operations;
   b. Discharge the same types of wastes or engage in the same types of sludge use or disposal practices;
   c. Require the same effluent limitations, operating conditions, or standards for sludge use or disposal;
   d. Require the same or similar monitoring; and
   e. Are more appropriately controlled under a general permit than under an individual permit.

B. Any person seeking coverage under a general permit issued under subsection (A) shall submit a Notice of Intent on a form provided by the Department within the time-frame specified in the general permit unless exempted under the general permit as provided in subsection (C)(2). The person shall not discharge before the time specified in the general permit unless the discharge is authorized by another permit.

C. Exemption from filing a Notice of Intent.
1. The following dischargers are not exempt from submitting a Notice of Intent:
   a. A discharge from a POTW;
   b. A combined sewer overflow;
   c. A MS4;
   d. A primary industrial facility;
   e. A stormwater discharge associated with industrial activity;
   f. A CAFO;
   g. A treatment works treating domestic sewage; and
   h. A stormwater discharge associated with construction activity.
2. For dischargers not listed in subsection (C)(1), the Director may consider a Notice of Intent inappropriate for the discharge and authorize the discharge under a general permit without a Notice of Intent. In making this finding, the Director shall consider:
   a. The type of discharge,
   b. The expected nature of the discharge,
   c. The potential for toxic and conventional pollutants in the discharge,
   d. The expected volume of the discharge,
   e. Other means of identifying the discharges covered by the permit, and
   f. The estimated number of discharges covered by the permit.
3. The Director shall provide reasons for not requiring a Notice of Intent for a general permit in the public notice.

D. Notice of Intent. The Director shall specify the contents of the Notice of Intent in the general permit and the applicant shall submit information sufficient to establish coverage under the general permit, including, at a minimum:
1. The name, position, address, and telephone number of the owner of the facility;
2. The name, position, address, and telephone number of the operator of the facility, if different from subsection (D)(1);
3. The name and address of the facility;
4. The type and location of the discharge;
5. The receiving streams;
6. The latitude and longitude of the facility;
7. For a CAFO, the information specified in 40 CFR 122.21(i)(1) and a topographic map;
8. The signature of the certifying official required under 40 CFR 122.22; and
9. Any other information necessary to determine eligibility for the AZPDES general permit.

E. The general permit shall contain:
1. The expiration date; and
2. The appropriate permit requirements, permit conditions, and best management practices, and measurable goals for MS4 general permits, under R18-9-A905(A)(1), R18-9-A905(A)(2), and R18-9-A905(A)(3) and determined by the Director as necessary and appropriate for the protection of navigable waters.

F. The Department shall inform a permittee if EPA requests the permittee's Notice of Intent, unless EPA requests that the permittee not be notified.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5879, effective December 7, 2001 (Supp. 01-4). Amended by final rulemaking at 9 A.A.R. 5564, effective February 2, 2004 (Supp. 03-4).

R18-9-C902. Required and Requested Coverage Under an Individual Permit

A. Individual permit requirements.
1. The Director may require a person authorized by a general permit to apply for and obtain an individual permit for any of the following cases:
   a. A discharger or treatment works treating domestic sewage is not in compliance with the conditions of the general permit;
   b. A change occurs in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source or treatment works treating domestic sewage;
   c. Effluent limitation guidelines are promulgated for point sources covered by the general permit;
   d. An Arizona Water Quality Management Plan containing requirements applicable to the point sources is approved;
   e. Circumstances change after the time of the request to be covered so that the discharger is no longer appropriately controlled under the general permit, or either a temporary or permanent reduction or elimination of the authorized discharge is necessary;
   f. Standards for sewage sludge use or disposal are promulgated for the sludge use and disposal practices covered by the general permit; or
   g. If the Director determines that the discharge is a significant contributor of pollutants. When making this determination, the Director shall consider:
      i. The location of the discharge with respect to navigable waters,
      ii. The size of the discharge,
      iii. The quantity and nature of the pollutants discharged to navigable waters, and
      iv. Any other relevant factor.
2. If an individual permit is required, the Director shall notify the discharger in writing of the decision. The notice shall include:
   a. A brief statement of the reasons for the decision,
   b. An application form,
   c. A statement setting a deadline to file the application,
   d. A statement that on the effective date of issuance or denial of the individual permit, coverage under the general permit will automatically terminate,
   e. The applicant's right to appeal the individual permit requirement with the Water Quality Appeals Board under A.R.S. § 49-323, the number of days the applicant has to file a protest challenging the individual permit requirement, and the name and telephone number of the Department contact person who can answer questions regarding the appeals process; and
   f. The applicant's right to request an informal settlement conference under A.R.S. §§ 41-1092.03(A) and 41-1092.06.
3. The discharger shall apply for a permit within 90 days of receipt of the notice, unless the Director grants a later date. In no case shall the deadline be more than 180 days after the date of the notice.
4. If the permittee fails to submit the individual permit application within the time period established in subsection (A)(3), the applicability of the general permit to the permittee is automatically terminated at the end of the day specified by the Director for application submittal.
5. Coverage under the general permit shall continue until an individual permit is issued unless the permit coverage is terminated under subsection (A)(4).

B. Individual permit request.
1. An owner or operator authorized by a general permit may request an exclusion from coverage of a general permit by applying for an individual permit.
   a. The owner or operator shall submit an individual permit application under R18-9-B901(B) and include the reasons supporting the request no later than 90 days after publication of the general permit.
   b. The Director shall grant the request if the reasons cited by the owner or operator are adequate to support the request.
2. If an individual permit is issued to an owner or operator otherwise subject to a general permit, the applicability of the general permit to the discharge is automatically terminated on the effective date of the individual permit.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5879, effective December 7, 2001 (Supp. 01-4).

R18-9-C903. General Permit Duration, Reissuance, and Continuation

A. General permit duration.
1. An AZPDES general permit is effective for a fixed term of not more than five years. The Director may issue a permit for a duration that is less than the full allowable term.
2. If the Director does not reissue a general permit before the expiration date, the current general permit will be administratively continued and remain in force and effect until the general permit is reissued.

B. Continued coverage. Any permittee granted permit coverage before the expiration date automatically remains covered by the continued permit until the earlier of:
1. Reissuance or replacement of the permit, at which time the permittee shall comply with the Notice of Intent conditions of the new permit to maintain authorization to discharge; or
2. The date the permittee has submitted a Notice of Termination; or
3. The date the Director has issued an individual permit for the discharge; or
4. The date the Director has issued a formal permit decision not to reissue the general permit, at which time the permittee shall seek coverage under an alternative general permit or an individual permit.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5879, effective December 7, 2001 (Supp. 01-4).

R18-9-C904. Change of Ownership or Operator Under a General Permit

If a change of ownership or operator occurs for a facility operating under a general permit:
1. Permitted owner or operator. The permittee shall provide the Department with a Notice of Termination by certified mail within 30 days after the new owner or operator assumes responsibility for the facility.
   a. The Notice of Termination shall include all requirements for termination specified in the general permit for which the Notice of Termination is submitted.
   b. A permittee shall comply with the permit conditions specified in the general permit for which the Notice of Termination is submitted until the Notice of Termination is received by the Department.
2. New owner or operator.
   a. The new owner or operator shall complete and file a Notice of Intent with the Department within the time period specified in the general permit before taking

over operational control of, or initiation of activities at, the facility.

b. If the previous permittee was required to implement a stormwater pollution prevention plan, the new owner shall develop a new stormwater pollution prevention plan, or may modify, certify, and implement the old stormwater pollution prevention plan if the old stormwater pollution prevention plan complies with the requirements of the current general permit.

c. The permittee shall provide the Department with a Notice of Termination if a permitted facility ceases operation, ceases to discharge, or changes operator status. In the case of a construction site, the permittee shall submit a Notice of Termination to the Department when:

i. The facility ceases construction operations and the discharge is no longer associated with construction or construction-related activities,

ii. The construction is complete and final site stabilization is achieved, or

iii. The operator's status changes.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5879, effective December 7, 2001 (Supp. 01-4).

R18-9-C905. General Permit Modification and Revocation and Reissuance

A. The Director may modify or revoke a general permit issued under R18-9-A907(B), R18-9-A908, and R18-9-C901 if one or more of the causes listed under 40 CFR 122.62(a) or (b) exists.

B. The Director shall follow the procedures specified in R18-9-A907(B) and R18-9-A908 to modify or revoke and reissue a general permit.

Historical Note

New Section made by final rulemaking at 9 A.A.R. 5564, effective February 2, 2004 (Supp. 03-4).

PART D. ANIMAL FEEDING OPERATIONS AND CONCENTRATED ANIMAL FEEDING OPERATIONS

R18-9-D901. CAFO Designations

A. Two or more animal feeding operations under common ownership are considered a single animal feeding operation if they adjoin each other or if they use a common area or system for the disposal of wastes.

B. The Director shall designate an animal feeding operation as a CAFO if the animal feeding operation significantly contributes a pollutant to a navigable water. The Director shall consider the following factors when making this determination:

1. The size of the animal feeding operation and the amount of wastes reaching a navigable water;
2. The location of the animal feeding operation relative to a navigable water;
3. The means of conveyance of animal wastes and process wastewaters into a navigable water;
4. The slope, vegetation, rainfall, and any other factor affecting the likelihood or frequency of discharge of animal wastes and process wastewaters into a navigable water; and
5. Any other relevant factor.

C. The Director shall conduct an onsite inspection of the animal feeding operation before the making a designation under subsection (B).

D. The Director shall not designate an animal feeding operation having less than the number of animals established in R18-9-A901(19)(a) as a CAFO unless a pollutant is discharged:

1. Into a navigable water through a manmade ditch, flushing system, or other similar manmade device; or
2. Directly into a navigable water that originates outside of and passes over, across, or through the animal feeding operation or otherwise comes into direct contact with the animals confined in the operation.

E. If the Director makes a designation under subsection (B), the Director shall notify the owner or operator of the operation, in writing, of the designation.

Historical Note

New Section made by final rulemaking at 9 A.A.R. 5564, effective February 2, 2004 (Supp. 03-4).

R18-9-D902. AZPDES Permit Coverage Requirements

A. Any person who owns or operates a CAFO, except as provided in subsections (B) and (C), shall submit an application for an individual permit under R18-9-B901(B) or seek coverage under a general permit under R18-9-C901(B) within the applicable deadline specified in R18-9-D904(A).

B. If a person who owns or operates a large CAFO receives a no potential to discharge determination under R18-9-D903, coverage under an AZPDES permit described in this Part is not required.

C. The discharge of manure, litter, or process wastewater to a navigable water from a CAFO as a result of the application of manure, litter, or process wastewater by the CAFO to land areas under its control is subject to AZPDES permit requirements, except where it is an agricultural stormwater discharge as provided in section 502(14) of the Clean Water Act (33 U.S.C. 1362(14)). For purposes of this Section, an "agricultural stormwater discharge" means a precipitation-related discharge of manure, litter, or process wastewater from land areas under the control of a CAFO when the person who owns or operates the CAFO has applied the manure, litter, or process wastewater according to site-specific nutrient management practices to ensure appropriate agricultural use of the nutrients in the manure, litter, or process wastewater, as specified under 40 CFR 122.42(e)(1)(vi) through (ix).

Historical Note

New Section made by final rulemaking at 9 A.A.R. 5564, effective February 2, 2004 (Supp. 03-4).

R18-9-D903. No Potential To Discharge Determinations for Large CAFOs

A. For purposes of this Section, "no potential to discharge" means that there is no potential for any CAFO manure, litter, or process wastewater to enter into a navigable water under any circumstance or climatic condition.

B. Any person who owns or operates a large CAFO and has not had a discharge within the previous five years may request a no potential to discharge determination by submitting to the Department:

1. The information specified in 40 CFR 122.21(f) and 40 CFR 122.21(i)(1)(i) through (ix) on a form obtained from the Department, by the applicable date specified in R18-9-D904(A); and
2. Any additional information requested by the Director to supplement the request or requested through an onsite inspection of the CAFO.

C. Process for making a no potential to discharge determination.

1. Upon receiving a request under subsection (B), the Director shall consider:

a. The potential for discharges from both the production area and any land application area, and

b. Any record of prior discharges by the CAFO.

2. The Director shall issue a public notice that includes:

a. A statement that a no potential to discharge request has been received;
b. A fact sheet, when applicable;
c. A brief description of the type of facility or activity that is the subject of the no potential to discharge determination;
d. A brief summary of the factual basis, upon which the request is based, for granting the no potential to discharge determination; and
e. A description of the procedures for reaching a final decision on the no potential to discharge determination.

3. The Director shall base the decision to grant a no potential to discharge determination on the administrative record, which includes all information submitted in support of a no potential to discharge determination and any other supporting data gathered by the Director.
4. The Director shall notify the owner or operator of the large CAFO of the final determination within 90 days of receiving the request.

D. If the Director determines that the operation has the potential to discharge, the person who owns or operates the CAFO shall seek coverage under an AZPDES permit within 30 days after the determination of potential to discharge.

E. A no potential to discharge determination does not relieve the CAFO from the consequences of a discharge. An unpermitted CAFO discharging a pollutant into a navigable water is in violation of the Clean Water Act even if the Director issues a no potential to discharge determination for the facility. If the Director issues a determination of no potential to discharge to a CAFO facility but the owner or operator anticipates a change in circumstances that could create the potential for a discharge, the owner or operator shall contact the Director and apply for and obtain permit authorization before the change of circumstances.

F. When the Director issues a determination of no potential to discharge, the Director retains the authority to subsequently require AZPDES permit coverage if:
1. Circumstances at the facility change;
2. New information becomes available; or
3. The Director determines, through other means, that the CAFO has a potential to discharge.

Historical Note

New Section made by final rulemaking at 9 A.A.R. 5564, effective February 2, 2004 (Supp. 03-4).

R18-9-D904. AZPDES Permit Coverage Deadlines

A. Any person who owns or operates a CAFO shall apply for or seek coverage under an AZPDES permit and shall comply with all applicable AZPDES requirements, including the duty to maintain permit coverage under subsection (C).
1. Permit coverage deadline for an animal feeding operation operating before April 14, 2003.
a. An owner or operator of an animal feeding operation that operated before April 14, 2003 and was defined as a CAFO before February 2, 2004 shall apply for or seek permit coverage or maintain permit coverage and comply with the conditions of the applicable AZPDES permit;
b. An owner or operator of an animal feeding operation that operated before April 14, 2003 and was not defined as a CAFO until February 2, 2004 shall apply for or seek permit coverage by a date specified by the Director, but no later than February 13, 2006;
c. An owner or operator of an animal feeding operation that operated before April 14, 2003 who changes the operation on or after February 2, 2004, resulting in the operation being defined as a CAFO, shall apply for or seek permit coverage as soon as possible, but no later than 90 days after the operational change. If the operational change will not make the operation a CAFO as defined before February 2, 2004, the owner or operator may take until April 13, 2006 or 90 days after the operation is defined as a CAFO, whichever is later, to apply for or seek permit coverage;
d. An owner or operator of an animal feeding operation that operated before April 14, 2003 who constructs additional facilities on or after February 2, 2004, resulting in the operation being defined as a CAFO that is a new source, shall apply for or seek permit coverage at least 180 days before the new source portion of the CAFO commences operation. If the calculated 180-day deadline occurs before February 2, 2004 and the operation is not subject to this Article before February 2, 2004, the owner or operator shall apply for or seek permit coverage no later than March 3, 2004.
2. Permit coverage deadline for an animal feeding operation operating on or after April 14, 2003. An owner or operator who started construction of a CAFO on or after April 14, 2003, including a CAFO subject to the effluent limitations guidelines in 40 CFR 412, shall apply for or seek permit coverage at least 180 days before the CAFO commences operation. If the calculated 180-day deadline occurs before February 2, 2004 and the operation is not subject to this Article before February 2, 2004, the owner or operator shall apply for or seek permit coverage no later than March 3, 2004.
3. Permit coverage deadline for a designated CAFO. Any person who owns or operates a CAFO designated under R18-9-D901(B) shall apply for or seek permit coverage no later than 90 days after receiving a designation notice.

B. Unless specified under R18-9-D903(E) and (F), the Director shall not require permit coverage for a CAFO that the Director determines under R18-9-D903 to have no potential to discharge. If circumstances change at a CAFO that has a no potential to discharge determination and the CAFO now has a potential to discharge, the person who owns or operates the CAFO shall notify the Director within 30 days after the change in circumstances and apply for or seek coverage under an AZPDES permit.

C. Duty to maintain permit coverage.
1. The permittee shall:
a. If covered by an individual AZPDES permit, submit an application to renew the permit no later than 180 days before the expiration of the permit under R18-9-B904(B); or
b. If covered by a general AZPDES permit, comply with R18-9-C903(B).
2. Continued permit coverage or reapplication for a permit is not required if:
a. The facility ceases operation or is no longer a CAFO; and
b. The permittee demonstrates to the Director that there is no potential for a discharge of remaining manure, litter, or associated process wastewater (other than agricultural stormwater from land application areas) that was generated while the operation was a CAFO.

Historical Note

New Section made by final rulemaking at 9 A.A.R. 5564,

effective February 2, 2004 (Supp. 03-4).

R18-9-D905. Closure Requirements

A. Closure.

1. A person who owns or operates a CAFO shall notify the Department of the person's intent to cease operations without resuming an activity for which the facility was designed or operated.
2. A person who owns or operates a CAFO shall submit a closure plan to the Department for approval 90 days before ceasing operation. The closure plan shall describe:
   a. For operations that met the "no potential to discharge" under R18-9-D903, facility-related information based on the Notice of Termination form for the applicable general permit;
   b. The approximate quantity of manure, process wastewater, and other materials and contaminants to be removed from the facility;
   c. The destination of the materials to be removed from the facility and documentation that the destination is approved to accept the materials;
   d. The method to treat any material remaining at the facility;
   e. The method to control the discharge of pollutants from the facility;
   f. Any limitations on future land or water use created as a result of the facility's operations or closure activities;
   g. A schedule for implementing the closure plan; and
   h. Any other relevant information the Department determines necessary.

B. The owner or operator shall provide the Department with written notice that a closure plan has been fully implemented within 30 calendar days of completion and before redevelopment.

Historical Note

New Section made by final rulemaking at 9 A.A.R. 5564, effective February 2, 2004 (Supp. 03-4).

ARTICLE 10. ARIZONA POLLUTANT DISCHARGE ELIMINATION SYSTEM - DISPOSAL, USE, AND TRANSPORTATION OF BIOSOLIDS

R18-9-1001. Definitions

In addition to the definitions in A.R.S. § 49-255 and R18-9-A901, the following terms apply to this Article:

1. "Aerobic digestion" means the biochemical decomposition of organic matter in biosolids into carbon dioxide and water by microorganisms in the presence of air.
2. "Agronomic rate" means the whole biosolids application rate on a dry-weight basis that meets the following conditions:
   a. The amount of nitrogen needed by existing vegetation or a planned or actual crop has been provided, and
   b. The amount of nitrogen that passes below the root zone of the crop or vegetation is minimized.
3. "Anaerobic digestion" means the biochemical decomposition of organic matter in biosolids into methane gas and carbon dioxide by microorganisms in the absence of air.
4. "Annual biosolids application rate" means the maximum amount of biosolids (dry-weight basis) that can be applied to an acre or hectare of land during a 365-day period.
5. "Annual pollutant loading rate" means the maximum amount of a pollutant that can be applied to an acre or hectare of land during a 365-day period.
6. "Applicator" means a person who arranges for and controls the site-specific land application of biosolids in Arizona.
7. "Biosolids" means sewage sludge, including exceptional quality biosolids, that is placed on, or applied to the land to use the beneficial properties of the material as a soil amendment, conditioner, or fertilizer. Biosolids do not include any of the following:
   a. Sludge determined to be hazardous under A.R.S. Title 49, Chapter 5, Article 2 and 40 CFR 261;
   b. Sludge with a concentration of polychlorinated biphenyls (PCBs) equal to or greater than 50 milligrams per kilogram of total solids (dry-weight basis);
   c. Grit (for example, sand, gravel, cinders, or other materials with a high specific gravity) or screenings generated during preliminary treatment of domestic sewage by a treatment works;
   d. Sludge generated during the treatment of either surface water or groundwater used for drinking water;
   e. Sludge generated at an industrial facility during the treatment of industrial wastewater, including industrial wastewater combined with domestic sewage;
   f. Commercial septage, industrial septage, or domestic septage combined with commercial or industrial septage; or
   g. Special wastes as defined and controlled under A.R.S. Title 49, Chapter 4, Article 9.
8. "Bulk biosolids" means biosolids that are transported and land-applied in a manner other than in a bag or other container holding biosolids of 1.102 short tons or 1 metric ton or less.
9. "Class I sludge management facility" means any POTW identified under 40 CFR 403.8(a) as being required to have an approved pretreatment program (including a POTW for which the Department assumes local program responsibilities under 40 CFR 403.10(e)) and any other treatment works treating domestic sewage classified as a Class I sludge management facility by the regional administrator in conjunction with the Director or by the Director because of the potential for its sludge use or disposal practices to adversely affect public health or the environment.
10. *"Clean water act" means the federal water pollution control act amendments of 1972, as amended (P.L. 92-500; 86 Stat. 816; 33 United States Code sections 1251 through 1376).* A.R.S. 49-201(6).
11. "Coarse fragments" means rock particles in the gravel-size range or larger.
12. "Coarse or medium sands" means a soil mixture of which more than 50% of the sand fraction is retained on a No. 40 (0.425 mm) sieve.
13. "Cumulative pollutant loading rate" means the maximum amount of a pollutant applied to a land application site.
14. "Domestic septage" means the liquid or solid material removed from a septic tank, cesspool, portable toilet, marine sanitation device, or similar system or device that receives only domestic sewage. Domestic septage does not include commercial or industrial wastewater or restaurant grease-trap wastes.
15. "Domestic sewage" means waste or wastewater from humans or household operations that is discharged to a publicly or privately owned treatment works. Domestic sewage also includes commercial and industrial wastewaters that are discharged into a publicly-owned or privately-owned treatment works if the industrial or

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49-203. Powers and duties of the director and department

A. The director shall:

1. Adopt, by rule, water quality standards in the form and subject to the considerations prescribed by article 2 of this chapter.
2. Adopt, by rule, a permit program that is consistent with but no more stringent than the requirements of the clean water act for the point source discharge of any pollutant or combination of pollutants into navigable waters. The program and the rules shall be sufficient to enable this state to administer the permit program identified in section 402(b) of the clean water act including the sewage sludge requirements of section 405 of the clean water act and as prescribed by article 3.1 of this chapter.
3. Adopt, by rule, a program to control nonpoint source discharges of any pollutant or combination of pollutants into navigable waters.
4. Adopt, by rule, an aquifer protection permit program to control discharges of any pollutant or combination of pollutants that are reaching or may with a reasonable probability reach an aquifer. The permit program shall be as prescribed by article 3 of this chapter.
5. Adopt, by rule, the permit program for underground injection control described in the safe drinking water act.
6. Adopt, by rule, technical standards for conveyances of reclaimed water and a permit program for the direct reuse of reclaimed water.
7. Adopt, by rule or as permit conditions, such discharge limitations, best management practice standards, new source performance standards, toxic and pretreatment standards and such other standards and conditions as are reasonable and necessary to carry out the permit programs and regulatory duties described in paragraphs 2 through 5 of this subsection.
8. Assess and collect fees to revoke, issue, deny, modify or suspend permits issued pursuant to this chapter and to process permit applications. The director may also assess and collect costs reasonably necessary if the director must conduct sampling or monitoring relating to a facility because the owner or operator of the facility has refused or failed to do so on order by the director. The director shall set fees that are reasonably related to the department's costs of providing the service for which the fee is charged. State agencies are exempt from all fees imposed pursuant to this chapter. Monies collected from aquifer protection permit fees and from Arizona pollutant discharge elimination system permit fees shall be deposited, pursuant to sections 35-146 and 35-147, in the water quality fee fund established by section 49-210. Monies from other permit fees shall be deposited, pursuant to sections 35-146 and 35-147, in the water quality fee fund unless otherwise provided by law. Monies paid by an applicant for review by consultants for the department pursuant to section 49-241.02, subsection D, shall be deposited, pursuant to sections 35-146 and 35-147, in the water quality fee fund established by section 49-210.
9. Adopt, modify, repeal and enforce other rules that are reasonably necessary to carry out the director's functions under this chapter.
10. Require monitoring at an appropriate point of compliance for any organic or inorganic pollutant listed under section 49-243, subsection I if the director has reason to suspect the presence of the pollutant in a discharge.
11. Adopt rules establishing what constitutes a significant increase or adverse alteration in the characteristics or volume of pollutants discharged for purposes of determining what constitutes a major modification to an existing facility under the definition of new facility pursuant to section 49-201. Before the adoption of these rules, the director shall determine whether a change at a particular facility results in a significant increase or adverse alteration in the characteristics or

volume of pollutants discharged on a case by case basis, taking into account site conditions and operational factors.

B. The director may:
   1. On presentation of credentials, enter into, on or through any public or private property from which a discharge has occurred, is occurring or may occur or on which any disposal, land application of sludge or treatment regulated by this chapter has occurred, is occurring or may be occurring and any public or private property where records relating to a discharge or records that are otherwise required to be maintained as prescribed by this chapter are kept, as is reasonably necessary to ensure compliance with this chapter. The director or a department employee may take samples, inspect and copy records required to be maintained pursuant to this chapter, inspect equipment, activities, facilities and monitoring equipment or methods of monitoring, take photographs and take other action reasonably necessary to determine the application of, or compliance with, this chapter. The owner or managing agent of the property shall be afforded the opportunity to accompany the director or department employee during inspections and investigations, but prior notice of entry to the owner or managing agent is not required if reasonable grounds exist to believe that such notice would frustrate the enforcement of this chapter. If the director or department employee obtains any samples before leaving the premises, the director or department employee shall give the owner or managing agent a receipt describing the samples obtained and a portion of each sample equal in volume or weight to the portion retained. If an analysis is made of samples, or monitoring and testing are performed, a copy of the results shall be furnished promptly to the owner or managing agent.
   2. Require any person who has discharged, is discharging or may discharge into the waters of the state under article 3 or 3.1 of this chapter and any person who is subject to pretreatment standards and requirements or sewage sludge use or disposal requirements under article 3.1 of this chapter to collect samples, to establish and maintain records, including photographs, and to install, use and maintain sampling and monitoring equipment to determine the absence or presence and nature of the discharge or indirect discharge or sewage sludge use or disposal.
   3. Administer state or federal grants, including grants to political subdivisions of this state, for the construction and installation of publicly and privately owned pollutant treatment works and pollutant control devices and establish grant application priorities.
   4. Develop, implement and administer a water quality planning process, including a ranking system for applicant eligibility, wherein appropriated state monies and available federal monies are awarded to political subdivisions of this state to support or assist regional water quality planning programs and activities.
   5. Enter into contracts and agreements with the federal government to implement federal environmental statutes and programs.
   6. Enter into intergovernmental agreements pursuant to title 11, chapter 7, article 3 if the agreement is necessary to more effectively administer the powers and duties described in this chapter.
   7. Participate in, conduct and contract for studies, investigations, research and demonstrations relating to the causes, minimization, prevention, correction, abatement, mitigation, elimination, control and remedy of discharges and collect and disseminate information relating to discharges.
   8. File bonds or other security as required by a court in any enforcement actions under article 4 of this chapter.

C. Subject to section 38-503 and other applicable statutes and rules, the department may contract with a private consultant for the purposes of assisting the department in reviewing aquifer protection permit applications and on-site wastewater treatment facilities to determine whether a facility meets the criteria and requirements of this chapter and the rules adopted by the director. Except as provided in section 49-241.02, subsection D, the department shall not use a private consultant if the fee charged for that service would be greater than the fee the department would charge to provide that service. The department shall pay the consultant for the services rendered by the consultant from fees paid by the applicant or facility to the department pursuant to subsection A, paragraph 8 of this section.

D. The director shall integrate all of the programs authorized in this section and such other programs affording water quality protection that are administered by the department for purposes of administration and enforcement and shall avoid duplication and dual permitting to the maximum extent practicable.

49-255.01. Arizona pollutant discharge elimination system program; rules and standards; affirmative defense; fees; exemption from termination

A. A person shall not discharge except under either of the following conditions:
   1. In conformance with a permit that is issued or authorized under this article.
   2. Pursuant to a permit that is issued or authorized by the United States environmental protection agency until a permit that is issued or authorized under this article takes effect.

B. The director shall adopt rules to establish an AZPDES permit program consistent with the requirements of sections 402(b) and 402(p) of the clean water act. This program shall include requirements to ensure compliance with section 307 and requirements for the control of discharges consistent with sections 318 and 405(a) of the clean water act. The director shall not adopt any requirement that is more stringent than or conflicts with any requirement of the clean water act. The director may adopt federal rules pursuant to section 41-1028 or may adopt rules to reflect local environmental conditions to the extent that the rules are consistent with and no more stringent than the clean water act and this article.

C. The rules adopted by the director shall provide for:
   1. Issuing, authorizing, denying, modifying, suspending or revoking individual or general permits.
   2. Establishment of permit conditions, discharge limitations and standards of performance as prescribed by section 49-203, subsection A, paragraph 7, including case by case effluent limitations that are developed in a manner consistent with 40 Code of Federal Regulations section 125.3(c).
   3. Modifications and variances as allowed by the clean water act.
   4. Other provisions necessary for maintaining state program authority under section 402(b) of the clean water act.

D. Nothing in this article affects the validity of any existing rules that are adopted by the director and that are equivalent to and consistent with the national pollutant discharge elimination system program authorized under section 402 of the clean water act until new rules for AZPDES discharges are adopted pursuant to this article.

E. An upset constitutes an affirmative defense to any administrative, civil or criminal enforcement action brought for noncompliance with technology-based permit discharge limitations if the permittee complies with all of the following:
   1. The permittee demonstrates through properly signed contemporaneous operating logs or other relevant evidence that:
   (a) An upset occurred and that the permittee can identify the specific cause of the upset.
   (b) The permitted facility was being properly operated at the time of the upset.
   (c) If the upset causes the discharge to exceed any discharge limitation in the permit, the permittee submitted notice to the department within twenty-four hours of the upset.
   (d) The permittee has taken appropriate remedial measures including all reasonable steps to minimize or prevent any discharge or sewage sludge use or disposal that is in violation of the permit and that has a reasonable likelihood of adversely affecting human health or the environment.
   2. In any administrative, civil or criminal enforcement action, the permittee shall prove, by a preponderance of the evidence, the occurrence of an upset condition.

F. Compliance with a permit issued pursuant to this article shall be deemed compliance with both of the following:
   1. All requirements in this article or rules adopted pursuant to this article relating to state implementation of sections 301, 302, 306 and 307 of the clean water act, except for any standard

that is imposed under section 307 of the clean water act for a toxic pollutant that is injurious to human health.

2. Limitations for pollutants in navigable waters adopted pursuant to sections 49-221 and 49-222, if the discharge of the pollutant is specifically limited in a permit issued pursuant to this article or the pollutant was specifically identified as present or potentially present in facility discharges during the application process for the permit.

G. Notwithstanding section 49-203, subsection D, permits that are issued under this article shall not be combined with permits issued under article 3 of this chapter.

H. The decision of the director to issue or modify a permit takes effect on issuance if there were no changes requested in comments that were submitted on the draft permit unless a later effective date is specified in the decision. In all other cases, the decision of the director to issue, deny, modify, suspend or revoke a permit takes effect thirty days after the decision is served on the permit applicant, unless either of the following applies:

1. Within the thirty day period, an appeal is filed with the water quality appeals board pursuant to section 49-323.
2. A later effective date is specified in the decision.

I. In addition to other reservations of rights provided by this chapter, nothing in this article shall impair or affect rights or the exercise of rights to water claimed, recognized, permitted, certificated, adjudicated or decreed pursuant to state or other law.

J. Only for a one-time rule making after the effective date of this amendment to this section, the director shall establish by rule fees, including maximum fees, for processing, issuing and denying an application for a permit pursuant to this section. After the one-time rule making, the director shall not increase those fees by rule without specific statutory authority for the increase. Monies collected pursuant to this section shall be deposited, pursuant to sections 35-146 and 35-147, in the water quality fee fund established by section 49-210.

K. Any permit conditions concerning threatened or endangered species shall be limited to those required by the endangered species act.

L. This program is exempt from section 41-3102.

49-255.02. Pretreatment program; rules and standards

A. The director shall adopt rules to establish a pretreatment program that is consistent with the requirements of sections 307, 308 and 402 of the clean water act. The director shall not adopt any requirement that is more stringent than or conflicts with any requirements of the clean water act.

B. The rules adopted by the director shall provide for all of the following:

1. Development or modification of local pretreatment programs by the owners of publicly owned treatment works that discharge or as otherwise required under the clean water act or this article to prevent the use or disposal of sewage sludge produced by a publicly owned treatment works in violation of section 405 of the clean water act or requirements established pursuant to section 49-255.03, subsection A.
2. Approval by the director of new or modified local pretreatment programs or site specific modifications to pretreatment standards.
3. Oversight by the director of local program implementation.

C. The rules adopted by the director shall provide for the department to ensure that any industrial user of any publicly owned treatment works will comply with the requirements of sections 307 and 308 of the clean water act.

DEPARTMENT OF HEALTH SERVICES
Title 9, Chapter 6, Article 6, Communicable Diseases and Infestations

GOVERNOR'S REGULATORY REVIEW COUNCIL
ANALYSIS OF FIVE-YEAR REVIEW REPORT

MEETING DATE: September 6, 2017 **AGENDA ITEM: E-2**

TO: Members of the Governor's Regulatory Review Council ("Council")

FROM: Justin Larson and Shama Thathi

DATE : August 23, 2017

SUBJECT: **DEPARTMENT OF HEALTH SERVICES (F-17-0906)**
Title 9, Chapter 6, Article 6, Communicable Diseases and Infestations

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COMMENTS ON THE FIVE-YEAR-REVIEW REPORT

Purpose of the Agency and Number of Rules in the Report

The purpose of the Department of Health Services (Department) is "to protect the physical and mental health of the people of [Arizona] and to promote the highest standards for licensed health care institutions, emergency services and care facilities for adults and children." Laws 2010, Ch. 8, § 3.

This five-year review report covers one rule in A.A.C. Title 9, Chapter 6, Article 1. R9-6-601 establishes reporting requirements for post-exposure rabies prophylaxis.

Year that Each Rule was Last Amended or Newly Made

The rule was made by final rulemaking in 2008.

Proposed Action

The Department plans to request an exception from the rulemaking moratorium to clarify the rule by: (1) using the same term for the individual receiving post-exposure rabies prophylaxis rather than "patient" in the lead-in; (2) using the term "person exposed" in subsection 1; and (3) correcting a grammatical error. The Department plans to submit a Notice of Final Expedited Rulemaking to the Council by December 31, 2017.

Substantive or Procedural Concerns

None.

Analysis of the agency's report pursuant to criteria in A.R.S. § 41-1056 and R1-6-301:

1. <u>Has the agency certified that it is in compliance with A.R.S. § 41-1091?</u>

Yes. The Department certifies that it is in compliance with A.R.S. § 41-1091.

2. <u>Has the agency analyzed the rules' effectiveness in achieving their objectives?</u>

Yes. The Department indicates that the rule is effective in achieving its objective.

3. <u>Has the agency received any written criticisms of the rules during the last five years, including any written analysis questioning whether the rules are based on valid scientific or reliable principles or methods?</u>

No. The Department indicates that it has not received any written criticisms of the rule.

4. <u>Has the agency analyzed whether the rules are authorized by statute?</u>

Yes. The Department cites A.R.S. §§ 36-132(A)(1), 36-136(A)(7), and 36-136(F) as general statutory authority. Under A.R.S. § 36-136(F), the Department "may make and amend rules necessary for the proper administration and enforcement of the laws relating to the public health." As for specific authority, the Department cites to A.R.S. § 36-136(H)(1), under which the Department is required to "define and prescribe reasonably necessary measures for detecting, reporting, preventing and controlling communicable and preventable diseases."

5. <u>Has the agency analyzed the rules' consistency with other rules and statutes?</u>

Yes. The Department indicates that the rule is consistent with state and federal statutes and rules.

6. <u>Has the agency analyzed the current enforcement status of the rules?</u>

Yes. The Department indicates that the rule is consistently and fairly enforced without difficulty.

7. <u>Has the agency analyzed whether the rules are clear, concise, and understandable?</u>

Yes. The Department indicates that the rule is clear, concise, and understandable but could be made clearer by the proposed actions described above.

8. <u>Has the agency analyzed whether:</u>

a. <u>The rules are more stringent than corresponding federal law?</u>

Yes. The Department indicates that federal law does not apply to the rule.

b. <u>There is statutory authority to exceed the requirements of federal law?</u>

Not applicable.

9. <u>For rules adopted after July 29, 2010, has the agency analyzed whether:</u>

a. <u>The rules require issuance of a regulatory permit, license or agency authorization?</u>

Not applicable. The rule was adopted before July 29, 2010.

b. <u>It is in compliance with the general permit requirements of A.R.S. § 41-1037 or explained why it believes an exception applies?</u>

Not applicable.

10. <u>Has the agency indicated whether it completed the course of action identified in the previous five-year-review report?</u>

Yes. In its previous five-year review report, the Department stated its belief that the rule was sufficient to protect public health and did not plan to amend the rule unless a threat to public health or safety arose. No such threat was identified, and the Department did not amend the rule.

<u>Conclusion</u>

The report meets the requirements of A.R.S. § 41-1056 and R1-6-301. This analyst recommends the report be approved.

GOVERNOR'S REGULATORY REVIEW COUNCIL
M E M O R A N D U M

MEETING DATE: September 6, 2017 **AGENDA ITEM: E-2**

TO: Members of the Governor's Regulatory Review Council ("Council")

FROM: GRRC Economic Team

DATE : August 23, 2017

SUBJECT: **DEPARTMENT OF HEALTH SERVICES (F-17-0906)**
Title 9, Chapter 6, Article 6, Communicable Diseases and Infestations

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The economic analysis team has reviewed the five-year-review report's economic, small business, and consumer impact comparison and makes the following comments.

1. Economic Impact Comparison

Economic, small business, and consumer impact statements (EIS) from the most recent rulemaking was available. The Department estimates that the economic impact of the 2008 rulemaking remains negligible, as anticipated at that time.

In 2016, there were 28 cases of exposures to lab-confirmed rabid animals, representing the minimum number of individuals receiving post-exposure rabies prophylaxis.

2. Has the agency determined that the rules impose the least burden and costs to persons regulated by the rules?

The Department has determined that the rules are mostly effective and impose the least burden and costs to the regulated community. The cost to comply with these rules is minimal and necessary to protect public health and safety.

3. Was an analysis submitted to the agency under A.R.S. § 41-1056(A)(7)?

No analysis was submitted to the agency by another person that compares the rules' impact on this state's business competitiveness to the impact on businesses in other states.

4. Conclusion

After review, staff concludes that the report complies with A.R.S. § 41-1056 and recommends approval.

ARIZONA DEPARTMENT OF HEALTH SERVICES

POLICY & INTERGOVERNMENTAL AFFAIRS

July 20, 2017

RECEIVED
JUL 21 2017
GRRC

Nicole O. Colyer, Esq., Chair
Governor's Regulatory Review Council
Arizona Department of Administration
100 N. 15th Avenue, Suite 305
Phoenix, AZ 85007

RE: Report for A.A.C. Title 9, Chapter 6, Article 6 of Communicable Diseases and Infestations

Dear Ms. Colyer:

According to the five-year-review report schedule of the Governor's Regulatory Review Council (Council), a report for A.A.C. Title 9, Chapter 6, Article 6 is due to the Council no later than November 30, 2017. The Arizona Department of Health Services (Department) has reviewed 9 A.A.C. 6, Article 6 and is enclosing a report to the Council for this rule.

The Department believes that this report complies with the requirements of A.R.S. § 41-1056. A five-year-review summary, information for the individual rule, the rule reviewed, the general and specific authority, and an economic impact statement are included in the package. As described in the report, the Department plans to amend the rule in 9 A.A.C. 6, Article 6 through expedited rulemaking by December 31, 2017.

The Department certifies that it is in compliance with A.R.S. § 41-1091.

If you need any further information, please contact me at (602) 542-1020.

Sincerely,

Robert Lane
Director's Designee

RL:rms
Enclosures

ARIZONA DEPARTMENT
OF HEALTH SERVICES

FIVE-YEAR-REVIEW REPORT

TITLE 9. HEALTH SERVICES

CHAPTER 6. DEPARTMENT OF HEALTH SERVICES

COMMUNICABLE DISEASES AND INFESTATIONS

ARTICLE 6. REPORTING POST-EXPOSURE RABIES PROPHYLAXIS

JULY 2017

FIVE-YEAR-REVIEW REPORT

TITLE 9. HEALTH SERVICES

CHAPTER 6. DEPARTMENT OF HEALTH SERVICES

COMMUNICABLE DISEASES AND INFESTATIONS

ARTICLE 6. REPORTING POST-EXPOSURE RABIES PROPHYLAXIS

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4.	GENERAL AND SPECIFIC AUTHORITY	Attachment B
5.	ECONOMIC IMPACT STATEMENT FOR 2008	Attachment C

FIVE-YEAR-REVIEW SUMMARY

Arizona Revised Statutes (A.R.S.) § 36-136(H)(1) requires the Arizona Department of Health Services (Department) to "define and prescribe reasonably necessary measures for detecting, reporting, preventing and controlling communicable and preventable diseases." The Department has adopted in Arizona Administrative Code (A.A.C.) Title 9, Chapter 6, Article 6 a rule to implement the abovementioned statute with respect to post-exposure rabies prophylaxis reporting. The rule was established in 2008 when post-exposure rabies prophylaxis reporting requirements were moved from R9-6-707(I) to R9-6-601.

After an analysis of the rule in Article 6, the Department has determined that the rule is effective and clear, concise, and understandable, although the rule could be clearer. The Department has received no written criticisms of the rules. However, the Department plans to request an exception from the rulemaking moratorium to clarify the rule as described in this report through expedited rulemaking, submitting a Notice of Final Expedited Rulemaking to the Governor's Regulatory Review Council (Council) by December 31, 2017.

INFORMATION FOR INDIVIDUAL RULE

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

   The rule has A.R.S. §§ 36-132(A)(1), 36-136(A)(7), and 36-136(F) as general authority and A.R.S. § 36-136(H)(1) as specific authority.

2. **The purpose and objective of the rule**

   The purpose and objective of the rule is to establish reporting requirements for post-exposure rabies prophylaxis.

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

   The rule is effective in achieving its objective.

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

   The rule is consistent with state and federal statutes and rules.

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

   The rule is enforced without difficulty by the Department.

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

   The rule is clear, concise, and understandable but could be clearer if the same term for the individual receiving post-exposure rabies prophylaxis were used in the rule, rather than "patient" in the lead-in and "person exposed" in subsection (1), and if a minor grammatical error were corrected.

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

   The Department has not received any written criticisms of the rule in the past five years.

8. **Economic, small business, and consumer impact comparison**

   The rule in 9 A.A.C. 6, Article 6 establishes reporting requirements for post-exposure rabies prophylaxis. In 2016, there were 28 cases of exposures to lab-confirmed rabid animals. So far in 2017, there have been nine cases. These cases represent the minimum number of individuals receiving post-exposure rabies prophylaxis. As part of the 2008 rulemaking for the immunization requirements in 9 A.A.C. 6, Article 7, the Department renumbered the rules in 9 A.A.C. 6, Article 6 to 9 A.A.C. 6, Article 12, and moved requirements for the reporting of post-exposure prophylaxis for rabies from R9-6-707(I) into 9 A.A.C. 6, Article 6 without changing the content. The EIS for the 2008 rulemaking package mentioned the move, but did not assign a cost because the rules were not being changed. Considering that the EIS designated annual cost/revenue changes as minimal when less than $100,000, the Department estimates that the economic effect of moving the rules was negligible.

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

   The Department did not receive a business competitiveness analysis of the rules in the last five years.

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

In the 2012 Five-Year-Review Report, the Department stated that the Department believed the rule was sufficient to protect public health and did not plan to amend the rule unless a threat to public health or safety arose that would require amending the rule. No such threat was identified in the past five years, so the Department adhered to the plan.

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

The Department has determined that the rule in 9 A.A.C. 6, Article 6 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.

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

Federal laws do not apply to the rule in 9 A.A.C. 6, Article 6.

13. **For rules adopted after July 29, 2010 that require the issuance of a regulatory permit, license, or agency authorization, whether the rule complies with section 41-1037**

The rule was adopted before July 29, 2010 and does not require the issuance of a permit, license, or agency authorization.

14. **Proposed course of action**

The Department plans to request an exception from the rulemaking moratorium to clarify the rule as described in this report through expedited rulemaking, submitting a Notice of Final Expedited Rulemaking to the Council by December 31, 2017.

ARTICLE 6. REPORTING POST-EXPOSURE RABIES PROPHYLAXIS

R9-6-601. Reporting Requirements

A physician or an authorized designee, shall submit a written or electronic report to the Department of all patients who receive post-exposure rabies prophylaxis. The report shall include:

1. Name, age, address, and telephone number of the person exposed;
2. Date of report;
3. Reporting institution or physician;
4. Date of exposure;
5. Body part exposed;
6. Type of exposure: Bite or saliva contact (non-bite);
7. Species of animal;
8. Animal disposition: quarantined, euthanized, died, unable to locate;
9. Animal rabies test results if any: positive or negative;
10. Treatment regimen; and
11. Date treatment was initiated.

Statutory Authority for the Rules in 9 A.A.C. 6, Article 6

36-132. Department of health services; functions; contracts

A. The department shall, in addition to other powers and duties vested in it by law:

1. Protect the health of the people of the state.

2. Promote the development, maintenance, efficiency and effectiveness of local health departments or districts of sufficient population and area that they can be sustained with reasonable economy and efficient administration, provide technical consultation and assistance to local health departments or districts, provide financial assistance to local health departments or districts and services that meet minimum standards of personnel and performance and in accordance with a plan and budget submitted by the local health department or districts to the department for approval, and recommend the qualifications of all personnel.

3. Collect, preserve, tabulate and interpret all information required by law in reference to births, deaths and all vital facts, and obtain, collect and preserve information relating to the health of the people of the state and the prevention of diseases as may be useful in the discharge of functions of the department not in conflict with the provisions of chapter 3 of this title, and sections 36-693, 36-694 and 39-122.

4. Operate such sanitariums, hospitals or other facilities assigned to the department by law or by the governor.

5. Conduct a statewide program of health education relevant to the powers and duties of the department, prepare educational materials and disseminate information as to conditions affecting health, including basic information for the promotion of good health on the part of individuals and communities, and prepare and disseminate technical information concerning public health to the health professions, local health officials and hospitals. In cooperation with the department of education, the department of health services shall prepare and disseminate materials and give technical assistance for the purpose of education of children in hygiene, sanitation and personal and public health, and provide consultation and assistance in community organization to counties, communities and groups of people.

6. Administer or supervise a program of public health nursing, prescribe the minimum qualifications of all public health nurses engaged in official public health work, and encourage and aid in coordinating local public health nursing services.

7. Encourage and aid in coordinating local programs concerning control of preventable diseases in accordance with statewide plans that shall be formulated by the department.

8. Encourage and aid in coordinating local programs concerning maternal and child health, including midwifery, antepartum and postpartum care, infant and preschool health and the health of school children, including special fields such as the prevention of blindness and conservation of sight and hearing.

9. Encourage and aid in the coordination of local programs concerning nutrition of the people of the state.

10. Encourage, administer and provide dental health care services and aid in coordinating local programs concerning dental public health, in cooperation with the Arizona dental association. The department may bill and receive payment for costs associated with providing dental health care services and shall deposit the monies in the oral health fund established by section 36-138.

11. Establish and maintain adequate serological, bacteriological, parasitological, entomological and chemical laboratories with qualified assistants and facilities necessary for routine examinations and analyses and for investigations and research in matters affecting public health.

12. Supervise, inspect and enforce the rules concerning the operation of public bathing places and public and semipublic swimming pools adopted pursuant to section 36-136, subsection H, paragraph 10.

13. Take all actions necessary or appropriate to ensure that bottled water sold to the public and water used to process, store, handle, serve and transport food and drink are free from filth, disease-causing substances and organisms and unwholesome, poisonous, deleterious or other foreign substances. All state agencies and local health agencies involved with water quality shall provide to the department any assistance requested by the director to ensure that this paragraph is effectuated.

14. Enforce the state food, caustic alkali and acid laws in accordance with chapter 2, article 2 of this title, chapter 8, article 1 of this title and chapter 9, article 4 of this title, and collaborate in the enforcement of the federal food, drug and cosmetic act of 1938 (52 Stat. 1040; 21 United States Code sections 1 through 905).

15. Recruit and train personnel for state, local and district health departments.

16. Conduct continuing evaluations of state, local and district public health programs, study and appraise state health problems and develop broad plans for use by the department and for recommendation to other agencies, professions and local health departments for the best solution of these problems.

17. License and regulate health care institutions according to chapter 4 of this title.

18. Issue or direct the issuance of licenses and permits required by law.

19. Participate in the state civil defense program and develop the necessary organization and facilities to meet wartime or other disasters.

20. Subject to the availability of monies, develop and administer programs in perinatal health care, including:

(a) Screening in early pregnancy for detecting high risk conditions.

(b) Comprehensive prenatal health care.

(c) Maternity, delivery and postpartum care.

(d) Perinatal consultation, including transportation of the pregnant woman to a perinatal care center when medically indicated.

(e) Perinatal education oriented toward professionals and consumers, focusing on early detection and adequate intervention to avert premature labor and delivery.

21. License and regulate the health and safety of group homes for persons with developmental disabilities. The department shall issue a license to an accredited facility for a period of the accreditation, except that no licensing period shall be longer than three years. The department is authorized to conduct an inspection of an accredited facility to ensure that the facility meets health and safety licensure standards. The results of the accreditation survey shall be public information. A copy of the final accreditation report shall be filed with the department of health services. For the purposes of this paragraph, "accredited" means accredited by a nationally recognized accreditation organization.

B. The department may accept from the state or federal government, or any agency of the state or federal government, and from private donors, trusts, foundations or eleemosynary corporations or organizations grants or donations for or in aid of the construction or maintenance of any program, project, research or facility authorized by this title, or in aid of the extension or enforcement of any program, project or facility authorized, regulated or prohibited by this title, and enter into contracts with the federal government, or an agency of the federal government, and with private donors, trusts, foundations or eleemosynary corporations or organizations, to carry out such purposes. All monies made available under this section are special project grants. The department may also expend these monies to further applicable scientific research within this state.

C. The department, in establishing fees authorized by this section, shall comply with title 41, chapter 6. The department shall not set a fee at more than the department's cost of providing the service for which the fee is charged. State agencies are exempt from all fees imposed pursuant to this section.

D. The department may enter into contracts with organizations that perform nonrenal organ transplant operations and organizations that primarily assist in the management of end stage renal disease and related problems to provide, as payors of last resort, prescription medications necessary to supplement treatment and transportation to and from treatment facilities. The contracts may provide for department payment of administrative costs it specifically authorizes.

36-136. <u>Powers and duties of director; compensation of personnel; rules</u>

A. The director shall:

1. Be the executive officer of the department of health services and the state registrar of vital statistics but shall not receive compensation for services as registrar.

2. Perform all duties necessary to carry out the functions and responsibilities of the department.

3. Prescribe the organization of the department. The director shall appoint or remove personnel as necessary for the efficient work of the department and shall prescribe the duties of all personnel. The director may abolish any office or position in the department that the director believes is unnecessary.

4. Administer and enforce the laws relating to health and sanitation and the rules of the department.

5. Provide for the examination of any premises if the director has reasonable cause to believe that on the premises there exists a violation of any health law or rule of the state.

6. Exercise general supervision over all matters relating to sanitation and health throughout the state. When in the opinion of the director it is necessary or advisable, a sanitary survey of the whole or of any part of the state shall be made. The director may enter, examine and survey any source and means of water supply, sewage disposal plant, sewerage system, prison, public or private place of detention, asylum, hospital, school, public building, private institution, factory, workshop, tenement, public washroom, public restroom, public toilet and toilet facility, public eating room and restaurant, dairy, milk plant or food manufacturing or processing plant, and any premises in which the director has reason to believe there exists a violation of any health law or rule of the state that the director has the duty to administer.

7. Prepare sanitary and public health rules.

8. Perform other duties prescribed by law.

B. If the director has reasonable cause to believe that there exists a violation of any health law or rule of the state, the director may inspect any person or property in transportation through the state, and any car, boat, train, trailer, airplane or other vehicle in which that person or property is transported, and may enforce detention or disinfection as reasonably necessary for the public health if there exists a violation of any health law or rule.

C. The director may deputize, in writing, any qualified officer or employee in the department to do or perform on the director's behalf any act the director is by law empowered to do or charged with the responsibility of doing.

D. The director may delegate to a local health department, county environmental department or public health services district any functions, powers or duties that the director believes can be competently, efficiently and properly performed by the local health department, county environmental department or public health services district if:

1. The director or superintendent of the local health agency, environmental agency or public health services district is willing to accept the delegation and agrees to perform or exercise the functions, powers and duties conferred in accordance with the standards of performance established by the director.

2. Monies appropriated or otherwise made available to the department for distribution to or division among counties or public health services districts for local health work may be allocated or reallocated in a manner designed to ensure the accomplishment of recognized local public health activities and delegated functions, powers and duties in accordance with applicable standards of performance. Whenever in the director's opinion there is cause, the director may terminate all or a part of any delegation and may reallocate all or a part of any funds that may have been conditioned on the further performance of the functions, powers or duties conferred.

E. The compensation of all personnel shall be as determined pursuant to section 38-611.

F. The director may make and amend rules necessary for the proper administration and enforcement of the laws relating to the public health.

G. Notwithstanding subsection H, paragraph 1 of this section, the director may define and prescribe emergency measures for detecting, reporting, preventing and controlling communicable or infectious diseases or conditions if the director has reasonable cause to believe that a serious threat to public health and welfare exists. Emergency measures are effective for no longer than eighteen months.

H. The director, by rule, shall:

1. Define and prescribe reasonably necessary measures for detecting, reporting, preventing and controlling communicable and preventable diseases. The rules shall declare certain diseases reportable. The rules shall prescribe measures, including isolation or quarantine, that are reasonably required to prevent the occurrence of, or to seek early detection and alleviation of, disability, insofar as possible, from communicable or preventable diseases. The rules shall include reasonably necessary measures to control animal diseases transmittable to humans.

2. Define and prescribe reasonably necessary measures, in addition to those prescribed by law, regarding the preparation, embalming, cremation, interment, disinterment and transportation of dead human bodies and the conduct of funerals, relating to and restricted to communicable diseases and regarding the removal, transportation, cremation, interment or disinterment of any dead human body.

3. Define and prescribe reasonably necessary procedures that are not inconsistent with law in regard to the use and accessibility of vital records, delayed birth registration and the completion, change and amendment of vital records.

4. Except as relating to the beneficial use of wildlife meat by public institutions and charitable organizations pursuant to title 17, prescribe reasonably necessary measures to ensure that all food or drink, including meat and meat products and milk and milk products sold at the retail level, provided for human consumption is free from unwholesome, poisonous or other foreign substances and filth, insects or disease-causing organisms. The rules shall prescribe reasonably necessary measures governing the production, processing, labeling, storing, handling, serving and transportation of these products. The rules shall prescribe minimum standards for the sanitary facilities and conditions that shall be maintained in any warehouse, restaurant or other premises, except a meat packing plant, slaughterhouse, wholesale meat processing plant, dairy product manufacturing plant or trade product manufacturing plant. The rules shall prescribe minimum standards for any truck or other vehicle in which food or drink is produced, processed, stored, handled, served or transported. The rules shall provide for the inspection and licensing of premises and vehicles so used, and for abatement as public nuisances of any premises or vehicles that do not comply with the rules and minimum standards. The rules shall provide an exemption relating to food or drink that is:

(a) Served at a noncommercial social event such as a potluck.

(b) Prepared at a cooking school that is conducted in an owner-occupied home.

(c) Not potentially hazardous and prepared in a kitchen of a private home for occasional sale or distribution for noncommercial purposes.

(d) Prepared or served at an employee-conducted function that lasts less than four hours and is not regularly scheduled, such as an employee recognition, an employee fund-raising or an employee social event.

(e) Offered at a child care facility and limited to commercially prepackaged food that is not potentially hazardous and whole fruits and vegetables that are washed and cut on site for immediate consumption.

(f) Offered at locations that sell only commercially prepackaged food or drink that is not potentially hazardous.

(g) Baked and confectionary goods that are not potentially hazardous and that are prepared in a kitchen of a private home for commercial purposes if packaged with a label that clearly states the address of the maker, includes contact information for the maker, lists all the ingredients in the product and discloses that the product was prepared in a home. The label must be given to the final consumer of the product. If the product was made in a facility for individuals with developmental disabilities, the label must also disclose that fact. The person preparing the food or supervising the food preparation must obtain a food handler's card or certificate if one is issued by the local county and must register with an online registry established by the department pursuant to paragraph 13 of this subsection. For the purposes of this subdivision, "potentially hazardous" means baked and confectionary goods that meet the requirements of the food code published by the United States food and drug administration, as modified and incorporated by reference by the department by rule.

(h) A whole fruit or vegetable grown in a public school garden that is washed and cut on-site for immediate consumption.

5. Prescribe reasonably necessary measures to ensure that all meat and meat products for human consumption handled at the retail level are delivered in a manner and from sources approved by the Arizona department of agriculture and are free from unwholesome, poisonous or other foreign substances and filth, insects or disease-causing organisms. The rules shall prescribe standards for sanitary facilities to be used in identity, storage, handling and sale of all meat and meat products sold at the retail level.

6. Prescribe reasonably necessary measures regarding production, processing, labeling, handling, serving and transportation of bottled water to ensure that all bottled drinking water distributed for human consumption is free from unwholesome, poisonous, deleterious or other foreign substances and filth or disease-causing organisms. The rules shall prescribe minimum standards for the sanitary facilities and conditions that shall be maintained at any source of water, bottling plant and truck or vehicle in which bottled water is produced, processed, stored or transported and shall provide for inspection and certification of bottled drinking water sources, plants, processes and transportation and for abatement as a public nuisance of any water supply, label, premises, equipment, process or vehicle that does not comply with the minimum standards. The rules shall prescribe minimum standards for bacteriological, physical and chemical quality for bottled water and for the submission of samples at intervals prescribed in the standards.

7. Define and prescribe reasonably necessary measures governing ice production, handling, storing and distribution to ensure that all ice sold or distributed for human consumption or for the preservation or storage of food for human consumption is free from unwholesome, poisonous, deleterious or other foreign substances and filth or disease-causing organisms. The rules shall prescribe minimum standards for the sanitary facilities and conditions and the quality of ice that shall be maintained at any ice plant, storage and truck or vehicle in which ice is produced, stored, handled or transported and shall provide for inspection and licensing of the premises and vehicles, and for abatement as public nuisances of ice, premises, equipment, processes or vehicles that do not comply with the minimum standards.

8. Define and prescribe reasonably necessary measures concerning sewage and excreta disposal, garbage and trash collection, storage and disposal, and water supply for recreational and summer camps, campgrounds, motels, tourist courts, trailer coach parks and hotels. The rules shall prescribe minimum standards for preparation of food in community kitchens, adequacy of excreta disposal, garbage and trash collection, storage and disposal and water supply for recreational and summer camps, campgrounds, motels, tourist courts, trailer coach parks and hotels and shall provide for inspection of these premises and for abatement as public nuisances of any premises or facilities that do not comply with the rules. Primitive camp and picnic grounds offered by this state or a political

subdivision of this state are exempt from rules adopted pursuant to this paragraph but are subject to approval by a county health department under sanitary regulations adopted pursuant to section 36-183.02. For the purposes of this paragraph, "primitive camp and picnic grounds" means camp and picnic grounds that are remote in nature and without accessibility to public infrastructure such as water, electricity and sewer.

9. Define and prescribe reasonably necessary measures concerning the sewage and excreta disposal, garbage and trash collection, storage and disposal, water supply and food preparation of all public schools. The rules shall prescribe minimum standards for sanitary conditions that shall be maintained in any public school and shall provide for inspection of these premises and facilities and for abatement as public nuisances of any premises that do not comply with the minimum standards.

10. Prescribe reasonably necessary measures to prevent pollution of water used in public or semipublic swimming pools and bathing places and to prevent deleterious health conditions at these places. The rules shall prescribe minimum standards for sanitary conditions that shall be maintained at any public or semipublic swimming pool or bathing place and shall provide for inspection of these premises and for abatement as public nuisances of any premises and facilities that do not comply with the minimum standards. The rules shall be developed in cooperation with the director of the department of environmental quality and shall be consistent with the rules adopted by the director of the department of environmental quality pursuant to section 49-104, subsection B, paragraph 12.

11. Prescribe reasonably necessary measures to keep confidential information relating to diagnostic findings and treatment of patients, as well as information relating to contacts, suspects and associates of communicable disease patients. In no event shall confidential information be made available for political or commercial purposes.

12. Prescribe reasonably necessary measures regarding human immunodeficiency virus testing as a means to control the transmission of that virus, including the designation of anonymous test sites as dictated by current epidemiologic and scientific evidence.

13. Establish an online registry of food preparers that are authorized to prepare food for commercial purposes pursuant to paragraph 4 of this subsection.

I. The rules adopted under the authority conferred by this section shall be observed throughout the state and shall be enforced by each local board of health or public health services district, but this section does not limit the right of any local board of health or county board of supervisors to adopt ordinances and rules as authorized by law within its jurisdiction, provided that the ordinances and rules do not conflict with state law and are equal to or more restrictive than the rules of the director.

J. The powers and duties prescribed by this section do not apply in instances in which regulatory powers and duties relating to public health are vested by the legislature in any other state board, commission, agency or instrumentality, except that with regard to the regulation of meat and meat products, the department of health services and the Arizona department of agriculture within the area delegated to each shall adopt rules that are not in conflict.

K. The director, in establishing fees authorized by this section, shall comply with title 41, chapter 6. The department shall not set a fee at more than the department's cost of providing the service for which the fee is charged. State agencies are exempt from all fees imposed pursuant to this section.

L. After consultation with the state superintendent of public instruction, the director shall prescribe the criteria the department shall use in deciding whether or not to notify a local school district that a

pupil in the district has tested positive for the human immunodeficiency virus antibody. The director shall prescribe the procedure by which the department shall notify a school district if, pursuant to these criteria, the department determines that notification is warranted in a particular situation. This procedure shall include a requirement that before notification the department shall determine to its satisfaction that the district has an appropriate policy relating to nondiscrimination of the infected pupil and confidentiality of test results and that proper educational counseling has been or will be provided to staff and pupils.

M. Until the department adopts exemptions by rule as required by subsection H, paragraph 4, subdivision (f) of this section, food and drink are exempt from the rules prescribed in subsection H of this section if offered at locations that sell only commercially prepackaged food or drink that is not potentially hazardous, without a limitation on its display area.

N. Until the department adopts exemptions by rule as required by subsection H, paragraph 4, subdivision (h) of this section, a whole fruit or vegetable grown in a public school garden that is washed and cut on-site for immediate consumption is exempt from the rules prescribed in subsection H of this section.

DEPARTMENT OF HEALTH SERVICES
Title 9, Chapter 8, Article 2, Bottled Water

GOVERNOR'S REGULATORY REVIEW COUNCIL
ANALYSIS OF FIVE-YEAR REVIEW REPORT

MEETING DATE: September 6, 2017 **AGENDA ITEM: E-3**

TO: Members of the Governor's Regulatory Review Council

FROM: Chris Kleminich, Staff Attorney

DATE : August 23, 2017

SUBJECT: **DEPARTMENT OF HEALTH SERVICES (F-17-0602)**
Title 9, Chapter 8, Article 2, Bottled Water

This five-year-review report from the Arizona Department of Health Services (Department) covers six rules in A.A.C. Title 9, Chapter 8, Article 2 that relate to bottled water in the context of food, recreational, and institutional sanitation. The rules became effective on November 23, 2004 and have not been amended since.

The Department indicates that the rules are intended to protect public health by providing minimum standards for bottled water, including definitions, general requirements, applications for approval of sources, time-frames, quality testing requirements, and labeling requirements.

Proposed Action

To address issues identified in the report, the Department indicates that it plans to amend the rules by June 2019.

Substantive or Procedural Concerns

None.

Analysis of the agency's report pursuant to criteria in A.R.S. § 41-1056 and R1-6-301:

1. **Has the agency certified that it is in compliance with A.R.S. § 41-1091?**

Yes. The Department has certified its compliance with A.R.S. § 41-1091.

2. **Has the agency analyzed the rules' effectiveness in achieving their objectives?**

Yes. The Department indicates that the rules are generally effective, but could be improved if incorporations by reference were updated to the most recent versions of pertinent federal rules.

3. **Has the agency received any written criticisms of the rules during the last five years, including any written analysis questioning whether the rules are based on valid scientific or reliable principles or methods?**

Yes. The Department indicates that it has not received any written criticisms of the rules during the last five years.

4. **Has the agency analyzed whether the rules are authorized by statute?**

Yes. The Department cites to both general and specific authority for the rules. Of particular significance is A.R.S. § 36-136(H)(6), which requires the Department to "[p]rescribe reasonably necessary measures regarding production, processing, labeling, handling, serving and transportation of bottled water to ensure that all bottled drinking water distributed for human consumption is free from unwholesome, poisonous, deleterious or other foreign substances and filth or disease-causing organisms."

5. **Has the agency analyzed the rules' consistency with statutes and other rules?**

Yes. The Department indicates that the rules are consistent with state and federal statutes and rules.

6. **Has the agency analyzed the current enforcement status of the rules?**

Yes. The Department indicates that the rules are enforced without difficulty. The Department has delegated its inspection and abatement authority to the counties with jurisdiction over their respective bottled water plants.

7. **Has the agency analyzed whether the rules are clear, concise, and understandable?**

Yes. The rules are generally clear, concise, and understandable.

8. **Stringency of the Rules:**

   a. **Are the rules more stringent than corresponding federal law?**

No. The Department indicates that the rules are not more stringent than federal law.

   b. **If so, is there statutory authority to exceed the requirements of federal law?**

Not applicable.

9. For rules adopted after July 29, 2010:

a. Do the rules require issuance of a regulatory permit, license or agency authorization?

Not applicable, as the rules were adopted prior to July 29, 2010.

b. If so, are the general permit requirements of A.R.S. § 41-1037 met or does an exception apply?

Not applicable.

10. Has the agency indicated whether it completed the course of action identified in the previous five-year-review report?

Yes. In 2012, the Department indicated that it did not plan to amend the rules. No actions have been taken on the rules in the past five years.

Conclusion

As noted above, the Department intends to amend the rules by June 2019. The report meets the requirements of A.R.S. § 41-1056 and R1-6-301, and this analyst recommends that the report be approved.

GOVERNOR'S REGULATORY REVIEW COUNCIL
M E M O R A N D U M

MEETING DATE: September 6, 2017 **AGENDA ITEM: E-3**

TO: Members of the Governor's Regulatory Review Council

FROM: GRRC Economic Team

DATE : August 23, 2017

SUBJECT: **DEPARTMENT OF HEALTH SERVICES (F-17-0602)**
Title 9, Chapter 8, Article 2, Bottled Water

I reviewed the five-year-review report's economic, small business, and consumer impact comparison for compliance with A.R.S. § 41-1056 and make the following comments.

1. Economic Impact Comparison

Economic, small business, and consumer impact statements (EIS) from the most recent rulemakings were available for the rules contained in the five-year-review report. The rules set minimum standards to ensure that bottled water in Arizona is safe for human consumption, including standards for approved water sources; quality testing requirements; and labeling requirements. In FY 2016, there were 43 bottled water processing plants in Arizona, at which county sanitarians conducted 69 routine inspections and 3 complaint investigations. These inspections resulted in no compliance proceedings.

2. Has the agency determined that the rules impose the least burden and costs to persons regulated by the rules?

The Department has determined that the rules are mostly effective and impose the least burden and costs to the regulated community. The cost to comply with these rules is minimal and necessary to protect public health and safety.

3. Was an analysis submitted to the agency under A.R.S. § 41-1056(A)(7)?

No analysis was submitted to the agency by another person that compares the rules' impact on this state's business competitiveness to the impact on businesses in other states.

4. Conclusion

After review, staff concludes that the report complies with A.R.S. § 41-1056 and recommends approval.

ARIZONA DEPARTMENT
OF HEALTH SERVICES

RECEIVED
MAR 30 2017
GRRC

March 30, 2017

Nicole A. Ong, Chairperson
Governor's Regulatory Review Council
Arizona Department of Administration
100 N. 15th Avenue, Suite 402
Phoenix, AZ 85007

RE: Report for A.A.C. Title 9, Chapter 8, Article 2, Bottled Water

Dear Ms. Ong:

According to the five-year-review report schedule of the Governor's Regulatory Review Council (Council), a report for A.A.C. Title 9, Chapter 8, Article 2 is due to the Council no later than March 31, 2017. The Arizona Department of Health Services (Department) has reviewed A.A.C. Title 9, Chapter 8, Article 2, and is enclosing a report to the Council for these rules.

The Department believes that this report complies with the requirements of A.R.S. § 41-1056. A five-year-review summary, information that is identical for all the rules, information for individual rules, the rules reviewed, and the general and specific authority are included in the package. As described in the report, the Department plans to amend the rules in 9 A.A.C. 8, Article 2.

The Department certifies that it is in compliance with A.R.S. § 41-1091.

If you need any further information, please contact me at (602) 542-1020.

Sincerely,

Robert Lane
Director's Designee

RL:mjb

Enclosures

FIVE-YEAR-REVIEW SUMMARY

Arizona Revised Statutes (A.R.S.) § 36-132(A)(13) requires the Arizona Department of Health Services (Department) to take "all actions necessary or appropriate to ensure that bottled water sold to the public ... [is] free from filth, disease-causing substances and organisms and unwholesome, poisonous, deleterious or other foreign substances." A.R.S. § 36-136(H)(6) requires the Department by rule to "prescribe reasonably necessary measures regarding production, processing, labeling, handling, serving and transportation of bottled water," including "inspection and certification of bottled drinking water sources, plants, processes and transportation and for abatement as a public nuisance[1] of any water supply, label, premises, equipment, process or vehicle that does not comply with the minimum standards."

The six rules in Arizona Administrative Code (A.A.C.) Title 9, Chapter 8, Article 2 set minimum standards to ensure that bottled water in Arizona is safe for human consumption, including standards for:

- Approved water sources;
- Quality testing requirements; and
- Labeling requirements.

The Department considers bottled water to be a food or drink and any person that processes or sells bottled water in Arizona to be a food establishment. Therefore, any person processing or selling bottled water in Arizona must be licensed as a food establishment under 9 A.A.C. 8, Article 1. A person processing bottled water must also be certified under the bottled water rules in 9 A.A.C. 8, Article 2.

For reasons discussed in this Five-Year-Review Report, the Department anticipates submitting a Notice of Final Rulemaking to the Governor's Regulatory Review Council by June 2019.

[1] A.R.S. § 36-601(A) defines public nuisances that are under the Department's control as those that are dangerous to public health, including contaminated food or drink intended for human consumption and water sold or distributed to the public that is unwholesome, poisonous or contains deleterious or foreign substances or filth or disease causing substances or organisms. A.R.S. § 36-601(B) provides that, based on reasonable cause, the Department may serve a cease and desist order capable of leading to abatement of a public nuisance.

INFORMATION THAT IS IDENTICAL FOR ALL THE RULES

1. **Authorization of the rule by existing statutes**

The general statutory authority for the rules in 9 A.A.C. 8, Article 2 is A.R.S. §§ 36-136(A)(7) and (F). The specific statutory authority for the rules in 9 A.A.C. 8, Article 2 is A.R.S. §§ 36-132(A)(13) and 36-136(H)(6).

2. **The purpose of the rules**

The purpose of the rules in 9 A.A.C. 8, Article 2 is to ensure that the source of bottled water and labeling of bottled water meet certain quality testing standards and label standards, thus protecting public health.

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

The rules are effective in achieving their respective objectives. Additional specific comments regarding effectiveness appear in the information for individual rules.

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

The rules are consistent with state and federal statutes and rules. The rules incorporate the 2003 version of certain federal standards, as discussed in the information for individual rules.

5. **Status of enforcement of the rules**

The Department has delegated its inspection and abatement authority under A.R.S. § 36-136(H)(6) to the counties having jurisdiction over the respective bottled water plants. *See* A.R.S. § 36-136(D). The rules are enforced without difficulty.

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

The rules are clear, concise, and understandable.

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

The Department has not received any written criticism of the rules in the last five years.

8. **Economic, small business, and consumer impact comparison**

The Department delegates its authority to regulate bottled water processing to the county health departments or environmental health departments. *See* A.R.S. § 36-136(D). County sanitarians use these rules in conjunction with county codes to conduct inspections of bottled water processing plants.

In FY 2016, there were 43 bottled water processing plants in Arizona, at which county sanitarians conducted 69 routine inspections and 3 complaint investigations. These inspections resulted in no compliance proceedings.

The rules in 9 A.A.C. 8, Article 2 were extensively revised in 2004. An economic, small business, and consumer impact statement (EIS) was submitted to GRRC in 2004 as part of the Notice of Final Rulemaking package for the rulemaking. The EIS stated that:

- The cost to county health departments to inspect the quality of bottled water was expected to be moderate.
- The Department was thought to incur minimal costs for promulgating and enforcing the rules, from creating an approval of source application form to reflect the amended rules, and from tracking the source approval time-frames and drafting written notices concerning the approval of sources.
- A person processing and selling bottled water in Arizona was estimated to incur moderate costs to have a source approved by the Department and minimal to substantial costs to maintain source approval, depending on whether the person was currently performing the quality testing according to the Code of Federal Regulations (CFR) and the number of bottled water products produced by the person.
- The EIS stated that the rulemaking would "benefit any person that processes and sells bottled water in Arizona by providing clarity in the approval of a source application process and assuring that the Department will process all applications in a fair, consistent, and timely manner."
- The EIS stated that the rulemaking would benefit the public by providing quality standards for bottled water.

The Department believes the costs and benefits identified in the 2004 EIS are generally consistent with the actual costs and benefits of the rules.

9. <u>Summary of business competitiveness analyses of the rules</u>

The Department did not receive a business competitiveness analysis of the rules in the last five years.

10. <u>Status of the completion of action indicated in the previous five-year-review report</u>

In the 2012 Five-Year-Review Report, the Department noted that it did not plan to amend the rules in 9 A.A.C. 8, Article 2 until substantive issues arose. No substantive issues arose during that time, and the Department, therefore, did not amend the rules.

11. **A determination that the probable benefits of the rule outweigh within this state 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 Department and local health departments continue to use the rules without increased cost or burden. For this reason, the Department has determined that the rule provides the least burden and cost to the Department and persons regulated by the rule, and achieves the regulatory objective consistent with statutory requirements.

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

The rules incorporate the 2003 version of certain federal regulations, as discussed in the information for individual rules, and are not more stringent than those incorporated standards.

13. **For rules adopted after July 29, 2010 that require the issuance of a regulatory permit, license, or agency authorization, whether the rule complies with section 41-1037**

The rules were adopted before July 29, 2010.

14. **Proposed course of action**

After review, the Department has determined that the rules are necessary and effective to achieve their regulatory objectives, and sufficient to protect the public health. To address issues raised in this report, and to make other changes identified as a result of the Department's comprehensive review of all rules in 9 A.A.C. 8, the Department anticipates submitting a Notice of Final Rulemaking to the Governor's Regulatory Review Council by June 2019. This course of action is subject to change based on the Governor's rulemaking moratorium and the Department's priorities.

INFORMATION FOR INDIVIDUAL RULES

R9-8-201. Definitions

2. <u>Objective of the rule</u>

The objective of the rule is to define terms and phrases used in the Article to enable the reader to clearly understand the requirements of the Article and allow for consistent interpretation.

3. <u>Analysis of effectiveness in achieving the objective</u>

The rule is effective in achieving its objective. Although the references to 21 CFR 165.110 could be updated to the most recent version consistent with the discussion for other rules noted below, the relevant definitions in 21 CFR 165.110 have not changed since the 2003 version.

R9-8-202. General Requirements

2. <u>Objective of the rule</u>

The objective of the rule is to protect public health by ensuring that Arizona food establishments engaged in the processing and selling of bottled water use Department-approved water sources.

R9-8-203. Application for an Approval of a Source

2. <u>Objective of the rule</u>

The objective of the rule is to specify application requirements, which must be complied with before a new water source receives Departmental approval.

3. <u>Analysis of effectiveness in achieving the objective</u>

The rule is effective in achieving its objective but could be improved by incorporating the most recent version of 21 CFR 165.110(b), which includes additional water quality standards (microbiological, physical, and chemical) than those stated in the 2003 version.

R9-8-204. Time-frames

2. <u>Objective of the rule</u>

The objective of the rule is to provide an applicant with notice of the steps and time-frames surrounding the water source application process.

R9-8-205. Quality Testing Requirements

2. **Objective of the rule**

The objective of the rule is to specify requirements a plant operator must meet in order to maintain approval of its source, including testing the quality of the bottled water produced at the source and maintaining the results of such tests for inspection.

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

The rule is effective in achieving its objective but could be improved by incorporating the most recent version of 21 CFR 129.80(g), which now requires testing specifically to check for total coliform and adds follow-up testing if coliform organisms are detected..

R9-8-206. Labeling Requirements

2. **Objective of the rule**

The objective of the rule is to specify the labeling requirements for bottled water processed and sold in Arizona.

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

The rule is effective in achieving its objective. Although the reference to 21 CFR 129.80(e) could be updated to the most recent version consistent with the discussion for other rules noted above, the requirements in 21 CFR 129.80(e) have not changed since the 2003 version.

ARTICLE 2. BOTTLED WATER

R9-8-201. Definitions

In this Article, unless the context otherwise requires:

1 "Applicant" has the same meaning as in R9-8-101.

2 "Aquifer" means a layer of underground sand, gravel or porous rock where water collects.

3. "Artesian well" means a drilled well that accesses an aquifer with a water level that stands above the bottom of the confining bed of the aquifer.

4. "Bottled water" has the same meaning as in 21 CFR 165 110(a)(1) (2003), incorporated by reference, on file with the Department, including no future editions or amendments, and available at http://www.gpoaccess.gov/cfr/index.html and from U.S. Government Printing Office, 732 N. Capitol Street, N.W Washington, D C 20401.

5. "Bottled water plant" means a food establishment that processes and sells bottled water.

6. "CFR" means the Code of Federal Regulations.

7 "Confining bed" means a layer of ground that resists water penetration.

8. "Department" means the Arizona Department of Health Services.

9. "Drilled well" means a hole bored into the ground to reach underground water.

10. "Food establishment" has the same meaning as in A A.C Title 9, Chapter 8, Article 1.

11. "Licensed laboratory" means a laboratory licensed by the Department under A R.S Title 36, Chapter 4.3, Article 1

12 "Plant operator" means an individual designated by the applicant to operate a specific bottled water plant.

13. "Processes" means the steps taken to ensure source water meets the quality standards for bottled water in 21 CFR 165 110(b) (2003), incorporated by reference, on file with the Department, including no future editions or amendments, and available at http://www.gpoaccess.gov/cfr/index.html and from U.S Government Printing Office, 732 N. Capitol Street, N W. Washington, D.C. 20401.

14. "Public water system" has the same meaning as in A.A.C R18-4-101.

15. "Source" means an artesian well, drilled well, public water system, or spring.

16. "Source water" means water from an artesian well, drilled well, public water system, or spring.

17 "Spring" has the same meaning as "spring water" in 21 CFR 165.110(a)(2)(vi) (2003), incorporated by reference, on file with the Department, including no future editions or amendments, and available at http://www.gpoaccess.gov/cfr/index.html and from U.S. Government Printing Office, 732 N. Capitol Street, N.W. Washington, D C. 20401.

R9-8-202. General Requirements

A food establishment that processes and sells bottled water in Arizona shall use a source approved by the Department.

R9-8-203. Application for an Approval of a Source

A. An applicant shall complete and submit to the Department, an application for an approval of a source on a form provided by the Department that includes:

1. The name, mailing address, and telephone number of the applicant;
2. The name, street address, and telephone number of the bottled water plant;
3. The location of the source used at the bottled water plant;
4. The applicant's signature; and
5. The date the application is signed.

B. With the completed application, an applicant shall include test results from a licensed laboratory that has tested the bottled water according to the quality requirements for bottled water in 21 CFR 165.110(b) (2003), incorporated by reference, on file with the Department, including no future editions or amendments, and available at http://www.gpoaccess.gov/cfr/index.html and from U.S. Government Printing Office, 732 N. Capitol Street, N.W. Washington, D.C. 20401.

C. An applicant shall comply with subsections (A) and (B) for each source used at the bottled water plant.

R9-8-204. Time-frames

A. The overall time-frame described in A.R.S. § 41-1072 for the Department to act on an application for an approval of a source is 60 days. The applicant and the Department may agree in writing to extend the substantive review time-frame and the overall time-frame by no more than 25% of the overall time-frame.

B. The administrative completeness review time-frame described in A.R.S. § 41-1072 for an application for an approval of a source is 30 days and begins on the date the application is received.

1. The Department shall mail notice of administrative completeness or deficiencies to the applicant within the administrative completeness review time-frame.
   a. A notice of deficiencies shall list each deficiency and the information and documentation needed to complete the application.
   b. If the Department issues a notice of deficiencies within the administrative completeness review time-frame, the administrative completeness review time-frame and the overall time-frame are suspended from the date that the notice is issued until the date the Department receives the missing information from the applicant.

c. If the applicant fails to submit to the Department all the information and documents listed in the notice of deficiencies within 60 days of the date the Department mailed the notice of deficiencies, the Department deems the application for approval of a source withdrawn.

2. If the Department issues an approval of a source to the applicant during the administrative completeness review time-frame, the Department does not issue a separate written notice of administrative completeness.

C. The substantive review time-frame described in A.R.S. § 41-1072 is 30 days and begins on the date the notice of administrative completeness is mailed to the applicant

1. The Department shall mail an approval of a source or a written notification of denial of approval to the applicant within the substantive review time-frame

2. If the Department issues a comprehensive written request or supplemental request for information, the substantive review time-frame and the overall time-frame are suspended from the date the Department issues the request until the date the Department receives all of the information

3. If the Department denies approval of a source, the Department shall send the applicant a written notice of disapproval that lists the reasons for disapproval and all other information required in A.R.S. § 41-1076

D. If a time-frame's last day is on a Saturday, Sunday, or legal holiday, the Department considers the next business day as the time-frame's last day.

R9-8-205. Quality Testing Requirements

A. To maintain approval of its source, a plant operator shall have a licensed laboratory test the quality of the bottled water at the times stated in 21 CFR 129.80(g) (2003), incorporated by reference, on file with the Department, including no future editions or amendments, and available at http://www.gpoaccess.gov/cfr/index.html and from U.S. Government Printing Office, 732 N. Capitol Street, N.W. Washington, D.C. 20401.

B. A plant operator shall maintain records of the quality testing of the bottled water on the bottled water plant premises for two years from the date the bottled water is tested and ensure that the records are readily available for inspection by the Department.

R9-8-206. Labeling Requirements

In addition to the labeling requirements in 9 A.A.C. 8, Article 1, a plant operator shall ensure the bottled water processed and sold is labeled according to 21 CFR 129.80(e) (2003), incorporated by reference, on file with the Department, including no future editions or amendments, and available at http://www.gpoaccess.gov/cfr/index.html and from U.S. Government Printing Office, 732 N. Capitol Street, N.W. Washington, D.C. 20401

36-132. Department of health services; functions; contracts

A The department shall, in addition to other powers and duties vested in it by law:

1 Protect the health of the people of the state.

2 Promote the development, maintenance, efficiency and effectiveness of local health departments or districts of sufficient population and area that they can be sustained with reasonable economy and efficient administration, provide technical consultation and assistance to local health departments or districts, provide financial assistance to local health departments or districts and services that meet minimum standards of personnel and performance and in accordance with a plan and budget submitted by the local health department or districts to the department for approval, and recommend the qualifications of all personnel

3. Collect, preserve, tabulate and interpret all information required by law in reference to births, deaths and all vital facts, and obtain, collect and preserve information relating to the health of the people of the state and the prevention of diseases as may be useful in the discharge of functions of the department not in conflict with the provisions of chapter 3 of this title, and sections 36-693, 36-694 and 39-122

4 Operate such sanitariums, hospitals or other facilities assigned to the department by law or by the governor.

5 Conduct a statewide program of health education relevant to the powers and duties of the department, prepare educational materials and disseminate information as to conditions affecting health, including basic information for the promotion of good health on the part of individuals and communities, and prepare and disseminate technical information concerning public health to the health professions, local health officials and hospitals. In cooperation with the department of education, the department of health services shall prepare and disseminate materials and give technical assistance for the purpose of education of children in hygiene, sanitation and personal and public health, and provide consultation and assistance in community organization to counties, communities and groups of people.

6 Administer or supervise a program of public health nursing, prescribe the minimum qualifications of all public health nurses engaged in official public health work, and encourage and aid in coordinating local public health nursing services.

7 Encourage and aid in coordinating local programs concerning control of preventable diseases in accordance with statewide plans that shall be formulated by the department

8 Encourage and aid in coordinating local programs concerning maternal and child health, including midwifery, antepartum and postpartum care, infant and preschool health and the health of school children, including special fields such as the prevention of blindness and conservation of sight and hearing.

9. Encourage and aid in the coordination of local programs concerning nutrition of the people of the state

10 Encourage, administer and provide dental health care services and aid in coordinating local programs concerning dental public health, in cooperation with the Arizona dental association The department may bill and receive payment for costs associated with providing dental health care services and shall deposit the monies in the oral health fund established by section 36-138.

11 Establish and maintain adequate serological, bacteriological, parasitological, entomological and chemical laboratories with qualified assistants and facilities necessary for routine examinations and analyses and for investigations and research in matters affecting public health.

12. Supervise, inspect and enforce the rules concerning the operation of public bathing places and public and semipublic swimming pools adopted pursuant to section 36-136, subsection H, paragraph 10

13. Take all actions necessary or appropriate to ensure that bottled water sold to the public and water used to process, store, handle, serve and transport food and drink are free from filth, disease-causing substances and organisms and unwholesome, poisonous, deleterious or other foreign substances All state agencies and local health agencies involved with water quality shall provide to the department any assistance requested by the director to ensure that this paragraph is effectuated

14 Enforce the state food, caustic alkali and acid laws in accordance with chapter 2, article 2 of this title, chapter 8, article 1 of this title and chapter 9, article 4 of this title, and collaborate in the enforcement of the federal food, drug and cosmetic act of 1938 (52 Stat 1040; 21 United States Code sections 1 through 905)

15 Recruit and train personnel for state, local and district health departments

16 Conduct continuing evaluations of state, local and district public health programs, study and appraise state health problems and develop broad plans for use by the department and for recommendation to other agencies, professions and local health departments for the best solution of these problems.

17 License and regulate health care institutions according to chapter 4 of this title.

18 Issue or direct the issuance of licenses and permits required by law

19 Participate in the state civil defense program and develop the necessary organization and facilities to meet wartime or other disasters.

20 Subject to the availability of monies, develop and administer programs in perinatal health care, including:

(a) Screening in early pregnancy for detecting high risk conditions

(b) Comprehensive prenatal health care.
(c) Maternity, delivery and postpartum care
(d) Perinatal consultation, including transportation of the pregnant woman to a perinatal care center when medically indicated.
(e) Perinatal education oriented toward professionals and consumers, focusing on early detection and adequate intervention to avert premature labor and delivery.
21. License and regulate the health and safety of group homes for the developmentally disabled. The department shall issue a license to an accredited facility for a period of the accreditation, except that no licensing period shall be longer than three years The department is authorized to conduct an inspection of an accredited facility to ensure that the facility meets health and safety licensure standards The results of the accreditation survey shall be public information. A copy of the final accreditation report shall be filed with the department of health services For the purposes of this paragraph, "accredited" means accredited by a nationally recognized accreditation organization
B. The department may accept from the state or federal government, or any agency of the state or federal government, and from private donors, trusts, foundations or eleemosynary corporations or organizations grants or donations for or in aid of the construction or maintenance of any program, project, research or facility authorized by this title, or in aid of the extension or enforcement of any program, project or facility authorized, regulated or prohibited by this title, and enter into contracts with the federal government, or an agency of the federal government, and with private donors, trusts, foundations or eleemosynary corporations or organizations, to carry out such purposes. All monies made available under this section are special project grants The department may also expend these monies to further applicable scientific research within this state.
C. The department, in establishing fees authorized by this section, shall comply with title 41, chapter 6. The department shall not set a fee at more than the department's cost of providing the service for which the fee is charged. State agencies are exempt from all fees imposed pursuant to this section
D. The department may enter into contracts with organizations that perform nonrenal organ transplant operations and organizations that primarily assist in the management of end stage renal disease and related problems to provide, as payors of last resort, prescription medications necessary to supplement treatment and transportation to and from treatment facilities. The contracts may provide for department payment of administrative costs it specifically authorizes.

36-136. <u>Powers and duties of director; compensation of personnel</u>
A The director shall:
1 Be the executive officer of the department of health services and the state registrar of vital statistics but shall not receive compensation for services as registrar.
2 Perform all duties necessary to carry out the functions and responsibilities of the department.
3 Prescribe the organization of the department. The director shall appoint or remove personnel as necessary for the efficient work of the department and shall prescribe the duties of all personnel. The director may abolish any office or position in the department that the director believes is unnecessary
4 Administer and enforce the laws relating to health and sanitation and the rules of the department.
5. Provide for the examination of any premises if the director has reasonable cause to believe that on the premises there exists a violation of any health law or rule of the state
6. Exercise general supervision over all matters relating to sanitation and health throughout the state When in the opinion of the director it is necessary or advisable, a sanitary survey of the whole or of any part of the state shall be made The director may enter, examine and survey any source and means of water supply, sewage disposal plant, sewerage system, prison, public or private place of detention, asylum, hospital, school, public building, private institution, factory, workshop, tenement, public washroom, public restroom, public toilet and toilet facility, public eating room and restaurant, dairy, milk plant or food manufacturing or processing plant, and any premises in which the director has reason to believe there exists a violation of any health law or rule of the state that the director has the duty to administer
7 Prepare sanitary and public health rules
8 Perform other duties prescribed by law
B If the director has reasonable cause to believe that there exists a violation of any health law or rule of the state, the director may inspect any person or property in transportation through the state, and any car, boat, train, trailer, airplane or other vehicle in which that person or property is transported, and may enforce detention or disinfection as reasonably necessary for the public health if there exists a violation of any health law or rule.
C The director may deputize, in writing, any qualified officer or employee in the department to do or perform on the director's behalf any act the director is by law empowered to do or charged with the responsibility of doing.

D The director may delegate to a local health department, county environmental department or public health services district any functions, powers or duties that the director believes can be competently, efficiently and properly performed by the local health department, county environmental department or public health services district if:
1. The director or superintendent of the local health agency, environmental agency or public health services district is willing to accept the delegation and agrees to perform or exercise the functions, powers and duties conferred in accordance with the standards of performance established by the director
2. Monies appropriated or otherwise made available to the department for distribution to or division among counties or public health services districts for local health work may be allocated or reallocated in a manner designed to assure the accomplishment of recognized local public health activities and delegated functions, powers and duties in accordance with applicable standards of performance Whenever in the director's opinion there is cause, the director may terminate all or a part of any delegation and may reallocate all or a part of any funds that may have been conditioned on the further performance of the functions, powers or duties conferred
E The compensation of all personnel shall be as determined pursuant to section 38-611
F. The director may make and amend rules necessary for the proper administration and enforcement of the laws relating to the public health.
G. Notwithstanding subsection H, paragraph 1 of this section, the director may define and prescribe emergency measures for detecting, reporting, preventing and controlling communicable or infectious diseases or conditions if the director has reasonable cause to believe that a serious threat to public health and welfare exists Emergency measures are effective for no longer than eighteen months.
H The director, by rule, shall:
1. Define and prescribe reasonably necessary measures for detecting, reporting, preventing and controlling communicable and preventable diseases The rules shall declare certain diseases reportable The rules shall prescribe measures, including isolation or quarantine, reasonably required to prevent the occurrence of, or to seek early detection and alleviation of, disability, insofar as possible, from communicable or preventable diseases The rules shall include reasonably necessary measures to control animal diseases transmittable to humans
2 Define and prescribe reasonably necessary measures, in addition to those prescribed by law, regarding the preparation, embalming, cremation, interment, disinterment and transportation of dead human bodies and the conduct of funerals, relating to and restricted to communicable diseases and regarding the removal, transportation, cremation, interment or disinterment of any dead human body
3. Define and prescribe reasonably necessary procedures not inconsistent with law in regard to the use and accessibility of vital records, delayed birth registration and the completion, change and amendment of vital records
4. Except as relating to the beneficial use of wildlife meat by public institutions and charitable organizations pursuant to title 17, prescribe reasonably necessary measures to assure that all food or drink, including meat and meat products and milk and milk products sold at the retail level, provided for human consumption is free from unwholesome, poisonous or other foreign substances and filth, insects or disease-causing organisms The rules shall prescribe reasonably necessary measures governing the production, processing, labeling, storing, handling, serving and transportation of these products The rules shall prescribe minimum standards for the sanitary facilities and conditions that shall be maintained in any warehouse, restaurant or other premises, except a meat packing plant, slaughterhouse, wholesale meat processing plant, dairy product manufacturing plant or trade product manufacturing plant. The rules shall prescribe minimum standards for any truck or other vehicle in which food or drink is produced, processed, stored, handled, served or transported The rules shall provide for the inspection and licensing of premises and vehicles so used, and for abatement as public nuisances of any premises or vehicles that do not comply with the rules and minimum standards The rules shall provide an exemption relating to food or drink that is:
(a) Served at a noncommercial social event that takes place at a workplace, such as a potluck.
(b) Prepared at a cooking school that is conducted in an owner-occupied home
(c) Not potentially hazardous and prepared in a kitchen of a private home for occasional sale or distribution for noncommercial purposes
(d) Prepared or served at an employee-conducted function that lasts less than four hours and is not regularly scheduled, such as an employee recognition, an employee fund-raising or an employee social event.
(e) Offered at a child care facility and limited to commercially prepackaged food that is not potentially hazardous and whole fruits and vegetables that are washed and cut on site for immediate consumption
(f) Offered at locations that sell only commercially prepackaged food or drink that is not potentially hazardous and that is displayed in an area of less than ten linear feet.
(g) Baked and confectionary goods that are not potentially hazardous and that are prepared in a kitchen of a private home for commercial purposes if packaged with a label that clearly states the address of the maker,

includes contact information for the maker, lists all the ingredients in the product and discloses that the product was prepared in a home. The label must be given to the final consumer of the product. If the product was made in a facility for developmentally disabled individuals, the label must also disclose that fact The person preparing the food or supervising the food preparation must obtain a food handler's card or certificate if one is issued by the local county and must register with an online registry established by the department pursuant to paragraph 13 of this subsection For the purposes of this subdivision, "potentially hazardous" means baked and confectionary goods that meet the requirements of the food code published by the United States food and drug administration, as modified and incorporated by reference by the department by rule

5 Prescribe reasonably necessary measures to assure that all meat and meat products for human consumption handled at the retail level are delivered in a manner and from sources approved by the Arizona department of agriculture and are free from unwholesome, poisonous or other foreign substances and filth, insects or disease-causing organisms. The rules shall prescribe standards for sanitary facilities to be used in identity, storage, handling and sale of all meat and meat products sold at the retail level

6 Prescribe reasonably necessary measures regarding production, processing, labeling, handling, serving and transportation of bottled water to assure that all bottled drinking water distributed for human consumption is free from unwholesome, poisonous, deleterious or other foreign substances and filth or disease-causing organisms The rules shall prescribe minimum standards for the sanitary facilities and conditions that shall be maintained at any source of water, bottling plant and truck or vehicle in which bottled water is produced, processed, stored or transported and shall provide for inspection and certification of bottled drinking water sources, plants, processes and transportation and for abatement as a public nuisance of any water supply, label, premises, equipment, process or vehicle that does not comply with the minimum standards. The rules shall prescribe minimum standards for bacteriological, physical and chemical quality for bottled water and for the submission of samples at intervals prescribed in the standards.

7. Define and prescribe reasonably necessary measures governing ice production, handling, storing and distribution to assure that all ice sold or distributed for human consumption or for the preservation or storage of food for human consumption is free from unwholesome, poisonous, deleterious or other foreign substances and filth or disease-causing organisms. The rules shall prescribe minimum standards for the sanitary facilities and conditions and the quality of ice that shall be maintained at any ice plant, storage and truck or vehicle in which ice is produced, stored, handled or transported and shall provide for inspection and licensing of the premises and vehicles, and for abatement as public nuisances of ice, premises, equipment, processes or vehicles that do not comply with the minimum standards

8. Define and prescribe reasonably necessary measures concerning sewage and excreta disposal, garbage and trash collection, storage and disposal, and water supply for recreational and summer camps, campgrounds, motels, tourist courts, trailer coach parks and hotels The rules shall prescribe minimum standards for preparation of food in community kitchens, adequacy of excreta disposal, garbage and trash collection, storage and disposal and water supply for recreational and summer camps, campgrounds, motels, tourist courts, trailer coach parks and hotels and shall provide for inspection of these premises and for abatement as public nuisances of any premises or facilities that do not comply with the rules.

9 Define and prescribe reasonably necessary measures concerning the sewage and excreta disposal, garbage and trash collection, storage and disposal, water supply and food preparation of all public schools The rules shall prescribe minimum standards for sanitary conditions that shall be maintained in any public school and shall provide for inspection of these premises and facilities and for abatement as public nuisances of any premises that do not comply with the minimum standards

10 Prescribe reasonably necessary measures to prevent pollution of water used in public or semipublic swimming pools and bathing places and to prevent deleterious health conditions at these places The rules shall prescribe minimum standards for sanitary conditions that shall be maintained at any public or semipublic swimming pool or bathing place and shall provide for inspection of these premises and for abatement as public nuisances of any premises and facilities that do not comply with the minimum standards The rules shall be developed in cooperation with the director of the department of environmental quality and shall be consistent with the rules adopted by the director of the department of environmental quality pursuant to section 49-104, subsection B, paragraph 12

11 Prescribe reasonably necessary measures to keep confidential information relating to diagnostic findings and treatment of patients, as well as information relating to contacts, suspects and associates of communicable disease patients. In no event shall confidential information be made available for political or commercial purposes

12 Prescribe reasonably necessary measures regarding human immunodeficiency virus testing as a means to control the transmission of that virus, including the designation of anonymous test sites as dictated by current epidemiologic and scientific evidence

13 Establish an online registry of food preparers that are authorized to prepare food for commercial purposes pursuant to paragraph 4 of this subsection

I The rules adopted under the authority conferred by this section shall be observed throughout the state and shall be enforced by each local board of health or public health services district, but this section does not limit the right of any local board of health or county board of supervisors to adopt ordinances and rules as authorized by law within its jurisdiction, provided that the ordinances and rules do not conflict with state law and are equal to or more restrictive than the rules of the director

J The powers and duties prescribed by this section do not apply in instances in which regulatory powers and duties relating to public health are vested by the legislature in any other state board, commission, agency or instrumentality, except that with regard to the regulation of meat and meat products, the department of health services and the Arizona department of agriculture within the area delegated to each shall adopt rules that are not in conflict.

K. The director, in establishing fees authorized by this section, shall comply with title 41, chapter 6 The department shall not set a fee at more than the department's cost of providing the service for which the fee is charged State agencies are exempt from all fees imposed pursuant to this section

L After consultation with the state superintendent of public instruction, the director shall prescribe the criteria the department shall use in deciding whether or not to notify a local school district that a pupil in the district has tested positive for the human immunodeficiency virus antibody The director shall prescribe the procedure by which the department shall notify a school district if, pursuant to these criteria, the department determines that notification is warranted in a particular situation This procedure shall include a requirement that before notification the department shall determine to its satisfaction that the district has an appropriate policy relating to nondiscrimination of the infected pupil and confidentiality of test results and that proper educational counseling has been or will be provided to staff and pupils.

M. Until the department adopts exemptions by rule as required by subsection H, paragraph 4, subdivision (b) of this section, a kitchen in a private home that is used as a cooking school and that prepares and offers food to students is exempt from the rules prescribed in subsection H of this section if all of the following are true:

1 Only one cooking school meal per day is prepared and served

2 The meal is served to not more than fifteen cooking school students

3. The students are informed by a statement contained in a published advertisement, mailed brochure and placard posted at the cooking school's registration that the food is prepared in a kitchen that is not regulated and inspected by the department or by a local health authority

36-495. <u>Definitions</u>

In this chapter, unless the context otherwise requires:

1. "Compliance testing" means laboratory analysis of any matter, pollutant, contaminant, hazardous substance or other substance subject to regulation pursuant to:

(a) Title 49 or rules adopted or enforced by the department of environmental quality for the purpose of determining compliance with title 49

(b) Federal environmental statutes or regulations administered or enforced by the United States environmental protection agency relating to the safe drinking water act (42 United States Code sections 300f through 300j), the clean air act (42 United States Code sections 7401 through 7642), the clean water act (33 United States Code sections 1251 through 1376), the resource conservation and recovery act (42 United States Code sections 6921 through 6939B), the comprehensive environmental response, compensation, and liability act (42 United States Code sections 9601 through 9657) and the toxic substance control act (42 United States Code sections 2601 through 2654) as they relate only to the regulation of polychlorinated biphenyls and asbestos.

(c) Federal or state statutes and rules relating to the safety, contamination and sanitation of drinking water sold in bottles, or ice or water sold by machine or hauled and enforced by the department of health services or the United States food and drug administration

2 "Department" means the department of health services

3 "Director" means the director of the department of health services

4 "Environmental laboratory" or "laboratory" means a facility where compliance testing is performed.

5 "Facility" means a place, building, installation, structure or vehicle

6. "Government agency" means an agency of the United States government, this state or a political subdivision of this state.

7 "Laboratory director" means an individual who administers the technical and scientific operation of an environmental laboratory and who is responsible for reporting laboratory test results as specified in this chapter or rules adopted pursuant to this chapter

8 "License" means a regular license, renewal license or provisional license issued by the department pursuant to this chapter
9. "Person" means an individual, employee, officer, managing body, trust, firm, joint stock company, consortium, corporation, partnership, association, state or political subdivision of a state or the United States government

36-495.01. Licensure program; rules
A On or before July 1, 1991, the department shall license environmental laboratories engaged in compliance testing Upon application for an environmental laboratory license, the department shall issue the license if, after investigation, the department determines that the application conforms with the standards established by the department
B The director shall prescribe rules providing for minimum standards of proficiency, methodology, quality assurance, operation and safety for environmental laboratories and may prescribe standards for personnel education, training and experience to meet federal environmental statutes or regulations, or enabling reciprocity with other states and the manner and form in which compliance testing results are reported. The rules shall be developed in cooperation with the director of the department of environmental quality and shall be consistent with title 49 and rules administered or enforced by the director of environmental quality
C The director shall prescribe rules providing minimum standards for third party accreditation
D. Unless exempted by section 36-495 02, no person may operate or maintain an environmental laboratory without a license issued by the department pursuant to this chapter.

41-1073. Time frames; exception
A. No later than December 31, 1998, an agency that issues licenses shall have in place final rules establishing an overall time frame during which the agency will either grant or deny each type of license that it issues Agencies shall submit their overall time frame rules to the governor's regulatory review council pursuant to the schedule developed by the council. The council shall schedule each agency's rules so that final overall time frame rules are in place no later than December 31, 1998 The rule regarding the overall time frame for each type of license shall state separately the administrative completeness review time frame and the substantive review time frame
B. If a statutory licensing time frame already exists for an agency but the statutory time frame does not specify separate time frames for the administrative completeness review and the substantive review, by rule the agency shall establish separate time frames for the administrative completeness review and the substantive review, which together shall not exceed the statutory overall time frame An agency may establish different time frames for initial licenses, renewal licenses and revisions to existing licenses.
C. The submission by the department of environmental quality of a revised permit to the United States environmental protection agency in response to an objection by that agency shall be given the same effect as a notice granting or denying a permit application for licensing time frame purposes For the purposes of this subsection, "permit" means a permit required by title 49, chapter 2, article 3.1 or section 49-426.
D In establishing time frames, agencies shall consider all of the following:
1 The complexity of the licensing subject matter
2 The resources of the agency granting or denying the license
3 The economic impact of delay on the regulated community
4 The impact of the licensing decision on public health and safety
5 The possible use of volunteers with expertise in the subject matter area
6 The possible increased use of general licenses for similar types of licensed businesses or facilities
7. The possible increased cooperation between the agency and the regulated community
8 Increased agency flexibility in structuring the licensing process and personnel
E This article does not apply to licenses issued either:
1 Pursuant to tribal state gaming compacts.
2 Within seven days after receipt of initial application
3 By a lottery method

41-1074. Compliance with administrative completeness review time frame
A. An agency shall issue a written notice of administrative completeness or deficiencies to an applicant for a license within the administrative completeness review time frame
B. If an agency determines that an application for a license is not administratively complete, the agency shall include a comprehensive list of the specific deficiencies in the written notice provided pursuant to subsection A If the agency issues a written notice of deficiencies within the administrative completeness time frame, the administrative completeness review time frame and the overall time frame are suspended from the date the notice is issued until the date that the agency receives the missing information from the applicant

C If an agency does not issue a written notice of administrative completeness or deficiencies within the administrative completeness review time frame, the application is deemed administratively complete. If an agency issues a timely written notice of deficiencies, an application shall not be complete until all requested information has been received by the agency

41-1075. Compliance with substantive review time frame

A During the substantive review time frame, an agency may make one comprehensive written request for additional information. The agency and applicant may mutually agree in writing to allow the agency to submit supplemental requests for additional information If an agency issues a comprehensive written request or a supplemental request by mutual written agreement for additional information, the substantive review time frame and the overall time frame are suspended from the date the request is issued until the date that the agency receives the additional information from the applicant.

B. By mutual written agreement, an agency and an applicant for a license may extend the substantive review time frame and the overall time frame. An extension of the substantive review time frame and the overall time frame may not exceed twenty-five per cent of the overall time frame

41-1076. Compliance with overall time frame

Unless an agency and an applicant for a license mutually agree to extend the substantive review time frame and the overall time frame pursuant to section 41-1075, an agency shall issue a written notice granting or denying a license within the overall time frame to an applicant If an agency denies an application for a license, the agency shall include in the written notice at least the following information:

1 Justification for the denial with references to the statutes or rules on which the denial is based.

2 An explanation of the applicant's right to appeal the denial The explanation shall include the number of days in which the applicant must file a protest challenging the denial and the name and telephone number of an agency contact person who can answer questions regarding the appeals process

DEPARTMENT OF HEALTH SERVICES
Title 9, Chapter 8, Article 3, Public Toilet Facilities

GOVERNOR'S REGULATORY REVIEW COUNCIL
ANALYSIS OF FIVE-YEAR REVIEW REPORT

MEETING DATE: September 6, 2017 **AGENDA ITEM: E-4**

TO: Members of the Governor's Regulatory Review Council ("Council")

FROM: Chris Kleminich, Staff Attorney

DATE : August 23, 2017

SUBJECT: **DEPARTMENT OF HEALTH SERVICES (F-17-0603)**
Title 9, Chapter 8, Article 3, Public Toilet Facilities

This five-year-review report from the Arizona Department of Health Services (Department) covers five rules in A.A.C. Title 9, Chapter 8, Article 3 that relate to public toilet facilities in the context of food, recreational, and institutional sanitation. The rules became effective on April 10, 1997 and have not been amended since.

The Department indicates that the rules are intended to protect public health by providing minimum standards for portable toilets and refuse containers. Since 2001, the Department has limited the scope of enforcement of these rules to special events.[i]

Proposed Action

To address issues identified in the report, the Department indicates that it plans to amend the rules by June 2019.

Substantive or Procedural Concerns

None.

Analysis of the agency's report pursuant to criteria in A.R.S. § 41-1056 and R1-6-301:

1. **Has the agency certified that it is in compliance with A.R.S. § 41-1091?**

Yes. The Department has certified its compliance with A.R.S. § 41-1091.

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[i] The Department notes that Laws 2001, Chapter 19, § 1, effective August 9, 2001, deleted former A.R.S. § 36-136(H)(12), which provided specific authority for the Department to set sanitary conditions for public and semipublic buildings and to conduct routine sanitary inspections of public and semipublic buildings. Since this change was made, cities, towns, and county health departments have prescribed sanitary standards for public and semipublic buildings under their own authority in A.R.S. Title 9, Chapter 7, Article 1.

2. Has the agency analyzed the rules' effectiveness in achieving their objectives?

Yes. The Department indicates that the rules are generally effective, but could be improved by removing references to bathrooms or restrooms as they are no longer applicable.

3. Has the agency received any written criticisms of the rules during the last five years, including any written analysis questioning whether the rules are based on valid scientific or reliable principles or methods?

Yes. The Department indicates that it has not received any written criticisms of the rules during the last five years.

4. Has the agency analyzed whether the rules are authorized by statute?

Yes. The Department cites to both general and specific authority for the rules. Of particular significance is A.R.S. § 36-136(H)(1), which requires the Department to "[d]efine and prescribe reasonably necessary measures for detecting, reporting, preventing and controlling communicable and preventable diseases."

5. Has the agency analyzed the rules' consistency with statutes and other rules?

Yes. The Department notes that the rules are inconsistent with state law to the extent that they set standards for bathrooms and restrooms even though such facilities have not been subject to the requirements of the article since 2001.

6. Has the agency analyzed the current enforcement status of the rules?

Yes. The Department indicates that it has delegated its inspection and abatement authority to local health departments for their respective special events.

7. Has the agency analyzed whether the rules are clear, concise, and understandable?

Yes. The Department indicates that the rules could be more clear, concise, and understandable if references are updated and terminology is modified.

8. Stringency of the Rules:

a. Are the rules more stringent than corresponding federal law?

No. The Department indicates that no federal laws correspond to the rules.

b. If so, is there statutory authority to exceed the requirements of federal law?

Not applicable.

9. For rules adopted after July 29, 2010:

a. Do the rules require issuance of a regulatory permit, license or agency authorization?

Not applicable, as the rules were adopted prior to July 29, 2010.

b. If so, are the general permit requirements of A.R.S. § 41-1037 met or does an exception apply?

Not applicable.

10. Has the agency indicated whether it completed the course of action identified in the previous five-year-review report?

Yes. In 2012, the Department indicated that it did not plan to amend the rules. No actions have been taken on the rules in the past five years.

Conclusion

As noted above, the Department intends to amend the rules by June 2019. The report meets the requirements of A.R.S. § 41-1056 and R1-6-301, and this analyst recommends that the report be approved.

GOVERNOR'S REGULATORY REVIEW COUNCIL
M E M O R A N D U M

MEETING DATE: September 6, 2017 **AGENDA ITEM: E-4**

TO: Members of the Governor's Regulatory Review Council ("Council")

FROM: GRRC Economic Team

DATE : August 23, 2017

SUBJECT: **DEPARTMENT OF HEALTH SERVICES (F-17-0603)**
Title 9, Chapter 8, Article 3, Public Toilet Facilities

The economic analysis team has reviewed the five-year-review report's economic, small business, and consumer impact comparison and makes the following comments.

1. Economic Impact Comparison

An economic, small business, and consumer impact statement (EIS) from the 1997 rulemaking was available for the rules contained in the five-year-review report. The economic impact of the rules has generally been as anticipated in that EIS.

2. Has the agency determined that the rules impose the least burden and costs to persons regulated by the rules?

The Department has determined that the rules are mostly effective and impose the least burden and costs to the regulated community. The cost to comply with these rules is minimal and necessary to protect public health and safety.

3. Was an analysis submitted to the agency under A.R.S. § 41-1056(A)(7)?

No analysis was submitted to the agency by another person that compares the rules' impact on this state's business competitiveness to the impact on businesses in other states.

4. Conclusion

After review, staff concludes that the report complies with A.R.S. § 41-1056 and recommends approval.

ARIZONA DEPARTMENT
OF HEALTH SERVICES

RECEIVED
MAR 30 2017
GRRC

March 30, 2017

Nicole A. Ong, Chairperson
Governor's Regulatory Review Council
Arizona Department of Administration
100 N. 15th Avenue, Suite 402
Phoenix, AZ 85007

RE: Report for A.A.C. Title 9, Chapter 8, Article 3, Public Toilet Facilities

Dear Ms. Ong:

According to the five-year-review report schedule of the Governor's Regulatory Review Council (Council), a report for A.A.C. Title 9, Chapter 8, Article 3 is due to the Council no later than March 31, 2017. The Arizona Department of Health Services (Department) has reviewed A.A.C. Title 9, Chapter 8, Article 3, and is enclosing a report to the Council for these rules.

The Department believes that this report complies with the requirements of A.R.S. § 41-1056. A five-year-review summary, information that is identical for all the rules, information for individual rules, the rules reviewed, and the general and specific authority are included in the package. As described in the report, the Department plans to amend the rules in 9 A.A.C. 8, Article 3.

The Department certifies that it is in compliance with A.R.S. § 41-1091.

If you need any further information, please contact me at (602) 542-1020.

Sincerely,

Robert Lane
Director's Designee

RL:mjb

Enclosures

FIVE-YEAR-REVIEW SUMMARY

Arizona Revised Statutes (A.R.S.) § A.R.S. § 36-104(1)(b)(i) authorizes the Director to administer general sanitation programs that protect consumer health. A.R.S. § 36-136(H)(1) further requires the Director to define and prescribe by rule reasonably necessary measures for detecting, reporting, preventing, and controlling communicable and preventable diseases. A.R.S. § 36-601 provides for abatement as public nuisances any conditions that allow "sewage, human excreta, . . . [or] garbage [to be] deposited stored, discharged or exposed so as to be a potential instrument or medium in the transmission of disease" and any "vehicle or container that is used in the transportation of garbage, human excreta . . . that is defective and allows leakage or spillage of contents."

The five rules in Arizona Administrative Code (A.A.C.) Title 9, Chapter 8, Article 3 prescribe standards for portable toilets and refuse containers used at special events[1], including:

- Standards for constructing and maintaining portable toilets;
- Minimum standards for the number of portable toilets and refuge containers deployed; and
- Standards for disposal of sewage and refuse.

For reasons discussed in this Five-Year-Review Report, the Department anticipates submitting a Notice of Final Rulemaking to the Governor's Regulatory Review council by June 2019.

[1] Laws 2001, Chapter 19, § 1, effective August 9, 2001, deleted former A.R.S. § 36-136(H)(12), the specific authority for the Department to set sanitary conditions for public and semipublic buildings and to conduct routine sanitary inspections of public and semipublic buildings. This statutory change left cities, towns, and county health departments to prescribe sanitary standards for semipublic buildings under their own authority in A.R.S. Title 9, Chapter 7, Article 1. Accordingly, since August 2001, the Department and, under delegation agreements, the county health departments have limited enforcement of these rules to special events.

INFORMATION THAT IS IDENTICAL FOR ALL THE RULES

1. **Authorization of the rule by existing statutes**

The general statutory authority for the rules in 9 A.A.C. 8, Article 3 is A.R.S. §§ 36-132(A)(1), 36-136(A)(4) through (7), 36-136(F), and 36-601. The specific statutory authority for the rules in 9 A.A.C. 8, Article 3 is A.R.S. §§ 36-104(1)(b)(i) and 36-136(H)(1).

2. **The purpose of the rules**

The purpose of the rules in 9 A.A.C. 8, Article 3 is to protect the public health by prescribing minimum sanitary standards for the use of portable toilets and refuse containers at special events.

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

The rules are mostly effective in achieving their respective objectives. Additional specific comments regarding effectiveness appear in the information for individual rules.

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

The rules are mostly consistent with state and federal statutes and rules. Additional specific comments regarding the consistency with state and federal statutes and rules appear in the information for individual rules.

5. **Status of enforcement of the rules**

The Department has delegated its inspection and abatement authority to the local health departments for their respective special events. The rules are enforced without any problems.

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

All of the rules are understandable. Some of the rules contain ambiguous language and outdated references that affect the clarity and conciseness of some rules. Additional specific comments regarding the clarity and conciseness of the rules appear in the information for individual rules.

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

The Department has not received any written criticism of the rules in the last five years.

8. **Economic, small business, and consumer impact comparison**

Pursuant to A.R.S. § 36-136(D), the Department delegates its authority to the local health departments for monitoring portable toilets and refuse containers at special events. The Department does not collect statistics regarding the use of portable toilets and refuse containers at special events.

The rules in 9 A.A.C. 8, Article 3 were adopted effective April 10, 1997. An economic, small business, and consumer impact statement (EIS) was submitted to the Governor's Regulatory Review Council as part of the Notice of Final Rulemaking package for the rulemaking. The 1997 EIS stated that the cost to county health departments to administer and inspect public toilet facilities was expected to be moderate. The Department was thought to incur minimal costs for promulgating and enforcing the rules for public toilet facilities. According to the EIS, organizers of special events were thought to incur a minimal cost as a result of the rules. The Department anticipated that owners and operators of public toilet facilities would incur a moderate-to-substantial cost as a result of the rules and that the public would incur a minimal cost.

The Department believes the costs and benefits identified in the 1997 EIS are generally consistent with the actual costs and benefits of the rules, except that owners and operators of public toilet facilities in public or semi-public buildings are no longer regulated under the rules and, therefore, do not incur costs due to the rules.

9. Summary of business competitiveness analyses of the rules

The Department did not receive a business competitiveness analysis of the rules in the last five years.

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

In the 2012 Five-Year-Review Report, the Department noted that it did not plan to amend the rules in 9 A.A.C. 8, Article 3 before the next five-year-review report was due in 2017. The Department has not amended the rules in 9 A.A.C. 8, Article 3 in the last five years.

11. A determination that the probable benefits of the rule outweigh within this state 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 rules are designed to prevent conditions that would negatively affect public health. The Department and local health departments continue to use the rules without increased cost or burden. For this reason, the Department has determined that the rule provides the least burden and cost to the Department and persons regulated by the rule.

12. Analysis of stringency compared to federal laws

The rules are not related to federal laws.

13. For rules adopted after July 29, 2010 that require the issuance of a regulatory permit, license, or agency authorization, whether the rule complies with section 41-1037

The rules were adopted before July 29, 2010.

14. Proposed course of action

The Department has determined that the rules are necessary and effective to achieve their regulatory objectives. However, the rules contain incorrect references to Arizona Administrative Codes (as described in the sections relevant to individual rules) that negatively affect their clarity and conciseness, and continue to set standards for bathrooms and restrooms despite the fact that those facilities are no longer subject to the requirements of this Article under Laws 2001, Chapter 19, § 1, effective August 9, 2001.

To address issues raised in this report, and to make other changes identified as a result of the Department's comprehensive review of all rules in 9 A.A.C. 8, the Department anticipates submitting a Notice of Final Rulemaking to the Governor's Regulatory Review Council by June 2019. This course of action is subject to change based on the Governor's rulemaking moratorium and the Department's priorities.

INFORMATION FOR INDIVIDUAL RULES

R9-8-301. Definitions

2. Objective of the rule

The objective of the rule is to define terms and phrases used in Article 3 to enable a reader to understand the requirements in the Article.

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

The rule is not consistent with the statutory change under Laws 2001, Chapter 19, § 1, effective August 9, 2001, because it includes definitions relevant to the owners of bathrooms and restrooms, who are no longer subject to the requirements of this Article.

6. Analysis of clarity, conciseness, and understandability

The rule is understandable, but it is not clear and concise because it contains definitions of words that are not used in the Article and includes definitions for terms that are no longer appropriate because of the statutory change under Laws 2001, Chapter 19, § 1, effective August 9, 2001.

R9-8-302. Persons Responsible

2. Objective of the rule

The objective of the rule is to protect public health by specifying who is to comply with the requirements in the Article.

3. Analysis of effectiveness in achieving the objective

The rule is mostly effective in achieving its objective because the rule includes a person who administers a special event. However, the rule could be improved by removing references to an owner of a bathroom or restroom, who is no longer subject to the requirements of this Article.

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

The rule is not consistent with the statutory change under Laws 2001, Chapter 19, § 1, effective August 9, 2001, because it includes owners of bathrooms and restrooms, who are no longer subject to the requirements of this Article.

6. Analysis of clarity, conciseness, and understandability

The rule is understandable, but it could be more clear and concise if it removed mention of an owner of a bathroom or restroom, who is no longer subject to the requirements in the Article.

R9-8-304. Constructing and Maintaining a Portable Toilet

2. Objective of the rule

The objective of the rule is to protect public health by explaining how a portable toilet is to be constructed and maintained.

R9-8-306. Special Events

2. Objective of the rule

The objective of the rule is to protect public health by providing both the number of portable toilets and refuse containers required to be deployed at a special event and the manner of collection and disposal of sewage and refuse generated at a special event.

R9-8-307. Disposal of Sewage and Refuse

2. Objective of the rule

The objective of the rule is to protect public health by explaining the manner in which sewage and refuse is to be collected, stored, treated and disposed.

3. Analysis of effectiveness in achieving the objective

The rule is mostly effective in achieving its objective because the rule includes standards for special events. However, the rule could be improved by removing references to a bathroom or restroom, which are no longer subject to the requirements of this Article.

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

The rule is not consistent with the statutory change under Laws 2001, Chapter 19, § 1, effective August 9, 2001, because it includes standards for bathrooms and restrooms, which are no longer subject to the requirements of this Article. The rule also contains citations to Title 18 rules that have been re-codified or repealed. Instead of 18 A.A.C. 8, Article 5, the citation should be to 18 A.A.C. 13, Article 3. Instead of A.A.C. 18 A.A.C. 8, Article 6, the citation should be to 18 A.A.C. 13, Article 11. The reference to 18 A.A.C. 9, Article 8 is incorrect because that article has been repealed. In enforcing this rule, the county health departments are aware of the correct location of the rules relating to these topics.

6. Analysis of clarity, conciseness, and understandability

The rule is understandable, but it could be more clear and concise if it removed mention of standards for a bathroom or restroom, which are no longer subject to the requirements in the Article, and corrected the citations as noted in paragraph 4.

ARTICLE 3. PUBLIC TOILET FACILITIES

R9-8-301. Definitions

In this Article:

1. "Bathroom" means a restroom that contains a shower or bathtub
2. "Department" means the Department of Health Services.
3. "Director" means the Director of the Department of Health Services.
4. "Flooded" means a sanitary fixture that is overflowing sewage or filled with sewage to the point of overflowing
5. "Lavatory" means a sink or basin for cleansing hands.
6. "Person" means a governmental agency, individual, organization, association, partnership, business, corporation, or company
7. "Plumbing system" means sanitary fixtures, pipes, and related parts assembled to carry water into a structure and carry sewage out of a structure
8. "Portable toilet" means a transportable toilet connected to a leakproof tank to receive and store sewage temporarily.
9. "Potable" means water obtained from a source or distribution system that complies with the requirements of the Department of Environmental Quality as provided in 18 A A.C 4.
10. "Putrescible waste" means a solid or semisolid waste material that is likely to decompose, decay, spoil, rot, or provide food for insects, rodents, birds, or other pests.
11. "Refuse" means putrescible and nonputrescible solid and semisolid waste, including trash, garbage, or rubbish.
12. "Restroom" means a structure or room containing a lavatory and toilet, or lavatory, toilet, and urinal, available to a guest or customer of a business or governmental agency, and unconnected to dwelling or sleeping quarters
13. "Sanitary fixture" means a bathtub, floor drain, lavatory, shower, toilet, or urinal connected to a plumbing system
14. "Sewage" means the liquid waste contained in a sanitary fixture or sanitary fixture drain pipe or any liquid containing putrescible particles, feces, or urine.
15. "Special event" means a group of 100 or more individuals gathered together in lawful assembly for four or more hours in an outdoor area that does not have restroom or bathroom facilities.
16. "Urinal" means an upright basin used by males for urination only

R9-8-302. Persons Responsible

An owner of a bathroom, restroom, or portable toilet, or a person who administers a special event, shall comply with the provisions of this Article

R9-8-304. Constructing and Maintaining a Portable Toilet

A portable toilet shall be built and maintained to include:

1. A sewage storage tank, toilet seat, toilet, and urinal made of durable, smooth, leakproof, and rustproof materials;
2. Waterproof and durable floor, wall, ceiling, and door materials;
3. A vent pipe 3 inches in diameter connected to the sewage storage tank and extending 6 inches above the roof of the toilet enclosure; and
4. A constant supply of toilet paper from a toilet paper dispenser

R9-8-306. Special Events

A. Portable toilets and refuse containers shall be deployed at a special event as follows:

1. One portable toilet for the first 100 people, and one portable toilet for each additional 100 people, or portion thereof;
2. One refuse container for the first 100 people, and one refuse container for each additional 100 people, or portion thereof; and
3. Within 200 feet of the special event place

B. Sewage and refuse generated at a special event shall be collected and disposed of under R9-8-307(A), (B), (C), and (E).

R9-8-307. Disposal of Sewage and Refuse

A. The collection, storage, and treatment of sewage and refuse shall comply with the requirements of the Department of Environmental Quality under:

1. 18 A A C 8, Article 6, and 18 A A C. 9, Articles 7 and 8, for sewage; and
2. 18 A A.C. 8, Article 5, for refuse

B. A disposable refuse bag shall be used to store refuse generated at a special event. A full refuse bag shall be tied closed before disposal in accordance with subsection (A)

C. A refuse container in a bathroom or restroom, or at a special event, shall be free of accumulations of putrescible waste

D. A bathroom or restroom exclusively for female use, or a combination male-and-female use restroom shall be provided with a refuse container with a matching lid

E. An overflowing refuse container in a bathroom or restroom, or at a special event, is prohibited.

36-104. Powers and duties

This section is not to be construed as a statement of the department's organization This section is intended to be a statement of powers and duties in addition to the powers and duties granted by section 36-103 The director shall:

1 Administer the following services:

(a) Administrative services, which shall include at a minimum the functions of accounting, personnel, standards certification, electronic data processing, vital statistics and the development, operation and maintenance of buildings and grounds utilized by the department

(b) Public health support services, which shall include at a minimum:

(i) Consumer health protection programs that include at least the functions of community water supplies, general sanitation, vector control and food and drugs.

(ii) Epidemiology and disease control programs that include at least the functions of chronic disease, accident and injury control, communicable diseases, tuberculosis, venereal disease and others.

(iii) Laboratory services programs.

(iv) Health education and training programs

(v) Disposition of human bodies programs

(c) Community health services, which shall include at a minimum:

(i) Medical services programs that include at least the functions of maternal and child health, preschool health screening, family planning, public health nursing, premature and newborn program, immunizations, nutrition, dental care prevention and migrant health.

(ii) Dependency health care services programs that include at least the functions of need determination, availability of health resources to medically dependent individuals, quality control, utilization control and industry monitoring

(iii) Physically disabled children's services programs

(iv) Programs for the prevention and early detection of an intellectual disability.

(d) Program planning, which shall include at least the following:

(i) An organizational unit for comprehensive health planning programs

(ii) Program coordination, evaluation and development.

(iii) Need determination programs.

(iv) Health information programs

2. Include and administer, within the office of the director, staff services, which shall include at a minimum budget preparation, public information, appeals, hearings, legislative and federal government liaison, grant development and management and departmental and interagency coordination.

3. Make rules and regulations for the organization and proper and efficient operation of the department.

4. Determine when a health care emergency or medical emergency situation exists or occurs within the state that cannot be satisfactorily controlled, corrected or treated by the health care delivery systems and facilities available When such a situation is determined to exist, the director shall immediately report that situation to the legislature and the governor The report shall include information on the scope of the emergency, recommendations for solution of the emergency and estimates of costs involved.

5 Provide a system of unified and coordinated health services and programs between the state and county governmental health units at all levels of government.

6. Formulate policies, plans and programs to effectuate the missions and purposes of the department

7. Make contracts and incur obligations within the general scope of the department's activities and operations subject to the availability of funds

8 Be designated as the single state agency for the purposes of administering and in furtherance of each federally supported state plan.

9. Provide information and advice on request by local, state and federal agencies and by private citizens, business enterprises and community organizations on matters within the scope of the department's duties subject to the departmental rules and regulations on the confidentiality of information

10. Establish and maintain separate financial accounts as required by federal law or regulations

11. Advise with and make recommendations to the governor and the legislature on all matters concerning the department's objectives.

12 Take appropriate steps to reduce or contain costs in the field of health services.

13. Encourage and assist in the adoption of practical methods of improving systems of comprehensive planning, of program planning, of priority setting and of allocating resources.

14. Encourage an effective use of available federal resources in this state

15. Research, recommend, advise and assist in the establishment of community or area health facilities, both public and private, and encourage the integration of planning, services and programs for the development of the state's health delivery capability.
16. Promote the effective utilization of health manpower and health facilities that provide health care for the citizens of this state.
17 Take appropriate steps to provide health care services to the medically dependent citizens of this state.
18. Certify training on the nature of sudden infant death syndrome for use by professional firefighters and certified emergency medical technicians as part of their basic and continuing training requirement.
19. Certify training on the nature of sudden infant death syndrome, which shall include information on the investigation and handling of cases involving sudden and unexplained infant death for use by law enforcement officers as part of their basic training requirement.
20. Adopt protocols on the manner in which an autopsy shall be conducted under section 11-597, subsection D in cases of sudden and unexplained infant death.
21. Cooperate with the Arizona-Mexico commission in the governor's office and with researchers at universities in this state to collect data and conduct projects in the United States and Mexico on issues that are within the scope of the department's duties and that relate to quality of life, trade and economic development in this state in a manner that will help the Arizona-Mexico commission to assess and enhance the economic competitiveness of this state and of the Arizona-Mexico region.
22. Administer the federal family violence prevention and services act grants, and the department is designated as this state's recipient of federal family violence prevention and services act grants.
23. Accept and spend private grants of monies, gifts and devises for the purposes of methamphetamine education. The department shall disburse these monies to local prosecutorial or law enforcement agencies with existing programs, faith based organizations and nonprofit entities that are qualified under section 501(c)(3) of the United States internal revenue code, including nonprofit entities providing services to women with a history of dual diagnosis disorders, and that provide educational programs on the repercussions of methamphetamine use State general fund monies shall not be spent for the purposes of this paragraph If the director does not receive sufficient monies from private sources to carry out the purposes of this paragraph, the director shall not provide the educational programs prescribed in this paragraph. Grant monies received pursuant to this paragraph are no lapsing and do not revert to the state general fund at the close of the fiscal year
24. Identify successful methamphetamine prevention programs in other states that may be implemented in this state
25 Pursuant to chapter 13, article 8 of this title, coordinate all public health and risk assessment issues associated with a chemical or other toxic fire event if a request for the event is received from the incident commander, the emergency response commission or the department of public safety and if funding is available Coordination of public health issues shall include general environmental health consultation and risk assessment services consistent with chapter 13, article 8 of this title and, in consultation with the Arizona poison control system, informing the public as to potential public health risks from the environmental exposure. Pursuant to chapter 13, article 8 of this title, the department of health services shall also prepare a report, in consultation with appropriate state, federal and local governmental agencies, that evaluates the public health risks from the environmental exposure. The department of health services' report shall include any department of environmental quality report and map of smoke dispersion from the fire, the results of any environmental samples taken by the department of environmental quality and the toxicological implications and public health risks of the environmental exposure. The department of health services shall consult with the Arizona poison control system regarding toxicology issues and shall prepare and produce its report for the public as soon as practicable after the event. The department of health services shall not use any monies pursuant to section 49-282, subsection E to implement this paragraph.

36-132. <u>Department of health services; functions; contracts</u>
A. The department shall, in addition to other powers and duties vested in it by law:
1 Protect the health of the people of the state.
2. Promote the development, maintenance, efficiency and effectiveness of local health departments or districts of sufficient population and area that they can be sustained with reasonable economy and efficient administration, provide technical consultation and assistance to local health departments or districts, provide financial assistance to local health departments or districts and services that meet minimum standards of personnel and performance and in accordance with a plan and budget submitted by the local health department or districts to the department for approval, and recommend the qualifications of all personnel

3. Collect, preserve, tabulate and interpret all information required by law in reference to births, deaths and all vital facts, and obtain, collect and preserve information relating to the health of the people of the state and the prevention of diseases as may be useful in the discharge of functions of the department not in conflict with the provisions of chapter 3 of this title, and sections 36-693, 36-694 and 39-122.
4. Operate such sanitariums, hospitals or other facilities assigned to the department by law or by the governor.
5. Conduct a statewide program of health education relevant to the powers and duties of the department, prepare educational materials and disseminate information as to conditions affecting health, including basic information for the promotion of good health on the part of individuals and communities, and prepare and disseminate technical information concerning public health to the health professions, local health officials and hospitals In cooperation with the department of education, the department of health services shall prepare and disseminate materials and give technical assistance for the purpose of education of children in hygiene, sanitation and personal and public health, and provide consultation and assistance in community organization to counties, communities and groups of people.
6. Administer or supervise a program of public health nursing, prescribe the minimum qualifications of all public health nurses engaged in official public health work, and encourage and aid in coordinating local public health nursing services.
7. Encourage and aid in coordinating local programs concerning control of preventable diseases in accordance with statewide plans that shall be formulated by the department.
8. Encourage and aid in coordinating local programs concerning maternal and child health, including midwifery, antepartum and postpartum care, infant and preschool health and the health of school children, including special fields such as the prevention of blindness and conservation of sight and hearing
9 Encourage and aid in the coordination of local programs concerning nutrition of the people of the state.
10 Encourage, administer and provide dental health care services and aid in coordinating local programs concerning dental public health, in cooperation with the Arizona dental association. The department may bill and receive payment for costs associated with providing dental health care services and shall deposit the monies in the oral health fund established by section 36-138.
11. Establish and maintain adequate serological, bacteriological, parasitological, entomological and chemical laboratories with qualified assistants and facilities necessary for routine examinations and analyses and for investigations and research in matters affecting public health.
12. Supervise, inspect and enforce the rules concerning the operation of public bathing places and public and semipublic swimming pools adopted pursuant to section 36-136, subsection H, paragraph 10
13. Take all actions necessary or appropriate to ensure that bottled water sold to the public and water used to process, store, handle, serve and transport food and drink are free from filth, disease-causing substances and organisms and unwholesome, poisonous, deleterious or other foreign substances. All state agencies and local health agencies involved with water quality shall provide to the department any assistance requested by the director to ensure that this paragraph is effectuated.
14 Enforce the state food, caustic alkali and acid laws in accordance with chapter 2, article 2 of this title, chapter 8, article 1 of this title and chapter 9, article 4 of this title, and collaborate in the enforcement of the federal food, drug and cosmetic act of 1938 (52 Stat. 1040; 21 United States Code sections 1 through 905)
15 Recruit and train personnel for state, local and district health departments.
16. Conduct continuing evaluations of state, local and district public health programs, study and appraise state health problems and develop broad plans for use by the department and for recommendation to other agencies, professions and local health departments for the best solution of these problems
17. License and regulate health care institutions according to chapter 4 of this title
18 Issue or direct the issuance of licenses and permits required by law.
19 Participate in the state civil defense program and develop the necessary organization and facilities to meet wartime or other disasters.
20 Subject to the availability of monies, develop and administer programs in perinatal health care, including:
(a) Screening in early pregnancy for detecting high risk conditions
(b) Comprehensive prenatal health care.
(c) Maternity, delivery and postpartum care.
(d) Perinatal consultation, including transportation of the pregnant woman to a perinatal care center when medically indicated.
(e) Perinatal education oriented toward professionals and consumers, focusing on early detection and adequate intervention to avert premature labor and delivery

21. License and regulate the health and safety of group homes for the developmentally disabled. The department shall issue a license to an accredited facility for a period of the accreditation, except that no licensing period shall be longer than three years The department is authorized to conduct an inspection of an accredited facility to ensure that the facility meets health and safety licensure standards. The results of the accreditation survey shall be public information A copy of the final accreditation report shall be filed with the department of health services For the purposes of this paragraph, "accredited" means accredited by a nationally recognized accreditation organization

B. The department may accept from the state or federal government, or any agency of the state or federal government, and from private donors, trusts, foundations or eleemosynary corporations or organizations grants or donations for or in aid of the construction or maintenance of any program, project, research or facility authorized by this title, or in aid of the extension or enforcement of any program, project or facility authorized, regulated or prohibited by this title, and enter into contracts with the federal government, or an agency of the federal government, and with private donors, trusts, foundations or eleemosynary corporations or organizations, to carry out such purposes. All monies made available under this section are special project grants. The department may also expend these monies to further applicable scientific research within this state.

C The department, in establishing fees authorized by this section, shall comply with title 41, chapter 6 The department shall not set a fee at more than the department's cost of providing the service for which the fee is charged State agencies are exempt from all fees imposed pursuant to this section.

D. The department may enter into contracts with organizations that perform nonrenal organ transplant operations and organizations that primarily assist in the management of end stage renal disease and related problems to provide, as payors of last resort, prescription medications necessary to supplement treatment and transportation to and from treatment facilities. The contracts may provide for department payment of administrative costs it specifically authorizes.

36-136. <u>Powers and duties of director; compensation of personnel</u>

A The director shall:

1 Be the executive officer of the department of health services and the state registrar of vital statistics but shall not receive compensation for services as registrar.

2 Perform all duties necessary to carry out the functions and responsibilities of the department.

3 Prescribe the organization of the department. The director shall appoint or remove personnel as necessary for the efficient work of the department and shall prescribe the duties of all personnel The director may abolish any office or position in the department that the director believes is unnecessary.

4. Administer and enforce the laws relating to health and sanitation and the rules of the department.

5. Provide for the examination of any premises if the director has reasonable cause to believe that on the premises there exists a violation of any health law or rule of the state

6. Exercise general supervision over all matters relating to sanitation and health throughout the state. When in the opinion of the director it is necessary or advisable, a sanitary survey of the whole or of any part of the state shall be made The director may enter, examine and survey any source and means of water supply, sewage disposal plant, sewerage system, prison, public or private place of detention, asylum, hospital, school, public building, private institution, factory, workshop, tenement, public washroom, public restroom, public toilet and toilet facility, public eating room and restaurant, dairy, milk plant or food manufacturing or processing plant, and any premises in which the director has reason to believe there exists a violation of any health law or rule of the state that the director has the duty to administer.

7 Prepare sanitary and public health rules.

8 Perform other duties prescribed by law.

B. If the director has reasonable cause to believe that there exists a violation of any health law or rule of the state, the director may inspect any person or property in transportation through the state, and any car, boat, train, trailer, airplane or other vehicle in which that person or property is transported, and may enforce detention or disinfection as reasonably necessary for the public health if there exists a violation of any health law or rule.

C. The director may deputize, in writing, any qualified officer or employee in the department to do or perform on the director's behalf any act the director is by law empowered to do or charged with the responsibility of doing

D The director may delegate to a local health department, county environmental department or public health services district any functions, powers or duties that the director believes can be competently, efficiently and properly performed by the local health department, county environmental department or public health services district if:

1 The director or superintendent of the local health agency, environmental agency or public health services district is willing to accept the delegation and agrees to perform or exercise the functions, powers and duties conferred in accordance with the standards of performance established by the director.

2. Monies appropriated or otherwise made available to the department for distribution to or division among counties or public health services districts for local health work may be allocated or reallocated in a manner designed to assure the accomplishment of recognized local public health activities and delegated functions, powers and duties in accordance with applicable standards of performance. Whenever in the director's opinion there is cause, the director may terminate all or a part of any delegation and may reallocate all or a part of any funds that may have been conditioned on the further performance of the functions, powers or duties conferred.

E The compensation of all personnel shall be as determined pursuant to section 38-611.

F The director may make and amend rules necessary for the proper administration and enforcement of the laws relating to the public health.

G. Notwithstanding subsection H, paragraph 1 of this section, the director may define and prescribe emergency measures for detecting, reporting, preventing and controlling communicable or infectious diseases or conditions if the director has reasonable cause to believe that a serious threat to public health and welfare exists Emergency measures are effective for no longer than eighteen months

H. The director, by rule, shall:

1 Define and prescribe reasonably necessary measures for detecting, reporting, preventing and controlling communicable and preventable diseases The rules shall declare certain diseases reportable. The rules shall prescribe measures, including isolation or quarantine, reasonably required to prevent the occurrence of, or to seek early detection and alleviation of, disability, insofar as possible, from communicable or preventable diseases The rules shall include reasonably necessary measures to control animal diseases transmittable to humans.

2 Define and prescribe reasonably necessary measures, in addition to those prescribed by law, regarding the preparation, embalming, cremation, interment, disinterment and transportation of dead human bodies and the conduct of funerals, relating to and restricted to communicable diseases and regarding the removal, transportation, cremation, interment or disinterment of any dead human body.

3. Define and prescribe reasonably necessary procedures not inconsistent with law in regard to the use and accessibility of vital records, delayed birth registration and the completion, change and amendment of vital records.

4. Except as relating to the beneficial use of wildlife meat by public institutions and charitable organizations pursuant to title 17, prescribe reasonably necessary measures to assure that all food or drink, including meat and meat products and milk and milk products sold at the retail level, provided for human consumption is free from unwholesome, poisonous or other foreign substances and filth, insects or disease-causing organisms The rules shall prescribe reasonably necessary measures governing the production, processing, labeling, storing, handling, serving and transportation of these products The rules shall prescribe minimum standards for the sanitary facilities and conditions that shall be maintained in any warehouse, restaurant or other premises, except a meat packing plant, slaughterhouse, wholesale meat processing plant, dairy product manufacturing plant or trade product manufacturing plant. The rules shall prescribe minimum standards for any truck or other vehicle in which food or drink is produced, processed, stored, handled, served or transported The rules shall provide for the inspection and licensing of premises and vehicles so used, and for abatement as public nuisances of any premises or vehicles that do not comply with the rules and minimum standards The rules shall provide an exemption relating to food or drink that is:

(a) Served at a noncommercial social event that takes place at a workplace, such as a potluck.

(b) Prepared at a cooking school that is conducted in an owner-occupied home.

(c) Not potentially hazardous and prepared in a kitchen of a private home for occasional sale or distribution for noncommercial purposes.

(d) Prepared or served at an employee-conducted function that lasts less than four hours and is not regularly scheduled, such as an employee recognition, an employee fund-raising or an employee social event

(e) Offered at a child care facility and limited to commercially prepackaged food that is not potentially hazardous and whole fruits and vegetables that are washed and cut on site for immediate consumption

(f) Offered at locations that sell only commercially prepackaged food or drink that is not potentially hazardous and that is displayed in an area of less than ten linear feet.

(g) Baked and confectionary goods that are not potentially hazardous and that are prepared in a kitchen of a private home for commercial purposes if packaged with a label that clearly states the address of the maker, includes contact information for the maker, lists all the ingredients in the product and discloses that the product was prepared in a home The label must be given to the final consumer of the product. If the product was made in a facility for developmentally disabled individuals, the label must also disclose that fact The person preparing the food or supervising the food preparation must obtain a food handler's card or certificate if one is issued by the local county and must register with an online registry established by the department pursuant to paragraph 13 of this subsection. For the purposes of this

subdivision, "potentially hazardous" means baked and confectionary goods that meet the requirements of the food code published by the United States food and drug administration, as modified and incorporated by reference by the department by rule.

5 Prescribe reasonably necessary measures to assure that all meat and meat products for human consumption handled at the retail level are delivered in a manner and from sources approved by the Arizona department of agriculture and are free from unwholesome, poisonous or other foreign substances and filth, insects or disease-causing organisms. The rules shall prescribe standards for sanitary facilities to be used in identity, storage, handling and sale of all meat and meat products sold at the retail level

6 Prescribe reasonably necessary measures regarding production, processing, labeling, handling, serving and transportation of bottled water to assure that all bottled drinking water distributed for human consumption is free from unwholesome, poisonous, deleterious or other foreign substances and filth or disease-causing organisms. The rules shall prescribe minimum standards for the sanitary facilities and conditions that shall be maintained at any source of water, bottling plant and truck or vehicle in which bottled water is produced, processed, stored or transported and shall provide for inspection and certification of bottled drinking water sources, plants, processes and transportation and for abatement as a public nuisance of any water supply, label, premises, equipment, process or vehicle that does not comply with the minimum standards. The rules shall prescribe minimum standards for bacteriological, physical and chemical quality for bottled water and for the submission of samples at intervals prescribed in the standards

7. Define and prescribe reasonably necessary measures governing ice production, handling, storing and distribution to assure that all ice sold or distributed for human consumption or for the preservation or storage of food for human consumption is free from unwholesome, poisonous, deleterious or other foreign substances and filth or disease-causing organisms. The rules shall prescribe minimum standards for the sanitary facilities and conditions and the quality of ice that shall be maintained at any ice plant, storage and truck or vehicle in which ice is produced, stored, handled or transported and shall provide for inspection and licensing of the premises and vehicles, and for abatement as public nuisances of ice, premises, equipment, processes or vehicles that do not comply with the minimum standards.

8. Define and prescribe reasonably necessary measures concerning sewage and excreta disposal, garbage and trash collection, storage and disposal, and water supply for recreational and summer camps, campgrounds, motels, tourist courts, trailer coach parks and hotels The rules shall prescribe minimum standards for preparation of food in community kitchens, adequacy of excreta disposal, garbage and trash collection, storage and disposal and water supply for recreational and summer camps, campgrounds, motels, tourist courts, trailer coach parks and hotels and shall provide for inspection of these premises and for abatement as public nuisances of any premises or facilities that do not comply with the rules

9. Define and prescribe reasonably necessary measures concerning the sewage and excreta disposal, garbage and trash collection, storage and disposal, water supply and food preparation of all public schools. The rules shall prescribe minimum standards for sanitary conditions that shall be maintained in any public school and shall provide for inspection of these premises and facilities and for abatement as public nuisances of any premises that do not comply with the minimum standards

10. Prescribe reasonably necessary measures to prevent pollution of water used in public or semipublic swimming pools and bathing places and to prevent deleterious health conditions at these places The rules shall prescribe minimum standards for sanitary conditions that shall be maintained at any public or semipublic swimming pool or bathing place and shall provide for inspection of these premises and for abatement as public nuisances of any premises and facilities that do not comply with the minimum standards. The rules shall be developed in cooperation with the director of the department of environmental quality and shall be consistent with the rules adopted by the director of the department of environmental quality pursuant to section 49-104, subsection B, paragraph 12

11 Prescribe reasonably necessary measures to keep confidential information relating to diagnostic findings and treatment of patients, as well as information relating to contacts, suspects and associates of communicable disease patients. In no event shall confidential information be made available for political or commercial purposes.

12. Prescribe reasonably necessary measures regarding human immunodeficiency virus testing as a means to control the transmission of that virus, including the designation of anonymous test sites as dictated by current epidemiologic and scientific evidence

13. Establish an online registry of food preparers that are authorized to prepare food for commercial purposes pursuant to paragraph 4 of this subsection.

I. The rules adopted under the authority conferred by this section shall be observed throughout the state and shall be enforced by each local board of health or public health services district, but this section does not limit the right of any local board of health or county board of supervisors to adopt ordinances and rules as authorized by law within its

jurisdiction, provided that the ordinances and rules do not conflict with state law and are equal to or more restrictive than the rules of the director

J. The powers and duties prescribed by this section do not apply in instances in which regulatory powers and duties relating to public health are vested by the legislature in any other state board, commission, agency or instrumentality, except that with regard to the regulation of meat and meat products, the department of health services and the Arizona department of agriculture within the area delegated to each shall adopt rules that are not in conflict

K. The director, in establishing fees authorized by this section, shall comply with title 41, chapter 6 The department shall not set a fee at more than the department's cost of providing the service for which the fee is charged State agencies are exempt from all fees imposed pursuant to this section.

L After consultation with the state superintendent of public instruction, the director shall prescribe the criteria the department shall use in deciding whether or not to notify a local school district that a pupil in the district has tested positive for the human immunodeficiency virus antibody. The director shall prescribe the procedure by which the department shall notify a school district if, pursuant to these criteria, the department determines that notification is warranted in a particular situation. This procedure shall include a requirement that before notification the department shall determine to its satisfaction that the district has an appropriate policy relating to nondiscrimination of the infected pupil and confidentiality of test results and that proper educational counseling has been or will be provided to staff and pupils.

M. Until the department adopts exemptions by rule as required by subsection H, paragraph 4, subdivision (b) of this section, a kitchen in a private home that is used as a cooking school and that prepares and offers food to students is exempt from the rules prescribed in subsection H of this section if all of the following are true:

1 Only one cooking school meal per day is prepared and served.

2 The meal is served to not more than fifteen cooking school students.

3 The students are informed by a statement contained in a published advertisement, mailed brochure and placard posted at the cooking school's registration that the food is prepared in a kitchen that is not regulated and inspected by the department or by a local health authority

36-601. <u>Public nuisances dangerous to public health</u>

A. The following conditions are specifically declared public nuisances dangerous to the public health:

1. Any condition or place in populous areas that constitutes a breeding place for flies, rodents, mosquitoes and other insects that are capable of carrying and transmitting disease-causing organisms to any person or persons or any condition or place that constitutes a feral colony of honeybees that is not currently maintained by a beekeeper and that poses a health or safety hazard to the public.

2. Any spoiled or contaminated food or drink intended for human consumption.

3 Any restaurant, food market, bakery or other place of business or any vehicle where food is prepared, packed, processed, stored, transported, sold or served to the public that is not constantly maintained in a sanitary condition

4 Any place, condition or building that is controlled or operated by any governmental agency and that is not maintained in a sanitary condition

5 All sewage, human excreta, wastewater, garbage or other organic wastes deposited, stored, discharged or exposed so as to be a potential instrument or medium in the transmission of disease to or between any person or persons.

6. Any vehicle or container that is used in the transportation of garbage, human excreta or other organic material and that is defective and allows leakage or spillage of contents

7. The presence of ectoparasites such as bedbugs, lice, mites and others in any place where sleeping accommodations are offered to the public.

8. The maintenance of any overflowing septic tank or cesspool, the contents of which may be accessible to flies.

9. The pollution or contamination of any domestic waters

10 The use of the so-called common drinking cup used for drinking purposes by more than one person. This paragraph does not apply to receptacles properly washed and sanitized after each service.

11 The presence of common towels for use of the public in any public or semipublic place unless properly washed and sanitized following each use

12. Buildings or any parts of buildings that are in a filthy condition and that may endanger the health of persons living in the vicinity

13. Spitting or urinating on sidewalks, or floors or walls of a public building or buildings used for public assemblage, or a building used for manufacturing or industrial purposes, or on the floors or platforms or any part of a railroad or other public conveyance

14. The use of the contents of privies, cesspools or septic tanks or the use of sewage or sewage plant effluents for fertilizing or irrigation purposes for crops or gardens except by specific approval of the department of health services or the department of environmental quality
15. The maintenance of public assemblage or places of assemblage without providing adequate sanitary facilities Open surface privies are adequate sanitary facilities if they are outside populous areas and meet reasonable health requirements
16. Hotels, tourist courts and other lodging establishments that are not kept in a clean and sanitary condition or for which suitable and adequate toilet facilities are not provided
17. The storage, collection, transportation, disposal and reclamation of garbage, trash, rubbish, manure and other objectionable wastes other than as provided and authorized by law.
18. Water, other than that used by irrigation, industrial or similar systems for nonpotable purposes, that is sold to the public, distributed to the public or used in production, processing, storing, handling, servicing or transportation of food and drink and that is unwholesome, poisonous or contains deleterious or foreign substances or filth or disease causing substances or organisms
19. The emission of mercaptan in a concentration level that causes endangerment to the health or safety of any considerable number of persons of a neighborhood or community.
20. The operation of an environmental laboratory in violation of chapter 4 3, article 1 of this title
B. If the director has reasonable cause to believe from information furnished to the director or from investigation made by the director that any person is maintaining a nuisance or engaging in any practice contrary to the health laws of this state, the director shall promptly serve on that person by certified mail a cease and desist order requiring the person, on receipt of the order, promptly to cease and desist from that act Within fifteen days after receipt of the order, the person to whom it is directed may request the director to hold a hearing. The director, as soon as practicable, shall hold a hearing, and if the director determines the order is reasonable and just and that the practice engaged in is contrary to the health laws of this state, the director shall order the person to comply with the cease and desist order.
C. If a person fails or refuses to comply with the order of the director, or if a person to whom the order is directed does not request a hearing and fails or refuses to comply with the cease and desist order served by mail under subsection B, the director may file an action in the superior court in the county in which a violation occurred, restraining and enjoining the person from engaging in further acts The court shall proceed as in other actions for injunctions.
D. Notwithstanding subsection A, paragraph 19, the emission of mercaptan as a by-product of a pesticide is not a nuisance if applied according to state and federal restrictions.
E. Notwithstanding subsection A, paragraph 3, a restaurant that uses sawdust on the floors of its dining areas is not in violation of this section or local health department sanitary rules if the restaurant replaces the sawdust each day with clean sawdust and complies with applicable standards for fire safety

DEPARTMENT OF HEALTH SERVICES
Title 9, Chapter 8, Article 4, Children's Camps

GOVERNOR'S REGULATORY REVIEW COUNCIL
ANALYSIS OF FIVE-YEAR REVIEW REPORT

MEETING DATE: September 6, 2017 **AGENDA ITEM: E-5**

TO: Members of the Governor's Regulatory Review Council ("Council")

FROM: Shama Thathi, Staff Attorney

DATE : August 23, 2017

SUBJECT: **DEPARTMENT OF HEALTH SERVICES (F-17-0901)**
Title 9, Chapter 8, Article 4, Children's Camps

COMMENTS ON THE FIVE-YEAR-REVIEW REPORT

Purpose of the Agency and Number of Rules in the Report

The purpose of the Arizona Department of Health Services (Department) is "to protect the physical and mental health of the people of this state and to promote the highest standards for licensed health care institutions, emergency services, and care facilities for adults and children." Laws 2010, Ch. 8, § 3.

This five-year-review report covers three rules in A.A.C. Title 9, Chapter 8, Article 4, related to children's camps. A.R.S. § 36-3902 requires the Department to issue licenses for the operation of children's camps. In addition, A.R.S. § 36-3902 authorizes the Department to charge a $100 fee for each children's camp license and a $25 fee for each license renewal. The rules in Article 4 implement statutory requirements to ensure that children's camps are licensed and maintained in a safe and sanitary manner.

Year that Each Rule was Last Amended or Newly Made

The rules were made by final rulemaking on August 9, 2002.

Proposed Action

The Department plans to conduct an expedited rulemaking within the next five years to update statutory references, due to the 2014 recodification of A.R.S. §§ 8-551, 8-553, and 8-568.

Substantive or Procedural Concerns

None.

Analysis of the agency's report pursuant to criteria in A.R.S. § 41-1056 and R1-6-301:

1. <u>Has the agency certified that it is in compliance with A.R.S. § 41-1091?</u>

Yes. The Department has certified that it is in compliance with A.R.S. § 41-1091.

2. <u>Has the agency analyzed the rules' effectiveness in achieving their objectives?</u>

Yes. The Department indicates that the rules are effective in achieving their objectives.

3. <u>Has the agency received any written criticisms of the rules during the last five years, including any written analysis questioning whether the rules are based on valid scientific or reliable principles or methods?</u>

No. The Department indicates that it has not received any written criticisms of the rules during the last five years.

4. <u>Has the agency analyzed whether the rules are authorized by statute?</u>

Yes. The Department cites to A.R.S. §§ 36-104(3), 36-132(A)(18), 36-136(A)(7), and 36-136(F) as general authority. Under A.R.S. § 36-136(F), the Department "may make and amend rules necessary for the proper administration and enforcement of the laws relating to the public health." As for specific authority, the Department cites to A.R.S. §§ 36-3902, 36-3903, 36-3910, 36-3915, and 41-1072 *et seq*. and 36-2204.

5. <u>Has the agency analyzed the rules' consistency with other rules and statutes?</u>

Yes. The Department indicates that the rules are inconsistent with statutes, as A.R.S. §§ 8-551, 8-553, and 8-568 were re-codified as A.R.S. §§ 36-3903, 36-3910, and 36-3915 in 2014.

6. <u>Has the agency analyzed the current enforcement status of the rules?</u>

Yes. The Department indicates that the rules are enforced as written. Pursuant to A.R.S. § 36-3915, responsibility the enforcement is delegated to all counties except for Maricopa County.

7. <u>Has the agency analyzed whether the rules are clear, concise, and understandable?</u>

Yes. The Department indicates that the rules are generally clear, concise, and understandable, but could be made more clear if the incorrect statutory references were updated to reflect the changes from 2014.

8. Has the agency analyzed whether:

a. The rules are more stringent than corresponding federal law?

Yes. The Department indicates that there is no corresponding federal law.

b. There is statutory authority to exceed the requirements of federal law?

Not applicable.

9. For rules adopted after July 29, 2010, has the agency analyzed whether:

a. The rules require issuance of a regulatory permit, license or agency authorization?

Not applicable. The rules were adopted prior to July 29, 2010.

b. It is in compliance with the general permit requirements of A.R.S. § 41-1037 or explained why it believes an exception applies?

Not applicable.

10. Has the agency indicated whether it completed the course of action identified in the previous five-year-review report?

Yes. In the five-year-review report approved in 2012, the Department stated that it did not plan to amend the rules unless substantive issues arose. As no substantive issues arose in the last five years, the Department has not amended the rules.

Conclusion

The Department plans to conduct an expedited rulemaking to update statutory references noted in the report within the next five years. The report meets the requirements of A.R.S. § 41-1056 and R1-6-301. This analyst recommends the report be approved.

GOVERNOR'S REGULATORY REVIEW COUNCIL
M E M O R A N D U M

MEETING DATE: September 6, 2017 **AGENDA ITEM: E-5**

TO: Members of the Governor's Regulatory Review Council

FROM: GRRC Economic Team

DATE : August 23, 2017

SUBJECT: **DEPARTMENT OF HEALTH SERVICES (F-17-0901)**
Title 9, Chapter 8, Article 4, Children's Camps

The economic analysis team has reviewed the five-year-review report's economic, small business, and consumer impact comparison and makes the following comments.

1. Economic Impact Comparison

The economic, small business, and consumer impact statement (EIS) from the most recent Department of Health Services (Department) rulemaking completed in 2002 was available. The rules reviewed address the licensing and operation of children's camps. The Department promotes, protects, and improves the health and wellness of individuals and communities in Arizona.

Key stakeholders that are impacted by these rules are the Department, businesses running children's camps, and consumers of those camps. The Department and the county health departments incur minimal costs to implement and enforce the rules. The rules benefit children's camps by providing clarity in the application and approval process, and ensuring that it is fair and timely. Children's camps are inspected annually to determine compliance with sanitation and food safety requirements.

In FY16, there were 51 children's camps that applied for an annual permit. All 51 had routine inspections during FY16. There was one complaint inspection completed by the Department, but no enforcement actions were taken by the local health department or the Department itself.

The Department concludes that the economic impact has generally been as predicted in the prior EIS for the rules.

2. Has the agency determined that the rules impose the least burden and costs to persons regulated by the rules?

The Department determines that the rules continue to be effective and understandable. However, due to the 2014 recodification of ARS 8-551, 8-553 and 8-568, the Department plans to conduct an expedited rule making within the next five years.

3. Was an analysis submitted to the agency under ARS § 41-1056(A)(7)?

No analysis was submitted to the Department by another person that compares the rules' impact on this state's business competitiveness to the impact on businesses in other states under A.R.S. § 41-1056(A)(7).

4. Conclusion

After review, staff concludes that the report complies with A.R.S. § 41-1056 and recommends approval.

ARIZONA DEPARTMENT
OF HEALTH SERVICES

POLICY & INTERGOVERNMENTAL AFFAIRS

6/21/2017

Nicole O. Colyer, Chairperson
Governor's Regulatory Review Council
Arizona Department of Administration
100 N. 15th Avenue, Suite 302
Phoenix, AZ 85007

RE: Report for A.A.C. Title 9, Chapter 8, Article 4

Dear Ms. Colyer:

According to the five-year-review report schedule of the Governor's Regulatory Review Council (Council), a report for A.A.C. Title 9, Chapter 8, Article 4, is due to the Council no later than July 31, 2017. The Arizona Department of Health Services (Department) has reviewed 9 A.A.C Chapter 8, Article 4, Children's Camps, and is enclosing a report to the Council for these rules.

The Department believes that this report complies with the requirements of A.R.S. § 41-1056. A five-year-review summary, information that is identical for all the rules, information for individual rules, a copy of the rules reviewed, the general and specific authority, and an economic impact statement are included in this package. As stated in the report, due to the 2014 recodification of A.R.S. §§ 8-551, 8-553, and 8-568, the Department will conduct an expedited rulemaking pursuant to A.R.S. § 41-1027 within the next five years. The Department does not intend to amend the remaining rules in, A.A.C. Title 9, Chapter 8, Article 4 unless a threat to public health or safety arises that requires amending the rules.

The Department certifies that the Department is in compliance with A.R.S. § 41-1091.

If you need any further information, please contact me at (602) 542-1020.

Sincerely,

Robert Lane
Director's Designee

ARIZONA DEPARTMENT
OF HEALTH SERVICES

FIVE-YEAR-REVIEW REPORT

TITLE 9. HEALTH SERVICES

CHAPTER 8. DEPARTMENT OF HEALTH SERVICES

FOOD, RECREATIONAL, AND INSTUTIONAL SANITATION

ARTICLE 4. CHILDREN'S CAMPS

May 2017

FIVE-YEAR-REVIEW REPORT

TITLE 9. HEALTH SERVICES
CHAPTER 8. DEPARTMENT OF HEALTH SERVICES
FOOD, RECREATIONAL, AND INSTUTIONAL SANITATION
ARTICLE 4. CHILDREN'S CAMPS

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FIVE-YEAR-REVIEW SUMMARY

Arizona Revised Statutes (A.R.S.) § 36-3902 authorizes the Arizona Department of Health Services (Department) to issue licenses for the operation of children's camps and requires a person operating or seeking to operate a children's camp to submit a written application to the Department. A.R.S. § 36-3902 requires that the application contain information that allows the Department to determine if the children's camp is compliant with all operating and maintenance standards prescribed in A.R.S., Title 36, Chapter 39. In addition, A.R.S. § 36-3902 requires a person to submit a separate application and obtain a license for each children's camp operated, and that the license be conspicuously placed children's camp premises. A.R.S. § 36-3903 authorizes the Department to charge a fee of one hundred dollars for each children's camp license and a twenty-five dollar fee for each license renewal. A.R.S. § 36-3915 allows the Department to delegate these powers and duties to a county who then collects the monies pursuant to A.R.S. § 36-3903. A.R.S. §§ 41-1072 et. seq. defines and gives permission to the Department to establish in rule licensing time-frames. The Department has adopted in Arizona Administrative Code (A.C.C.) Title 9, Chapter 8, Article 4 rules to implement A.R.S. §§ 36-3902, 36-3903, and 41-1072 et. seq. to ensure that children's camps are licensed and maintained in a safe and sanitary manner. Other requirements for children's camps are specified in A.R.S. § 36-3904 through 36-3915.

In Arizona, children's camps are inspected annually to determine if they are in compliance with sanitation and food safety requirements. The inspections focus primarily on general sanitation including water supply, toilet and disposal systems, and drainage. Inspections are also conducted at the food service kitchens pursuant to requirements of A.R.S. Title 36, A.A.C. Title 9, Chapter 8, Article 1. Inspections for children's camps are tracked by fiscal year (FY). Except for Maricopa County, the Department, pursuant to A.R.S. § 36-3915, has delegated its inspection authority under A.R.S. § 36-3910 to the local health department having jurisdiction over their respective children's camps.

In FY2016, there were 51 children's camps that applied for an annual permit. Most of the camps were located in rural counties. Some of the camps operated for several months during the summer, while others operated for only a few days. State and county inspectors conducted 51 routine inspections of children's camps during FY2016. There was one complaint inspection completed by the Department. No enforcement actions were undertaken by the local health departments or the Department. The rules continue to be effective and mostly clear, concise, and understandable. The Department has not received any written criticism of the rules in the past five years. The Department plans to conduct an expedited rule making pursuant to A.R.S. § 41-1027 within the next five years as stated in the report.

INFORMATION THAT IS IDENTICAL FOR ALL THE RULES

1. Authorization of the rule by existing statutes

General statutes: A.R.S. §§ 36-104(3), 36-132(A)(18), 36-136(A)(7), and 36-136(F).

Specific statutes: A.R.S. §§ 36-3902, 36-3903, 36-3910, 36-3915 and 41-1072 et seq.

2. The purpose of the rules

The purpose of the rules in 9 A.A.C. 8, Article 4 is to regulate children's camps.

3. Analysis of effectiveness in achieving the objectives

The rules are effective in achieving their respective objectives.

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

The rules are mostly consistent with state and federal statutes and rules. However, since the last Five-Year-Review-Report in 2012, A.R.S. §§ 8-551, 8-553, and 8-568 were re-codified as A.R.S. §§ 36-3903, 36-3910, and 36-3915, respectively, by Laws 2014, 2nd S.S., Ch. 1, § 52A, eff. May 29, 2014, making all three rules inconsistent with these statutes.

5. Status of enforcement of the rules

The rules are enforced without difficulty. Responsibility is delegated to all counties except Maricopa County pursuant to A.R.S. § 36-3915.

6. Analysis of clarity, conciseness, and understandability

The rules are mostly clear, concise, and understandable but would be more clear and understandable if the citations to A.R.S. §§ 8-553 and 8-568 and to A.R.S. Title 8, Chapter 6, Article 1 were replaced with the applicable citations in A.R.S. Title 36, Chapter 39.

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

The Department has not received any written criticism of the rules in the last five years.

8. Economic, small business, and consumer impact comparison

The rules for children's camps were adopted by regular rulemaking, published in the *Arizona Administrative Register* (A.A.R.) at 8 A.A.R. 3716, effective, August 9, 2002, which added three new Sections to a new Article 4 to address the licensing of children's camps. An economic, small business, and consumer impact statement (EIS) was submitted to the Governor's Regulatory Review Council as part of the Notice of Final Rulemaking package for the rulemaking. (A copy of the EIS may be found in Attachment C.) The EIS considered a cost as minimal when less than $1,000, moderate when between $1,000 and $10,000, and substantial when greater than $10,000. The 2002 EIS stated the Department would incur costs to write, review, and process the rules through promulgation and amend the current license application. The Department and the county health departments would incur minimal costs to implement and enforce the rules. Businesses and private persons or consumers directly impacted by the new rules would not incur any additional costs since their responsibilities would not change with the implementation of the rules. The

proposed rules would benefit children's camps by providing clarity in the application and approval process, and assuring that the Department would process all applications in a fair, consistent, and timely manner. The overall impact of the 2002 rulemaking was expected to be minimal, with the benefits of the rulemaking outweighing the costs. In reviewing the rules in Article 4 for this Five-Year Review Report, the Department determined that the costs and benefits identified in the 2002 EIS are generally consistent with the actual costs and benefits of the rules. The public health benefits of having rules for children's camps outweigh the cost of the rules to the Department, the local health departments, owners and operators of children's camps, and the public**.**

9. Summary of business competitiveness analyses of the rules

The Department did not receive a business competitiveness analysis of the rules in the last five years.

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

In the 2012 Five-Year-Review Report, the Department noted that it did not anticipate amending the rules until substantive issues arose. No substantive issues arose and as a result, the Department has not amended the rules.

11. A determination that the probable benefits of the rule outweigh within this state 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 Department continues to use the rules without increased cost or burden. For this reason, the Department has determined that the rules provide the least burden and cost to the Department and persons regulated by the rules and achieves the regulatory objective consistent with statutory requirements. The public health benefits of having rules for children's camps outweigh the cost of the rules to the Department, the local health departments, owners and operators of children's camps, and the public.

12. Analysis of stringency compared to federal laws

There are no applicable federal laws.

13. For rules adopted after July 29, 2010 that require the issuance of a regulatory permit, license, or agency authorization, whether the rule complies with section 41-1037

The rules were adopted before July 29, 2010.

14. Proposed course of action

Due to the 2014 recodification of A.R.S. §§ 8-551, 8-553, and 8-568 stated previously, the Department will conduct an expedited rulemaking pursuant to A.R.S. § 41-1027 within the next five years.

INFORMATION FOR INDIVIDUAL RULES

R9-8-401. Definitions

2. <u>Objective of the rule</u>

The objective of the rule is to define terms and phrases used in the Article 4 to allow for a consistent interpretation of the requirements contained in the Article.

R9-8-402. Initial and renewal License Application Process

2. <u>Objective of the rule</u>

The objective of the rule is to describe the initial and renewal license application process for the operation of a children's camp.

R9-8-403. Time-frames

2. <u>Objective of the rule</u>

The objective of the rule is to describe time-frame requirements for issuing a license to a children's camp.

ARTICLE 4. CHILDREN'S CAMPS

R9-8-401. Definitions

In this Article, unless otherwise requires:

1. "Applicant" means an individual requesting a license from the Department or a county to operate a children's camp.
2. "Bathing place" has the same meaning as in 9 A.A.C. 8, Article 8.
3. "Camp director" means an individual who runs, maintains, or otherwise controls or directs the functions of a children's camp.
4. "Children's camp" has the same meaning as in A.R.S. § 8-551.
5. "County" means a governmental entity that has a delegation agreement with the Department as prescribed in A.R.S. § 8-568.
6. "Delegation agreement" has the same meaning as in A.R.S. § 41-1001.
7. "Department" means the Arizona Department of Health Services.
8. "Food establishment" has the same meaning as in 9 A.A.C. 8, Article 1.

R9-8-402. Initial and Renewal License Application Process

A. An applicant shall submit a completed license application form in subsection (B) to:
   1. The county in which the children's camp is located, if the county has a delegation agreement with the Department under A.R.S. § 8-568; or
   2. The Department, if there is no delegation agreement.

B. An applicant shall submit a completed license application form provided by the Department or a county that contains:
   1. The name, mailing address, and telephone number of the children's camp;
   2. The county in which the children's camp is located;
   3. The name, telephone number, and mailing address of the applicant;
   4. The name, telephone number, and if applicable, e-mail address of the camp director;
   5. The dates of operation of the children's camp;
   6. The number of individuals the children's camp can accommodate;
   7. Whether there is a food establishment in the children's camp;
   8. Whether there is a bathing place in the children's camp;
   9. The potable water supply source at the children's camp;
   10. The type of sewage disposal system;
   11. Whether the application is for an initial or a renewal license; and
   12. The signature of the applicant.

C. With the completed license application, an applicant shall include a map that specifies the location of the children's camp, and:
   1. For an initial license:
      a. If applying to the Department, a fee of $100, or
      b. If applying to a county, a fee established according to A.R.S. § 8-553(B).
   2. For a renewal license:
      a. If applying to the Department, a fee of $25 or
      b. If applying to a county, a fee established according to A.R.S. § 8-553(B).

D. The Department or a county begins reviewing applications on May 1 of each year.

R9-8-403. Time-frames

A. The overall time-frame described in A.R.S. § 41-1072 for an initial or a renewal license granted by the Department or county is 60 days. The applicant and the Department or a county may agree in writing to extend the substantive review time-frame and the overall time-frame. An extension of the substantive time-frame and the overall time-frame shall not exceed 25% of the overall time-frame.

B. The administrative completeness review time-frame described in A.R.S. § 41-1072 for an initial or a renewal license granted by the Department or a county is 30 days and begins on May 1 of each year or on the date the application is received if after May 1.
   1. The Department or a county shall mail notice of administrative completeness or deficiencies to the applicant within the administrative completeness review time-frame.
      a. A notice of deficiencies shall list each deficiency and the information and documentation needed to complete the license application.
      b. If the Department or a county issues a notice of deficiencies within the administrative completeness review time-frame, the administrative completeness review time-frame and the overall time-frame are suspended from the date that the notice is issued until the date the Department or a county receives the missing information from the applicant.
      c. If the applicant fails to submit to the Department or a county all the information and documents listed in the notice of deficiencies within 60 days of the date the Department or a county mailed the notice of deficiencies, the Department or county deems the license application withdrawn.
   2. If the Department or a county issues a license to the applicant during the administrative completeness review time-frame, the Department or a county does not issue a separate written notice of administrative completeness.

C. The substantive review time-frame described in A.R.S. § 41-1072 is 30 days and begins on the date the notice of administrative completeness is mailed to the applicant.
   1. The Department or a county shall mail a children's camp license or a written notification of denial of the license application to the applicant within the substantive review time-frame.
   2. As part of the substantive-review time-frame for a children's camp license, the Department or a county may conduct an inspection of the children's camp to determine whether the children's camp has complied with the applicable requirements in subsection (C)(4) or (C)(5).
   3. If the Department or a county issues a comprehensive written request or supplemental request for information, the substantive review time-frame and the overall time-frame are suspended from the date the Department or a county issues the request until the date the Department or a county receives all of the information.
   4. If an applicant applying to the Department meets all the requirements under A.R.S. Title 8, Chapter 6, Article 1, and these rules, the Department shall issue a license to the applicant.
   5. If an applicant applying to a county meets all the requirements under A.R.S. Title 8, Chapter 6, Article 1, these rules, and county requirements consistent with A.R.S. Title 8, Chapter 6, Article 1, a county shall issue a license to the applicant.
   6. If the Department or a county disapproves a license application, the Department or a county shall send the applicant a written notice of disapproval setting forth the reasons for disapproval and all other information required in A.R.S. § 41-1076.

D. If a time-frame's last day is on a Saturday, Sunday, or legal holiday, the Department or a county considers the next business day as the time-frame's last day.

ATTACHMENT

B

36-104. Powers and duties

This section is not to be construed as a statement of the department's organization. This section is intended to be a statement of powers and duties in addition to the powers and duties granted by section 36-103. The director shall:

1. Administer the following services:
   - (a) Administrative services, which shall include at a minimum the functions of accounting, personnel, standards certification, electronic data processing, vital statistics and the development, operation and maintenance of buildings and grounds utilized by the department.
   - (b) Public health support services, which shall include at a minimum:
     - (i) Consumer health protection programs that include at least the functions of community water supplies, general sanitation, vector control and food and drugs.
     - (ii) Epidemiology and disease control programs that include at least the functions of chronic disease, accident and injury control, communicable diseases, tuberculosis, venereal disease and others.
     - (iii) Laboratory services programs.
     - (iv) Health education and training programs.
     - (v) Disposition of human bodies programs.
   - (c) Community health services, which shall include at a minimum:
     - (i) Medical services programs that include at least the functions of maternal and child health, preschool health screening, family planning, public health nursing, premature and newborn program, immunizations, nutrition, dental care prevention and migrant health.
     - (ii) Dependency health care services programs that include at least the functions of need determination, availability of health resources to medically dependent individuals, quality control, utilization control and industry monitoring.
     - (iii) Physically disabled children's services programs.
     - (iv) Programs for the prevention and early detection of an intellectual disability.
   - (d) Program planning, which shall include at least the following:
     - (i) An organizational unit for comprehensive health planning programs.
     - (ii) Program coordination, evaluation and development.
     - (iii) Need determination programs.
     - (iv) Health information programs.
2. Include and administer, within the office of the director, staff services, which shall include at a minimum budget preparation, public information, appeals, hearings, legislative and federal government liaison, grant development and management and departmental and interagency coordination.
3. Make rules and regulations for the organization and proper and efficient operation of the department.
4. Determine when a health care emergency or medical emergency situation exists or occurs within the state that cannot be satisfactorily controlled, corrected or treated by the health care delivery systems and facilities available. When such a situation is determined to exist, the director shall immediately report that situation to the legislature and the governor. The report shall include information on the scope of the emergency, recommendations for solution of the emergency and estimates of costs involved.
5. Provide a system of unified and coordinated health services and programs between the state and county governmental health units at all levels of government.

6. Formulate policies, plans and programs to effectuate the missions and purposes of the department.
7. Make contracts and incur obligations within the general scope of the department's activities and operations subject to the availability of funds.
8. Be designated as the single state agency for the purposes of administering and in furtherance of each federally supported state plan.
9. Provide information and advice on request by local, state and federal agencies and by private citizens, business enterprises and community organizations on matters within the scope of the department's duties subject to the departmental rules and regulations on the confidentiality of information.
10. Establish and maintain separate financial accounts as required by federal law or regulations.
11. Advise with and make recommendations to the governor and the legislature on all matters concerning the department's objectives.
12. Take appropriate steps to reduce or contain costs in the field of health services.
13. Encourage and assist in the adoption of practical methods of improving systems of comprehensive planning, of program planning, of priority setting and of allocating resources.
14. Encourage an effective use of available federal resources in this state.
15. Research, recommend, advise and assist in the establishment of community or area health facilities, both public and private, and encourage the integration of planning, services and programs for the development of the state's health delivery capability.
16. Promote the effective utilization of health manpower and health facilities that provide health care for the citizens of this state.
17. Take appropriate steps to provide health care services to the medically dependent citizens of this state.
18. Certify training on the nature of sudden infant death syndrome for use by professional firefighters and certified emergency medical technicians as part of their basic and continuing training requirement.
19 Certify training on the nature of sudden infant death syndrome, which shall include information on the investigation and handling of cases involving sudden and unexplained infant death for use by law enforcement officers as part of their basic training requirement.
20. Adopt protocols on the manner in which an autopsy shall be conducted under section 11-597, subsection D in cases of sudden and unexplained infant death.
21. Cooperate with the Arizona-Mexico commission in the governor's office and with researchers at universities in this state to collect data and conduct projects in the United States and Mexico on issues that are within the scope of the department's duties and that relate to quality of life, trade and economic development in this state in a manner that will help the Arizona-Mexico commission to assess and enhance the economic competitiveness of this state and of the Arizona-Mexico region.
22. Administer the federal family violence prevention and services act grants, and the department is designated as this state's recipient of federal family violence prevention and services act grants.
23. Accept and spend private grants of monies, gifts and devises for the purposes of methamphetamine education. The department shall disburse these monies to local prosecutorial or law enforcement agencies with existing programs, faith based organizations and nonprofit entities that are qualified under section 501(c)(3) of the United States internal revenue code, including nonprofit entities providing services to women with a history of dual diagnosis disorders, and that provide educational programs on the repercussions of methamphetamine use. State general fund monies shall not be

spent for the purposes of this paragraph. If the director does not receive sufficient monies from private sources to carry out the purposes of this paragraph, the director shall not provide the educational programs prescribed in this paragraph. Grant monies received pursuant to this paragraph are no lapsing and do not revert to the state general fund at the close of the fiscal year.

24. Identify successful methamphetamine prevention programs in other states that may be implemented in this state.

25. Pursuant to chapter 13, article 8 of this title, coordinate all public health and risk assessment issues associated with a chemical or other toxic fire event if a request for the event is received from the incident commander, the emergency response commission or the department of public safety and if funding is available. Coordination of public health issues shall include general environmental health consultation and risk assessment services consistent with chapter 13, article 8 of this title and, in consultation with the Arizona poison control system, informing the public as to potential public health risks from the environmental exposure. Pursuant to chapter 13, article 8 of this title, the department of health services shall also prepare a report, in consultation with appropriate state, federal and local governmental agencies, that evaluates the public health risks from the environmental exposure. The department of health services' report shall include any department of environmental quality report and map of smoke dispersion from the fire, the results of any environmental samples taken by the department of environmental quality and the toxicological implications and public health risks of the environmental exposure. The department of health services shall consult with the Arizona poison control system regarding toxicology issues and shall prepare and produce its report for the public as soon as practicable after the event. The department of health services shall not use any monies pursuant to section 49-282, subsection E to implement this paragraph.

36-132. <u>Department of health services; functions; contracts</u>

A. The department shall, in addition to other powers and duties vested in it by law:

1. Protect the health of the people of the state.

2. Promote the development, maintenance, efficiency and effectiveness of local health departments or districts of sufficient population and area that they can be sustained with reasonable economy and efficient administration, provide technical consultation and assistance to local health departments or districts, provide financial assistance to local health departments or districts and services that meet minimum standards of personnel and performance and in accordance with a plan and budget submitted by the local health department or districts to the department for approval, and recommend the qualifications of all personnel.

3. Collect, preserve, tabulate and interpret all information required by law in reference to births, deaths and all vital facts, and obtain, collect and preserve information relating to the health of the people of the state and the prevention of diseases as may be useful in the discharge of functions of the department not in conflict with the provisions of chapter 3 of this title, and sections 36-693, 36-694 and 39-122.

4. Operate such sanitariums, hospitals or other facilities assigned to the department by law or by the governor.

5. Conduct a statewide program of health education relevant to the powers and duties of the department, prepare educational materials and disseminate information as to conditions affecting health, including basic information for the promotion of good health on the part of individuals and communities, and prepare and disseminate technical information concerning public health to the health professions, local health officials and hospitals. In cooperation with the department of education, the department of health services shall prepare and disseminate materials and give technical assistance for the purpose of

education of children in hygiene, sanitation and personal and public health, and provide consultation and assistance in community organization to counties, communities and groups of people.

6. Administer or supervise a program of public health nursing, prescribe the minimum qualifications of all public health nurses engaged in official public health work, and encourage and aid in coordinating local public health nursing services.
7. Encourage and aid in coordinating local programs concerning control of preventable diseases in accordance with statewide plans that shall be formulated by the department.
8. Encourage and aid in coordinating local programs concerning maternal and child health, including midwifery, antepartum and postpartum care, infant and preschool health and the health of school children, including special fields such as the prevention of blindness and conservation of sight and hearing.
9. Encourage and aid in the coordination of local programs concerning nutrition of the people of the state.
10. Encourage, administer and provide dental health care services and aid in coordinating local programs concerning dental public health, in cooperation with the Arizona dental association. The department may bill and receive payment for costs associated with providing dental health care services and shall deposit the monies in the oral health fund established by section 36-138.
11. Establish and maintain adequate serological, bacteriological, parasitological, entomological and chemical laboratories with qualified assistants and facilities necessary for routine examinations and analyses and for investigations and research in matters affecting public health.
12. Supervise, inspect and enforce the rules concerning the operation of public bathing places and public and semipublic swimming pools adopted pursuant to section 36-136, subsection H, paragraph 10.
13. Take all actions necessary or appropriate to ensure that bottled water sold to the public and water used to process, store, handle, serve and transport food and drink are free from filth, disease-causing substances and organisms and unwholesome, poisonous, deleterious or other foreign substances. All state agencies and local health agencies involved with water quality shall provide to the department any assistance requested by the director to ensure that this paragraph is effectuated.
14. Enforce the state food, caustic alkali and acid laws in accordance with chapter 2, article 2 of this title, chapter 8, article 1 of this title and chapter 9, article 4 of this title, and collaborate in the enforcement of the federal food, drug and cosmetic act of 1938 (52 Stat. 1040; 21 United States Code sections 1 through 905).
15. Recruit and train personnel for state, local and district health departments.
16. Conduct continuing evaluations of state, local and district public health programs, study and appraise state health problems and develop broad plans for use by the department and for recommendation to other agencies, professions and local health departments for the best solution of these problems.
17. License and regulate health care institutions according to chapter 4 of this title.
18. Issue or direct the issuance of licenses and permits required by law.
19. Participate in the state civil defense program and develop the necessary organization and facilities to meet wartime or other disasters.
20. Subject to the availability of monies, develop and administer programs in perinatal health care, including:
    (a) Screening in early pregnancy for detecting high risk conditions.
    (b) Comprehensive prenatal health care.
    (c) Maternity, delivery and postpartum care.

(d) Perinatal consultation, including transportation of the pregnant woman to a perinatal care center when medically indicated.

(e) Perinatal education oriented toward professionals and consumers, focusing on early detection and adequate intervention to avert premature labor and delivery.

21. License and regulate the health and safety of group homes for the developmentally disabled. The department shall issue a license to an accredited facility for a period of the accreditation, except that no licensing period shall be longer than three years. The department is authorized to conduct an inspection of an accredited facility to ensure that the facility meets health and safety licensure standards. The results of the accreditation survey shall be public information. A copy of the final accreditation report shall be filed with the department of health services. For the purposes of this paragraph, "accredited" means accredited by a nationally recognized accreditation organization.

B. The department may accept from the state or federal government, or any agency of the state or federal government, and from private donors, trusts, foundations or eleemosynary corporations or organizations grants or donations for or in aid of the construction or maintenance of any program, project, research or facility authorized by this title, or in aid of the extension or enforcement of any program, project or facility authorized, regulated or prohibited by this title, and enter into contracts with the federal government, or an agency of the federal government, and with private donors, trusts, foundations or eleemosynary corporations or organizations, to carry out such purposes. All monies made available under this section are special project grants. The department may also expend these monies to further applicable scientific research within this state.

C. The department, in establishing fees authorized by this section, shall comply with title 41, chapter 6. The department shall not set a fee at more than the department's cost of providing the service for which the fee is charged. State agencies are exempt from all fees imposed pursuant to this section.

D. The department may enter into contracts with organizations that perform nonrenal organ transplant operations and organizations that primarily assist in the management of end stage renal disease and related problems to provide, as payors of last resort, prescription medications necessary to supplement treatment and transportation to and from treatment facilities. The contracts may provide for department payment of administrative costs it specifically authorizes.

36-136. <u>Powers and duties of director; compensation of personnel</u>

A. The director shall:

1. Be the executive officer of the department of health services and the state registrar of vital statistics but shall not receive compensation for services as registrar.
2. Perform all duties necessary to carry out the functions and responsibilities of the department.
3. Prescribe the organization of the department. The director shall appoint or remove personnel as necessary for the efficient work of the department and shall prescribe the duties of all personnel. The director may abolish any office or position in the department that the director believes is unnecessary.
4. Administer and enforce the laws relating to health and sanitation and the rules of the department.
5. Provide for the examination of any premises if the director has reasonable cause to believe that on the premises there exists a violation of any health law or rule of the state.
6. Exercise general supervision over all matters relating to sanitation and health throughout the state. When in the opinion of the director it is necessary or advisable, a sanitary survey of the whole or of any part of the state shall be made. The director may enter, examine and survey any source and means of water supply, sewage disposal plant, sewerage system, prison, public or private place of detention, asylum, hospital, school, public building, private institution, factory, workshop, tenement, public washroom,

public restroom, public toilet and toilet facility, public eating room and restaurant, dairy, milk plant or food manufacturing or processing plant, and any premises in which the director has reason to believe there exists a violation of any health law or rule of the state that the director has the duty to administer.

7. Prepare sanitary and public health rules.
8. Perform other duties prescribed by law.

B. If the director has reasonable cause to believe that there exists a violation of any health law or rule of the state, the director may inspect any person or property in transportation through the state, and any car, boat, train, trailer, airplane or other vehicle in which that person or property is transported, and may enforce detention or disinfection as reasonably necessary for the public health if there exists a violation of any health law or rule.

C. The director may deputize, in writing, any qualified officer or employee in the department to do or perform on the director's behalf any act the director is by law empowered to do or charged with the responsibility of doing.

D. The director may delegate to a local health department, county environmental department or public health services district any functions, powers or duties that the director believes can be competently, efficiently and properly performed by the local health department, county environmental department or public health services district if:

1. The director or superintendent of the local health agency, environmental agency or public health services district is willing to accept the delegation and agrees to perform or exercise the functions, powers and duties conferred in accordance with the standards of performance established by the director.
2. Monies appropriated or otherwise made available to the department for distribution to or division among counties or public health services districts for local health work may be allocated or reallocated in a manner designed to assure the accomplishment of recognized local public health activities and delegated functions, powers and duties in accordance with applicable standards of performance. Whenever in the director's opinion there is cause, the director may terminate all or a part of any delegation and may reallocate all or a part of any funds that may have been conditioned on the further performance of the functions, powers or duties conferred.

E. The compensation of all personnel shall be as determined pursuant to section 38-611.

F. The director may make and amend rules necessary for the proper administration and enforcement of the laws relating to the public health.

G. Notwithstanding subsection H, paragraph 1 of this section, the director may define and prescribe emergency measures for detecting, reporting, preventing and controlling communicable or infectious diseases or conditions if the director has reasonable cause to believe that a serious threat to public health and welfare exists. Emergency measures are effective for no longer than eighteen months.

H. The director, by rule, shall:

1. Define and prescribe reasonably necessary measures for detecting, reporting, preventing and controlling communicable and preventable diseases. The rules shall declare certain diseases reportable. The rules shall prescribe measures, including isolation or quarantine, reasonably required to prevent the occurrence of, or to seek early detection and alleviation of, disability, insofar as possible, from communicable or preventable diseases. The rules shall include reasonably necessary measures to control animal diseases transmittable to humans.
2. Define and prescribe reasonably necessary measures, in addition to those prescribed by law, regarding the preparation, embalming, cremation, interment, disinterment and transportation of dead human bodies and the conduct of funerals, relating to and restricted to communicable diseases and regarding the removal, transportation, cremation, interment or disinterment of any dead human body.

3. Define and prescribe reasonably necessary procedures not inconsistent with law in regard to the use and accessibility of vital records, delayed birth registration and the completion, change and amendment of vital records.

4. Except as relating to the beneficial use of wildlife meat by public institutions and charitable organizations pursuant to title 17, prescribe reasonably necessary measures to assure that all food or drink, including meat and meat products and milk and milk products sold at the retail level, provided for human consumption is free from unwholesome, poisonous or other foreign substances and filth, insects or disease-causing organisms. The rules shall prescribe reasonably necessary measures governing the production, processing, labeling, storing, handling, serving and transportation of these products. The rules shall prescribe minimum standards for the sanitary facilities and conditions that shall be maintained in any warehouse, restaurant or other premises, except a meat packing plant, slaughterhouse, wholesale meat processing plant, dairy product manufacturing plant or trade product manufacturing plant. The rules shall prescribe minimum standards for any truck or other vehicle in which food or drink is produced, processed, stored, handled, served or transported. The rules shall provide for the inspection and licensing of premises and vehicles so used, and for abatement as public nuisances of any premises or vehicles that do not comply with the rules and minimum standards. The rules shall provide an exemption relating to food or drink that is:
   (a) Served at a noncommercial social event that takes place at a workplace, such as a potluck.
   (b) Prepared at a cooking school that is conducted in an owner-occupied home.
   (c) Not potentially hazardous and prepared in a kitchen of a private home for occasional sale or distribution for noncommercial purposes.
   (d) Prepared or served at an employee-conducted function that lasts less than four hours and is not regularly scheduled, such as an employee recognition, an employee fund-raising or an employee social event.
   (e) Offered at a child care facility and limited to commercially prepackaged food that is not potentially hazardous and whole fruits and vegetables that are washed and cut on site for immediate consumption.
   (f) Offered at locations that sell only commercially prepackaged food or drink that is not potentially hazardous and that is displayed in an area of less than ten linear feet.
   (g) Baked and confectionary goods that are not potentially hazardous and that are prepared in a kitchen of a private home for commercial purposes if packaged with a label that clearly states the address of the maker, includes contact information for the maker, lists all the ingredients in the product and discloses that the product was prepared in a home. The label must be given to the final consumer of the product. If the product was made in a facility for developmentally disabled individuals, the label must also disclose that fact. The person preparing the food or supervising the food preparation must obtain a food handler's card or certificate if one is issued by the local county and must register with an online registry established by the department pursuant to paragraph 13 of this subsection. For the purposes of this subdivision, "potentially hazardous" means baked and confectionary goods that meet the requirements of the food code published by the United States food and drug administration, as modified and incorporated by reference by the department by rule.

5. Prescribe reasonably necessary measures to assure that all meat and meat products for human consumption handled at the retail level are delivered in a manner and from sources approved by the Arizona department of agriculture and are free from unwholesome, poisonous or other foreign substances and filth, insects or disease-causing

organisms. The rules shall prescribe standards for sanitary facilities to be used in identity, storage, handling and sale of all meat and meat products sold at the retail level.

6. Prescribe reasonably necessary measures regarding production, processing, labeling, handling, serving and transportation of bottled water to assure that all bottled drinking water distributed for human consumption is free from unwholesome, poisonous, deleterious or other foreign substances and filth or disease-causing organisms. The rules shall prescribe minimum standards for the sanitary facilities and conditions that shall be maintained at any source of water, bottling plant and truck or vehicle in which bottled water is produced, processed, stored or transported and shall provide for inspection and certification of bottled drinking water sources, plants, processes and transportation and for abatement as a public nuisance of any water supply, label, premises, equipment, process or vehicle that does not comply with the minimum standards. The rules shall prescribe minimum standards for bacteriological, physical and chemical quality for bottled water and for the submission of samples at intervals prescribed in the standards.

7. Define and prescribe reasonably necessary measures governing ice production, handling, storing and distribution to assure that all ice sold or distributed for human consumption or for the preservation or storage of food for human consumption is free from unwholesome, poisonous, deleterious or other foreign substances and filth or disease-causing organisms. The rules shall prescribe minimum standards for the sanitary facilities and conditions and the quality of ice that shall be maintained at any ice plant, storage and truck or vehicle in which ice is produced, stored, handled or transported and shall provide for inspection and licensing of the premises and vehicles, and for abatement as public nuisances of ice, premises, equipment, processes or vehicles that do not comply with the minimum standards.

8. Define and prescribe reasonably necessary measures concerning sewage and excreta disposal, garbage and trash collection, storage and disposal, and water supply for recreational and summer camps, campgrounds, motels, tourist courts, trailer coach parks and hotels. The rules shall prescribe minimum standards for preparation of food in community kitchens, adequacy of excreta disposal, garbage and trash collection, storage and disposal and water supply for recreational and summer camps, campgrounds, motels, tourist courts, trailer coach parks and hotels and shall provide for inspection of these premises and for abatement as public nuisances of any premises or facilities that do not comply with the rules.

9. Define and prescribe reasonably necessary measures concerning the sewage and excreta disposal, garbage and trash collection, storage and disposal, water supply and food preparation of all public schools. The rules shall prescribe minimum standards for sanitary conditions that shall be maintained in any public school and shall provide for inspection of these premises and facilities and for abatement as public nuisances of any premises that do not comply with the minimum standards.

10. Prescribe reasonably necessary measures to prevent pollution of water used in public or semipublic swimming pools and bathing places and to prevent deleterious health conditions at these places. The rules shall prescribe minimum standards for sanitary conditions that shall be maintained at any public or semipublic swimming pool or bathing place and shall provide for inspection of these premises and for abatement as public nuisances of any premises and facilities that do not comply with the minimum standards. The rules shall be developed in cooperation with the director of the department of environmental quality and shall be consistent with the rules adopted by the director of the department of environmental quality pursuant to section 49-104, subsection B, paragraph 12.

11. Prescribe reasonably necessary measures to keep confidential information relating to diagnostic findings and treatment of patients, as well as information relating to contacts,

suspects and associates of communicable disease patients. In no event shall confidential information be made available for political or commercial purposes.

12. Prescribe reasonably necessary measures regarding human immunodeficiency virus testing as a means to control the transmission of that virus, including the designation of anonymous test sites as dictated by current epidemiologic and scientific evidence.
13. Establish an online registry of food preparers that are authorized to prepare food for commercial purposes pursuant to paragraph 4 of this subsection.

I. The rules adopted under the authority conferred by this section shall be observed throughout the state and shall be enforced by each local board of health or public health services district, but this section does not limit the right of any local board of health or county board of supervisors to adopt ordinances and rules as authorized by law within its jurisdiction, provided that the ordinances and rules do not conflict with state law and are equal to or more restrictive than the rules of the director.

J. The powers and duties prescribed by this section do not apply in instances in which regulatory powers and duties relating to public health are vested by the legislature in any other state board, commission, agency or instrumentality, except that with regard to the regulation of meat and meat products, the department of health services and the Arizona department of agriculture within the area delegated to each shall adopt rules that are not in conflict.

K. The director, in establishing fees authorized by this section, shall comply with title 41, chapter 6. The department shall not set a fee at more than the department's cost of providing the service for which the fee is charged. State agencies are exempt from all fees imposed pursuant to this section.

L. After consultation with the state superintendent of public instruction, the director shall prescribe the criteria the department shall use in deciding whether or not to notify a local school district that a pupil in the district has tested positive for the human immunodeficiency virus antibody. The director shall prescribe the procedure by which the department shall notify a school district if, pursuant to these criteria, the department determines that notification is warranted in a particular situation. This procedure shall include a requirement that before notification the department shall determine to its satisfaction that the district has an appropriate policy relating to nondiscrimination of the infected pupil and confidentiality of test results and that proper educational counseling has been or will be provided to staff and pupils.

M. Until the department adopts exemptions by rule as required by subsection H, paragraph 4, subdivision (b) of this section, a kitchen in a private home that is used as a cooking school and that prepares and offers food to students is exempt from the rules prescribed in subsection H of this section if all of the following are true:

1. Only one cooking school meal per day is prepared and served.
2. The meal is served to not more than fifteen cooking school students.
3. The students are informed by a statement contained in a published advertisement, mailed brochure and placard posted at the cooking school's registration that the food is prepared in a kitchen that is not regulated and inspected by the department or by a local health authority.

36-3902. <u>Application for license; issuance; posting</u>

A. The department of health services is authorized and directed to issue licenses for the operation of children's camps: No children's camp shall be operated without first obtaining such a license.

B. On or before May 1 annually, every person operating or seeking to operate a children's camp shall make application in writing to the department of health services for a license to conduct a children's camp. The application shall be in such form and shall contain such information as the department of health services finds necessary to determine that the children's camp will be operated and maintained in accordance with the standards prescribed by this chapter.

C. Where a person operates or is seeking to operate more than one children's camp, a separate application shall be made, and license obtained, for each camp.

D. The license shall be posted in a conspicuous place on the premises occupied by each camp.

36-3903. License fee

A. The fee for a children's camp license issued by the department of health services shall be one hundred dollars for the first license and twenty-five dollars for each renewal of the license thereafter. All funds collected from this source shall be deposited, pursuant to sections 35-146 and 35-147, in the state general fund.

B. A county to which the department of health services has delegated powers and duties pursuant to section 36-3915 may charge and collect a license fee. A county shall not charge a fee in excess of the cost of providing the service for which the fee is charged. The county shall transmit fees collected pursuant to this subsection to the county treasurer.

36-3910. Inspection of camps; revocation of license

A. The department of health services shall make an annual inspection of each children's camp and where upon inspection it is found that there is a failure to comply with any of the standards prescribed by this chapter, the department shall give notice to the camp operator of such failure, which notice shall set forth the law violated.

B. The camp operator shall have a reasonable time after receiving such notice in which to correct such failure and to comply with the standards prescribed by this chapter. In the event the camp operator fails to comply with the requirements of such notice within a reasonable time the department may suspend or revoke his license.

36-3915. Delegation of powers

The department of health services may delegate powers and duties provided pursuant to this chapter to a county health department of the county in which the children's camp is located.

41-1072. Definitions

In this article, unless the context otherwise requires:

1. "Administrative completeness review time frame" means the number of days from agency receipt of an application for a license until an agency determines that the application contains all components required by statute or rule, including all information required to be submitted by other government agencies. The administrative completeness review time frame does not include the period of time during which an agency provides public notice of the license application or performs a substantive review of the application.
2. "Overall time frame" means the number of days after receipt of an application for a license during which an agency determines whether to grant or deny a license. The overall time frame consists of both the administrative completeness review time frame and the substantive review time frame.
3. "Substantive review time frame" means the number of days after the completion of the administrative completeness review time frame during which an agency determines whether an application or applicant for a license meets all substantive criteria required by statute or rule. Any public notice and hearings required by law shall fall within the substantive review time frame.

41-1073. Time frames; exception

A. No later than December 31, 1998, an agency that issues licenses shall have in place final rules establishing an overall time frame during which the agency will either grant or deny each type of license that it issues. Agencies shall submit their overall time frame rules to the governor's

regulatory review council pursuant to the schedule developed by the council. The council shall schedule each agency's rules so that final overall time frame rules are in place no later than December 31, 1998. The rule regarding the overall time frame for each type of license shall state separately the administrative completeness review time frame and the substantive review time frame.

B. If a statutory licensing time frame already exists for an agency but the statutory time frame does not specify separate time frames for the administrative completeness review and the substantive review, by rule the agency shall establish separate time frames for the administrative completeness review and the substantive review, which together shall not exceed the statutory overall time frame. An agency may establish different time frames for initial licenses, renewal licenses and revisions to existing licenses.

C. The submission by the department of environmental quality of a revised permit to the United States environmental protection agency in response to an objection by that agency shall be given the same effect as a notice granting or denying a permit application for licensing time frame purposes. For the purposes of this subsection, "permit" means a permit required by title 49, chapter 2, article 3.1 or section 49-426.

D. In establishing time frames, agencies shall consider all of the following:
   1. The complexity of the licensing subject matter.
   2. The resources of the agency granting or denying the license.
   3. The economic impact of delay on the regulated community.
   4. The impact of the licensing decision on public health and safety.
   5. The possible use of volunteers with expertise in the subject matter area.
   6. The possible increased use of general licenses for similar types of licensed businesses or facilities.
   7. The possible increased cooperation between the agency and the regulated community.
   8. Increased agency flexibility in structuring the licensing process and personnel.

E. This article does not apply to licenses issued either:
   1. Pursuant to tribal state gaming compacts.
   2. Within seven days after receipt of initial application.
   3. By a lottery method.

41-1074. <u>Compliance with administrative completeness review time frame</u>

A. An agency shall issue a written notice of administrative completeness or deficiencies to an applicant for a license within the administrative completeness review time frame.

B. If an agency determines that an application for a license is not administratively complete, the agency shall include a comprehensive list of the specific deficiencies in the written notice provided pursuant to subsection A. If the agency issues a written notice of deficiencies within the administrative completeness time frame, the administrative completeness review time frame and the overall time frame are suspended from the date the notice is issued until the date that the agency receives the missing information from the applicant.

C. If an agency does not issue a written notice of administrative completeness or deficiencies within the administrative completeness review time frame, the application is deemed administratively complete. If an agency issues a timely written notice of deficiencies, an application shall not be complete until all requested information has been received by the agency.

41-1075. <u>Compliance with substantive review time frame</u>

A. During the substantive review time frame, an agency may make one comprehensive written request for additional information. The agency and applicant may mutually agree in writing to allow the agency to submit supplemental requests for additional information. If an agency issues a comprehensive written request or a supplemental request by mutual written agreement for additional information, the substantive review time frame and the overall time frame are

suspended from the date the request is issued until the date that the agency receives the additional information from the applicant.

B. By mutual written agreement, an agency and an applicant for a license may extend the substantive review time frame and the overall time frame. An extension of the substantive review time frame and the overall time frame may not exceed twenty-five per cent of the overall time frame.

41-1076. Compliance with overall time frame

Unless an agency and an applicant for a license mutually agree to extend the substantive review time frame and the overall time frame pursuant to section 41-1075, an agency shall issue a written notice granting or denying a license within the overall time frame to an applicant. If an agency denies an application for a license, the agency shall include in the written notice at least the following information:

1. Justification for the denial with references to the statutes or rules on which the denial is based.
2. An explanation of the applicant's right to appeal the denial. The explanation shall include the number of days in which the applicant must file a protest challenging the denial and the name and telephone number of an agency contact person who can answer questions regarding the appeals process.

41-1077. Consequence for agency failure to comply with overall time frame; refund; penalty

A. If an agency does not issue to an applicant the written notice granting or denying a license within the overall time frame or within the time frame extension pursuant to section 41-1075, the agency shall refund to the applicant all fees charged for reviewing and acting on the application for the license and shall excuse payment of any such fees that have not yet been paid. The agency shall not require an applicant to submit an application for a refund pursuant to this subsection. The refund shall be made within thirty days after the expiration of the overall time frame or the time frame extension. The agency shall continue to process the application subject to subsection B of this section. Notwithstanding any other statute, the agency shall make the refund from the fund in which the application fees were originally deposited. This section applies only to license applications that were subject to substantive review.

B. Except for license applications that were not subject to substantive review, the agency shall pay a penalty to the state general fund for each month after the expiration of the overall time frame or the time frame extension until the agency issues written notice to the applicant granting or denying the license. The agency shall pay the penalty from the agency fund in which the application fees were originally deposited. The penalty shall be two and one-half per cent of the total fees received by the agency for reviewing and acting on the application for each license that the agency has not granted or denied on the last day of each month after the expiration of the overall time frame or time frame extension for that license.

41-1079. Information required to be provided

A. An agency that issues licenses shall provide the following information to an applicant at the time the applicant obtains an application for a license:

1. A list of all of the steps the applicant is required to take in order to obtain the license.
2. The applicable licensing time frames.
3. The name and telephone number of an agency contact person who can answer questions or provide assistance throughout the application process.

B. This section does not apply to the Arizona peace officer standards and training board established by section 41-1821.

DEPARTMENT OF HEALTH SERVICES
Title 9, Chapter 8, Article 6, Camp Grounds

GOVERNOR'S REGULATORY REVIEW COUNCIL
ANALYSIS OF FIVE-YEAR REVIEW REPORT

MEETING DATE: September 6, 2017 **AGENDA ITEM: E-6**

TO: Members of the Governor's Regulatory Review Council ("Council")

FROM: Chris Kleminich, Staff Attorney

DATE : August 23, 2017

SUBJECT: **DEPARTMENT OF HEALTH SERVICES (F-17-0904)**
Title 9, Chapter 8, Article 6, Camp Grounds

This revised five-year-review report from the Arizona Department of Health Services (Department) covers seven rules in A.A.C. Title 9, Chapter 8, related to food, recreational, and institutional sanitation. The rules were established at some point prior to November 1, 1976, and have not been amended since.

The Department indicates that the rules are intended to set standards for the safe and sanitary operation of camp grounds. The rules establish minimum requirements for management, water supply, fire protection, sewage and refuse disposal, clean and sanitary toilets, and construction and maintenance of buildings.

On March 7, 2017, the Council voted to return the five-year-review report initially submitted for this article, and to require that the rules be amended by January 1, 2019 to address issues identified by the Department in the report.

Proposed Action

The Department indicates that, in compliance with the Council's order, it plans to amend the rules by January 1, 2019.

Substantive or Procedural Concerns

None.

Analysis of the agency's report pursuant to criteria in A.R.S. § 41-1056 and R1-6-301:

1. **<u>Has the agency certified that it is in compliance with A.R.S. § 41-1091?</u>**

Yes. The Department has certified its compliance with A.R.S. § 41-1091.

2. **Has the agency analyzed the rules' effectiveness in achieving their objectives?**

Yes. The Department indicates that the rules are effective, despite being antiquated, because of the expertise of local health departments and the Department in interpreting requirements for present-day industry practices and facilities.

3. **Has the agency received any written criticisms of the rules during the last five years, including any written analysis questioning whether the rules are based on valid scientific or reliable principles or methods?**

Yes. The Department indicates that it has not received any written criticisms of the rules during the last five years.

4. **Has the agency analyzed whether the rules are authorized by statute?**

Yes. The Department cites to both general and specific authority for the rules. A.R.S. § 36-136(H)(8) requires the Department to enact rules "concerning sewage and excreta disposal, garbage and trash collection, storage and disposal, and water supply for recreational and summer camps, campgrounds, motels, tourist courts, trailer coach parks and hotels."

5. **Has the agency analyzed the rules' consistency with statutes and other rules?**

Yes. The Department indicates that the rules are consistent with statutes and other rules, with the following exceptions:

- **Section 611:** In accordance with Laws 2016, Ch. 200, the rule does not provide an exemption from regulation for "primitive camp and picnic grounds."
- **Section 613:** Subsection (A) contains a reference to the "water supply system" which has since been recodified to A.A.C. Title 18, Chapter 4, Article 2. For purposes of enforcing the rule, local health departments are aware of the recodification.

6. **Has the agency analyzed the current enforcement status of the rules?**

Yes. The Department indicates that it has delegated its inspection and abatement authority to the local health departments having jurisdiction over their respective camp grounds. The rules are enforced by local health departments and the Department through interpretations of the requirements for present-day industry practices and facilities.

7. **Has the agency analyzed whether the rules are clear, concise, and understandable?**

Yes. The Department indicates that all the rules are understandable.

8. Stringency of the Rules:

a. Are the rules more stringent than corresponding federal law?

No. The Department indicates that no federal laws directly correspond to these rules.

b. If so, is there statutory authority to exceed the requirements of federal law?

Not applicable.

9. For rules adopted after July 29, 2010:

a. Do the rules require issuance of a regulatory permit, license or agency authorization?

Not applicable, as the rules were adopted prior to July 29, 2010.

b. If so, are the general permit requirements of A.R.S. § 41-1037 met or does an exception apply?

Not applicable.

10. Has the agency indicated whether it completed the course of action identified in the previous five-year-review report?

Yes. In 2012, the Department indicated its intent to amend the rules by July 2015. Due to competing Department priorities, the Department did not complete the course of action identified in the report.

Conclusion

As noted above, the Department intends to amend the rules by January 1, 2019. The report meets the requirements of A.R.S. § 41-1056 and R1-6-301, and as such, this analyst recommends that the report be approved.

GOVERNOR'S REGULATORY REVIEW COUNCIL
M E M O R A N D U M

MEETING DATE: September 6, 2017 **AGENDA ITEM: E-6**

TO: Members of the Governor's Regulatory Review Council ("Council")

FROM: GRRC Economic Team

DATE : August 23, 2017

SUBJECT: **DEPARTMENT OF HEALTH SERVICES (F-17-0904)**
Title 9, Chapter 8, Article 6, Camp Grounds

The economic analysis team has reviewed the five-year-review report's economic, small business, and consumer impact comparison for compliance with A.R.S. § 41-1056 and makes the following comments.

1. <u>Economic Impact Comparison</u>

Economic, small business, and consumer impact statements (EIS) from the most recent rulemakings were available for the Article 6 rules contained in the five-year-review report.

The rules provide measures concerning sewage and excreta disposal; garbage and trash collection, storage and disposal; and water supply for non-primitive camp grounds in Arizona. Specifically, the rules set out minimum standards to ensure that camp grounds are built, operated, and maintained in a safe and sanitary manner, including standards for:

- Management of the grounds;
- Water supply;
- Protections against fires;
- Sewage and refuse disposal;
- Clean and sanitary toilets; and
- Construction and maintenance of buildings.

As of July 2016, there were 22 camp grounds on Arizona state land. Local county health departments completed 25 inspections over FY 2016.

2. Has the agency determined that the rules impose the least burden and costs to persons regulated by the rules?

The Department has determined that the rules in Article 6 are effective and impose the least burden and costs to the regulated community. The cost to comply with these rules is minimal and necessary to protect public health and safety. The Department does not plan to amend the rules at this time.

3. Was an analysis submitted to the agency under A.R.S. § 41-1056(A)(7)?

No analysis was submitted to the agency by another person that compares the rules' impact on this state's business competitiveness to the impact on businesses in other states under A.R.S. § 41-1056(A)(7).

4. Conclusion

After review, staff concludes that the report complies with A.R.S. § 41-1056 and recommends approval.

ARIZONA DEPARTMENT
OF HEALTH SERVICES

July 10, 2017

Nicole O. Colyer, Chairperson
Governor's Regulatory Review Council
Arizona Department of Administration
100 N. 15th Avenue, Suite 305
Phoenix, AZ 85007

RE: Revised Reports – Arizona Administrative Code (A.A.C.) Title 9, Chapter 8, Article 6, Camp Grounds and Title 9, Chapter 8, Article 13, Hotels, Motels, and Tourist Courts

Dear Ms. Colyer:

On March 7, 2017, the Governor's Regulatory Review Council (Council) determined, pursuant to Arizona Revised Statutes (A.R.S.) § 41-1056(C) and A.A.C. R1-6-305, that the five-year-review reports from the Arizona Department of Health Services (Department) for A.A.C. Title 9, Chapter 8, Articles 6 and 13 were inadequate and did not meet the standards set-forth in A.R.S. § 41-1056(A). As a result of this determination, the Council, on March 7, 2017, voted to return (in whole) the five-year-review reports for A.A.C. Title 9, Chapter 8, Articles 6 and 13. On May 2, 2017, the Council voted to require submission of the revised reports by July 31, 2017.

In response to the Council's action, the Department hereby submits its revised reports for A.A.C. Title 9, Chapter 8, Articles 6 and 13. The revised reports contain a new course of action, which is based on the March 7, 2017 order by the Council requiring the Department to complete rulemakings for A.A.C. Title 9, Chapter 8, Articles 6 and 13 by January 1, 2019. *See* A.R.S. § 41-1056(E). The revised reports also contain language that was added to reflect what the Department believes is the Council's assessment.

The Department believes that these reports comply with the requirements of A.R.S. § 41-1056.

If you need any further information, please contact me at (602) 542-1020.

Sincerely,

Robert Lane
Director's Designee

Enclosures

FIVE-YEAR-REVIEW SUMMARY

Arizona Revised Statute (A.R.S.) § 36-136(F) provides the Director of the Arizona Department of Health Services (Director) the authority to "make and amend rules necessary for the proper administration and enforcement of the laws relating to the public health." Section 36-136(H)(8) specifically requires the Arizona Department of Health Services (Department) to promulgate rules prescribing reasonably necessary measures concerning sewage and excreta disposal; garbage and trash collection, storage and disposal; and water supply for non-primitive[1] camp grounds in Arizona. Section 36-136(H)(8) also provides for inspection of camp ground premises and for abatement as public nuisances[2] of any camp ground premises or facilities that do not comply with the rules.

The seven rules in Arizona Administrative Code (A.A.C.) Title 9, Chapter 8, Article 6 set out minimum standards to ensure that camp grounds are built, operated, and maintained in a safe and sanitary manner, including standards for:

- Management of the grounds,
- Water supply,
- Protection against fires,
- Sewage and refuse disposal,
- Clean and sanitary toilets, and
- Construction and maintenance of buildings.

For reasons discussed in this five-year-review report, the Department anticipates amending the rules in 9 A.A.C. 8, Article 6 by January 1, 2019, to comply with the March 7, 2017 order of the Governor's Regulatory Review Council (GRRC). *See* A.R.S. § 41-1056(E).

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[1] Pursuant to Laws 2016, Ch. 200, "primitive camp and picnic grounds" offered by a state or political subdivision of the state are exempt from these rules. *See* A.R.S. § 36-136(H)(8). "'[P]rimitive camp and picnic grounds' means camp and picnic grounds that are remote in nature and without accessibility to public infrastructure such as water, electricity and sewer." *Id.*

[2] Section 36-601(A) defines public nuisances that are under the Department's control as those that are dangerous to public health. Section 36-601(B) provides that based on reasonable cause the Director may serve a cease and desist order capable of leading to a camp ground's abatement as a public nuisance.

INFORMATION THAT IS IDENTICAL FOR ALL THE RULES

1. **Authorization of the rule by existing statutes**

The general statutory authority for the rules in 9 A.A.C. 8, Article 6 is A.R.S. §§ 36-132(F) and 36-601(A) and (B). The specific statutory authority for the rules in 9 A.A.C. 8, Article 6 is A.R.S. § 36-136(H)(8).

2. **The purpose of the rules**

The purpose of the rules in 9 A.A.C. 8, Article 6 is to ensure that camp grounds in Arizona are constructed, operated, and maintained in a sanitary manner, thus protecting public health.

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

Although the rules are old, the Department believes the rules are effective in achieving their respective objectives.

However, it is the Department's understanding that GRRC does not believe that "antiquated" rules are capable of being effective in achieving their objectives.

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

Except for R9-8-611 and R9-8-613, the rules are consistent with state and federal statutes and rules. Additional specific comments regarding consistency with state statutes and rules appear in the information for R9-8-611 and R9-8-613.

5. **Status of enforcement of the rules**

The Department has delegated its inspection and abatement authority under A.R.S. § 36-136(H)(8) to the local health departments having jurisdiction over the respective camp grounds. *See* A.R.S. § 36-136(D). The rules are old, but are nonetheless effective in achieving their individual objectives because of the expertise of local health departments and the Department in interpreting requirements for present-day industry practices and facilities.

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

All of the rules are understandable. However, all the rules fail to meet current rulemaking and style requirements published by the Office of the Secretary of State and, therefore, may not be as clear as they could be if these standards were employed. All of the rules contain undefined or ambiguous language affecting the clarity and conciseness of the rules, which is discussed in the section for each individual rule.

However, it is the Department's understanding that GRRC does not believe that "antiquated" rules are capable of being understood.

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

The Department has not received any written criticism of the rules in the last five years.

8. **Economic, small business, and consumer impact comparison**

According to Arizona Administrative Rules and Regulations (copyright 1975), the first filing of the camp ground rulemaking occurred prior to 1976 and was approved by regular rulemaking. The Arizona Administrative Code does not include an effective date for the rules in the Article, and there is no economic impact statement on file.

The Department delegates its inspection and abatement authority to the local health departments having jurisdiction over the respective camp grounds. *See* A.R.S. § 36-136(D). As of July 2016, there are 22 camp grounds on Arizona state land, and local county health departments have completed 25 inspections over fiscal year 2016. Because the Department delegates its inspection and abatement authority to local health departments, the Department has not inspected any camp grounds.

The Department has determined[3] that:

- The Department incurs minimal costs to administer the rules.
- The local health departments incur moderate cost for providing inspections and abatement.
- The camp ground owners and operators incur a minimal cost as a result of the rules.
- The public incurs a minimal cost as a result of the rules.
- The public health benefits of having the rules outweigh the costs of the rules to the Department, local health departments, camp ground owners and operators, and the public.

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

The Department did not receive a business competitiveness analysis of the rules in the last five years.

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

In the 2012 five-year-review report, the Department anticipated submitting a Notice of Final Rulemaking to the Governor's Regulatory Review Council by July 2015, subject to change based on the length of the Governor's rulemaking moratorium and the Department's priorities and staffing. That course of action was not completed due to continuation of the rulemaking moratorium and competing Department priorities, as well as the fact that the rules, although antiquated, were enforced through the expertise of local health departments and the Department by interpreting the requirements for present-day industry practices.

[3] The cost is minimal when less than $1,000, moderate when between $1,000 and $10,000, and substantial when greater than $10,000.

11. **A determination 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 rules are designed to prevent conditions that would negatively affect public health. *See* A.R.S. § 36-601(A) (defining conditions that are deemed "public nuisances dangerous to the public health"). The Department and local health departments continue to use the rules without increased cost or burden. For these reasons, the Department has determined that the rules provide the least burden and cost to the Department and persons regulated by the rules.

However, it is the Department's understanding that GRRC does not believe that "antiquated" rules are capable of providing the least burden and cost to achieve their underlying regulatory objective.

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

The rules are not related to federal laws.

13. **For rules adopted after July 29, 2010 that require the issuance of a regulatory permit, license, or agency authorization, whether the rule complies with section 41-1037**

The rules were adopted before July 29, 2010.

14. **Proposed course of action**

The rules in 9 A.A.C. 8, Article 6 are old, but nonetheless necessary and effective, and sufficient to protect the public health due to the expertise of local health departments and the Department in interpreting the requirements for present-day industry practices. *See* A.R.S. § 36-136(H)(8) (requiring the Department to prescribe by rule certain minimum standards for camp grounds).

In compliance with GRRC's March 7, 2017 order, the Department anticipates completing a rulemaking for A.A.C. Title 9, Chapter 8, Article 6 by January 1, 2019.

INFORMATION FOR INDIVIDUAL RULES

R9-8-611. Scope

2. Objective

The objective of the rule is to identify who is required to comply with 9 A.A.C. 8, Article 6, Camp Grounds.

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

The rule does not provide an exemption from regulation to "primitive camp and picnic grounds," as provided in Laws 2016, Ch. 200.

6. Analysis of clarity, conciseness, and understandability

The rule is understandable but could be clearer if it distinguished "primitive camp and picnic grounds," as defined in A.R.S. § 36-136(H)(8), as being exempt from the rule. The definition of, and exemption for, "primitive camp and picnic grounds" is, however, provided in A.R.S. § 36-136(H)(8)[4].

R9-8-612. Supervision

2. Objective

The objective of the rule is to establish requirements for operating and maintaining a camp ground in a sanitary manner and requires that camp ground management be directly accountable to keep grounds and equipment in a clean and sanitary condition.

6. Analysis of clarity, conciseness, and understandability

The rule is understandable but could be clearer if undefined language, such as "management," "equipment," "good repair," and "sanitary appliances," was defined.

R9-8-613. Water Supply

2. Objective

The objective of the rule is to establish requirements to ensure that a camp ground's water supply is clean, easy to access, properly maintained, and sufficient to supply the maximum number of persons occupying the camp ground.

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

Subsection (A) contains a reference to Article 2 of the Chapter regarding the "water supply system." However, the information regarding "water supply system" has since been recodified to A.A.C. Title 18, Chapter 4, Article 2, State Drinking Water Regulations. In enforcing this rule,

[4] "[P]rimitive camp and picnic grounds" means "grounds that are remote in nature and without accessibility to public infrastructure such as water, electricity and sewer." A.R.S. § 36-136(H)(8).

county health departments are aware of the correct location of the rules relating to the water supply system.

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

The rule is understandable but could be clearer if words and phrases, such as "ample quantity," "pipe distribution system," "above-ground source," "covered properly," "open pipe or faucet," "dipping," "seeps," "unsafe for human consumption," "eliminated," and "purified," were defined.

R9-8-614. Protection against fires

2. **Objective**

The objective of the rule is to establish requirements to ensure proper management of fires made by persons occupying a camp ground by limiting the location at which a fire may be made and requiring that a person continuously observe the fire and extinguish the fire before leaving the camp ground.

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

The rule is understandable but could be clearer if phrases such as "other property," and "completely extinguished" were defined.

R9-8-615. Sewage and refuse disposal

2. **Objective**

The objective of the rule is to establish sewage and refuse disposal requirements to ensure the camp ground is maintained in a sanitary manner. The rule provides standards and locations for sewage and refuse-disposal equipment, and the criteria to determine appropriate sewage and refuse-disposal method.

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

The rule is understandable but could be clearer if words and phrases, such as "unsightly," "final sewage or refuse disposal," "sufficient number," "iron hoppers," "sewerage system," and "domestic waste waters," were defined.

R9-8-616. Toilets

2. **Objective**

The objective of the rule is to establish requirements to provide and maintain camp ground toilets, including disposing of human waste in a manner that is sanitary and convenient.

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

The rule is understandable but could be clearer if phrases such as "fly-tight privies," "clean and sanitary condition," and "plainly indicated" were defined.

R9-8-617. Construction and maintenance of buildings

2. <u>Objective</u>

The objective of the rule is to establish construction and maintenance standards for structures used for human habitation, including requirements for:

- Interior floors and walls to ensure they are clean and vermin free,
- Adequate air space in rooms used for sleeping,
- Kitchens to be separate from sleeping rooms and equipped to ensure sanitary conditions are maintained,
- Disposing of waste in a manner to ensure sanitary conditions are maintained, and
- Daily cleaning to ensure the structures provide a healthy environment.

6. <u>Analysis of clarity, conciseness, and understandability</u>

The rule is understandable but could be clearer if phrases, such as "open and free," "surfaced lumber," "easily be kept clean," "always be kept," and "thoroughly clean condition," were defined.

ARTICLE 6. CAMP GROUNDS

R9-8-601. Reserved

R9-8-602. Reserved

R9-8-603. Reserved

R9-8-604. Reserved

R9-8-605. Reserved

R9-8-606. Reserved

R9-8-607. Reserved

R9-8-608. Reserved

R9-8-609. Reserved

R9-8-610. Reserved

R9-8-611. Scope

The regulations in this Article shall apply to any city, county, city and county, village, community, institution, person, firm or corporation operating, maintaining or offering for public use within the state of Arizona any tract of land on which persons may camp or picnic either free of charge or by payment of a fee. Each and every owner and lessee of any public camp or picnic ground shall be held responsible for full compliance with these regulations.

R9-8-612. Supervision

A. The management of every public camp or picnic ground shall assume responsibility for maintaining in good repair all sanitary appliances on said ground and shall promptly bring such action as may be necessary to prosecute or eject from such ground any person who willfully or maliciously damages such appliances or any person who in any way fails to comply with these regulations.

B. At least one caretaker shall be employed by the management to visit said camp or picnic ground every day that campers or picnickers occupy said ground. Such caretaker shall do whatever may be necessary to keep said ground and its equipment in a clean and sanitary condition.

C. Each camping party shall be allotted usable space of not less than 350 square feet.

R9-8-613. Water supply

A. The water supply system shall be in accordance with Article 2 of this Chapter and shall be provided in ample quantity to meet all requirements of the maximum number of persons using such ground at any time. Said water supply shall be easily obtained from its source or on a pipe distribution system from faucets which shall be located not more than 300 feet from a camp or picnic spot within such ground. If water supply is obtained direct from above-ground source, said source must be covered properly and water withdrawn by means of open pipe or faucet as approved by the Department. In no case can dipping from open springs, seeps or wells be permitted.

B. Any water considered unsafe for human consumption in the vicinity of such ground, to which campers or picnickers may have access, shall be either eliminated or purified or shall be kept posted with placards definitely warning persons against its use.

R9-8-614. Protection against fires

No fires shall at any time be so located as to endanger automobiles or other property in the camp ground. No fires shall be left unattended at any time, and all fires shall be completely extinguished before leaving.

R9-8-615. Sewage and refuse disposal

A. Supervision and equipment: Supervision and equipment sufficient to prevent littering of the ground with rubbish, garbage or other refuse shall be provided and maintained. Fly-tight depositories for such materials shall be provided and conspicuously located. Each and every camp or picnic spot on said ground shall be within a distance of not over 200 feet from such a depository. These depositories shall not be permitted to become foul smelling or unsightly or breeding places for flies.

B. The method of final sewage or refuse disposal utilized in connection with the operation of any camp or picnic ground shall be such as to create no nuisance.

C. Basins: A sufficient number of basins, iron hoppers or sinks shall be provided and each shall be connected with a sewerage system; these are to be used for the disposal of domestic waste waters.

R9-8-616. Toilets

Fly-tight privies or water-flushed toilets shall be provided and shall be maintained in a clean and sanitary condition. Separate toilets for men and women shall be provided, one for each 25 men and one for each 25 women or fraction thereof of the maximum number of persons occupying such ground at any time. No camp or picnic spot within such ground shall be at a greater distance than 400 feet from both a women's and men's toilet. The location of all toilets shall be plainly indicated by signs.

R9-8-617. Construction and maintenance of buildings

If cottages, cabins, tent houses, dwelling houses or other structures to be used for human habitation are erected in any public camping ground, the following requirements in their construction shall be observed: (Note: All local building ordinances must be complied with in addition to observing the following requirements.)

1. All wood floors shall be raised at least 18 inches above the ground and space underneath such floors shall be left open and free from obstruction on at least two opposite sides. All floors shall be constructed of tongue and groove material.
2. Interior walls shall be of surfaced lumber or other material that may easily be kept clean and shall be constructed so that they may always be kept in a thoroughly clean condition.
3. No room for sleeping purposes shall have less than 500 cubic feet of air space for each occupant.
4. The area of window space in each sleeping room shall be equal to at least one-eighth of the floor area of the room.
5. Windows of sleeping rooms shall be so constructed that at least half of each window can be opened.
6. Cooking, including the preparation and storing of food must not be allowed in any room used for sleeping. Partitions and doors between cooking and sleeping rooms must be tight.
7. If kitchen is provided, it must be equipped with running water and a sink connected with a sewerage system or septic tank. Kitchen must be screened against flies and mosquitoes.
8. If inside toilet is provided it must be water flushed and connected with a sewerage system or septic tank. Room containing such toilets must have window opening to the outside air. Bath and lavatory must be connected with sewerage system or septic tank.
10. Covered metal garbage containers must be provided, at least one for every two buildings.
11. Buildings shall be cleaned daily and after each occupancy shall be thoroughly cleaned. If bedding is provided it must be kept in a clean condition.

36-132. Department of health services; functions; contracts

A. The department shall, in addition to other powers and duties vested in it by law:

1. Protect the health of the people of the state.

2. Promote the development, maintenance, efficiency and effectiveness of local health departments or districts of sufficient population and area that they can be sustained with reasonable economy and efficient administration, provide technical consultation and assistance to local health departments or districts, provide financial assistance to local health departments or districts and services that meet minimum standards of personnel and performance and in accordance with a plan and budget submitted by the local health department or districts to the department for approval, and recommend the qualifications of all personnel.

3. Collect, preserve, tabulate and interpret all information required by law in reference to births, deaths and all vital facts, and obtain, collect and preserve information relating to the health of the people of the state and the prevention of diseases as may be useful in the discharge of functions of the department not in conflict with the provisions of chapter 3 of this title, and sections 36-693, 36-694 and 39-122.

4. Operate such sanitariums, hospitals or other facilities assigned to the department by law or by the governor.

5. Conduct a statewide program of health education relevant to the powers and duties of the department, prepare educational materials and disseminate information as to conditions affecting health, including basic information for the promotion of good health on the part of individuals and communities, and prepare and disseminate technical information concerning public health to the health professions, local health officials and hospitals. In cooperation with the department of education, the department of health services shall prepare and disseminate materials and give technical assistance for the purpose of education of children in hygiene, sanitation and personal and public health, and provide consultation and assistance in community organization to counties, communities and groups of people.

6. Administer or supervise a program of public health nursing, prescribe the minimum qualifications of all public health nurses engaged in official public health work, and encourage and aid in coordinating local public health nursing services.

7. Encourage and aid in coordinating local programs concerning control of preventable diseases in accordance with statewide plans that shall be formulated by the department.

8. Encourage and aid in coordinating local programs concerning maternal and child health, including midwifery, antepartum and postpartum care, infant and preschool health and the health of school children, including special fields such as the prevention of blindness and conservation of sight and hearing.

9. Encourage and aid in the coordination of local programs concerning nutrition of the people of the state.

10. Encourage, administer and provide dental health care services and aid in coordinating local programs concerning dental public health, in cooperation with the Arizona dental association. The department may bill and receive payment for costs associated with providing dental health care services and shall deposit the monies in the oral health fund established by section 36-138.

11. Establish and maintain adequate serological, bacteriological, parasitological, entomological and chemical laboratories with qualified assistants and facilities necessary for routine examinations and analyses and for investigations and research in matters affecting public health.

12. Supervise, inspect and enforce the rules concerning the operation of public bathing places and public and semipublic swimming pools adopted pursuant to section 36-136, subsection H, paragraph 10.

13. Take all actions necessary or appropriate to ensure that bottled water sold to the public and water used to process, store, handle, serve and transport food and drink are free from filth, disease-causing substances and organisms and unwholesome, poisonous, deleterious or other foreign substances. All state agencies and local health agencies involved with water quality shall provide to the department any assistance requested by the director to ensure that this paragraph is effectuated.
14. Enforce the state food, caustic alkali and acid laws in accordance with chapter 2, article 2 of this title, chapter 8, article 1 of this title and chapter 9, article 4 of this title, and collaborate in the enforcement of the federal food, drug and cosmetic act of 1938 (52 Stat. 1040; 21 United States Code sections 1 through 905).
15. Recruit and train personnel for state, local and district health departments.
16. Conduct continuing evaluations of state, local and district public health programs, study and appraise state health problems and develop broad plans for use by the department and for recommendation to other agencies, professions and local health departments for the best solution of these problems.
17. License and regulate health care institutions according to chapter 4 of this title.
18. Issue or direct the issuance of licenses and permits required by law.
19. Participate in the state civil defense program and develop the necessary organization and facilities to meet wartime or other disasters.
20. Subject to the availability of monies, develop and administer programs in perinatal health care, including:
(a) Screening in early pregnancy for detecting high risk conditions.
(b) Comprehensive prenatal health care.
(c) Maternity, delivery and postpartum care.
(d) Perinatal consultation, including transportation of the pregnant woman to a perinatal care center when medically indicated.
(e) Perinatal education oriented toward professionals and consumers, focusing on early detection and adequate intervention to avert premature labor and delivery.
21. License and regulate the health and safety of group homes for the developmentally disabled. The department shall issue a license to an accredited facility for a period of the accreditation, except that no licensing period shall be longer than three years. The department is authorized to conduct an inspection of an accredited facility to ensure that the facility meets health and safety licensure standards. The results of the accreditation survey shall be public information. A copy of the final accreditation report shall be filed with the department of health services. For the purposes of this paragraph, "accredited" means accredited by a nationally recognized accreditation organization.
B. The department may accept from the state or federal government, or any agency of the state or federal government, and from private donors, trusts, foundations or eleemosynary corporations or organizations grants or donations for or in aid of the construction or maintenance of any program, project, research or facility authorized by this title, or in aid of the extension or enforcement of any program, project or facility authorized, regulated or prohibited by this title, and enter into contracts with the federal government, or an agency of the federal government, and with private donors, trusts, foundations or eleemosynary corporations or organizations, to carry out such purposes. All monies made available under this section are special project grants. The department may also expend these monies to further applicable scientific research within this state.

C. The department, in establishing fees authorized by this section, shall comply with title 41, chapter 6. The department shall not set a fee at more than the department's cost of providing the service for which the fee is charged. State agencies are exempt from all fees imposed pursuant to this section.
D. The department may enter into contracts with organizations that perform nonrenal organ transplant operations and organizations that primarily assist in the management of end stage renal disease and related problems to provide, as payors of last resort, prescription medications necessary to supplement treatment and transportation to and from treatment facilities. The contracts may provide for department payment of administrative costs it specifically authorizes.

36-136. Powers and duties of director; compensation of personnel
A. The director shall:
1. Be the executive officer of the department of health services and the state registrar of vital statistics but shall not receive compensation for services as registrar.
2. Perform all duties necessary to carry out the functions and responsibilities of the department.
3. Prescribe the organization of the department. The director shall appoint or remove personnel as necessary for the efficient work of the department and shall prescribe the duties of all personnel. The director may abolish any office or position in the department that the director believes is unnecessary.
4. Administer and enforce the laws relating to health and sanitation and the rules of the department.
5. Provide for the examination of any premises if the director has reasonable cause to believe that on the premises there exists a violation of any health law or rule of the state.
6. Exercise general supervision over all matters relating to sanitation and health throughout the state. When in the opinion of the director it is necessary or advisable, a sanitary survey of the whole or of any part of the state shall be made. The director may enter, examine and survey any source and means of water supply, sewage disposal plant, sewerage system, prison, public or private place of detention, asylum, hospital, school, public building, private institution, factory, workshop, tenement, public washroom, public restroom, public toilet and toilet facility, public eating room and restaurant, dairy, milk plant or food manufacturing or processing plant, and any premises in which the director has reason to believe there exists a violation of any health law or rule of the state that the director has the duty to administer.
7. Prepare sanitary and public health rules.
8. Perform other duties prescribed by law.
B. If the director has reasonable cause to believe that there exists a violation of any health law or rule of the state, the director may inspect any person or property in transportation through the state, and any car, boat, train, trailer, airplane or other vehicle in which that person or property is transported, and may enforce detention or disinfection as reasonably necessary for the public health if there exists a violation of any health law or rule.
C. The director may deputize, in writing, any qualified officer or employee in the department to do or perform on the director's behalf any act the director is by law empowered to do or charged with the responsibility of doing.
D. The director may delegate to a local health department, county environmental department or public health services district any functions, powers or duties that the director believes can be competently, efficiently and properly performed by the local health department, county environmental department or public health services district if:
1. The director or superintendent of the local health agency, environmental agency or public health services district is willing to accept the delegation and agrees to perform or exercise the functions, powers and duties conferred in accordance with the standards of performance established by the director.
2. Monies appropriated or otherwise made available to the department for distribution to or division among counties or public health services districts for local health work may be allocated or reallocated in a manner designed to assure the accomplishment of recognized local public health activities and delegated

functions, powers and duties in accordance with applicable standards of performance. Whenever in the director's opinion there is cause, the director may terminate all or a part of any delegation and may reallocate all or a part of any funds that may have been conditioned on the further performance of the functions, powers or duties conferred.
E. The compensation of all personnel shall be as determined pursuant to section 38-611.
F. The director may make and amend rules necessary for the proper administration and enforcement of the laws relating to the public health.
G. Notwithstanding subsection H, paragraph 1 of this section, the director may define and prescribe emergency measures for detecting, reporting, preventing and controlling communicable or infectious diseases or conditions if the director has reasonable cause to believe that a serious threat to public health and welfare exists. Emergency measures are effective for no longer than eighteen months.
H. The director, by rule, shall:
1. Define and prescribe reasonably necessary measures for detecting, reporting, preventing and controlling communicable and preventable diseases. The rules shall declare certain diseases reportable. The rules shall prescribe measures, including isolation or quarantine, reasonably required to prevent the occurrence of, or to seek early detection and alleviation of, disability, insofar as possible, from communicable or preventable diseases. The rules shall include reasonably necessary measures to control animal diseases transmittable to humans.
2. Define and prescribe reasonably necessary measures, in addition to those prescribed by law, regarding the preparation, embalming, cremation, interment, disinterment and transportation of dead human bodies and the conduct of funerals, relating to and restricted to communicable diseases and regarding the removal, transportation, cremation, interment or disinterment of any dead human body.
3. Define and prescribe reasonably necessary procedures not inconsistent with law in regard to the use and accessibility of vital records, delayed birth registration and the completion, change and amendment of vital records.
4. Except as relating to the beneficial use of wildlife meat by public institutions and charitable organizations pursuant to title 17, prescribe reasonably necessary measures to assure that all food or drink, including meat and meat products and milk and milk products sold at the retail level, provided for human consumption is free from unwholesome, poisonous or other foreign substances and filth, insects or disease-causing organisms. The rules shall prescribe reasonably necessary measures governing the production, processing, labeling, storing, handling, serving and transportation of these products. The rules shall prescribe minimum standards for the sanitary facilities and conditions that shall be maintained in any warehouse, restaurant or other premises, except a meat packing plant, slaughterhouse, wholesale meat processing plant, dairy product manufacturing plant or trade product manufacturing plant. The rules shall prescribe minimum standards for any truck or other vehicle in which food or drink is produced, processed, stored, handled, served or transported. The rules shall provide for the inspection and licensing of premises and vehicles so used, and for abatement as public nuisances of any premises or vehicles that do not comply with the rules and minimum standards. The rules shall provide an exemption relating to food or drink that is:
(a) Served at a noncommercial social event that takes place at a workplace, such as a potluck.
(b) Prepared at a cooking school that is conducted in an owner-occupied home.
(c) Not potentially hazardous and prepared in a kitchen of a private home for occasional sale or distribution for noncommercial purposes.
(d) Prepared or served at an employee-conducted function that lasts less than four hours and is not regularly scheduled, such as an employee recognition, an employee fund-raising or an employee social event.
(e) Offered at a child care facility and limited to commercially prepackaged food that is not potentially hazardous and whole fruits and vegetables that are washed and cut on site for immediate consumption.
(f) Offered at locations that sell only commercially prepackaged food or drink that is not potentially hazardous and that is displayed in an area of less than ten linear feet.

(g) Baked and confectionary goods that are not potentially hazardous and that are prepared in a kitchen of a private home for commercial purposes if packaged with a label that clearly states the address of the maker, includes contact information for the maker, lists all the ingredients in the product and discloses that the product was prepared in a home. The label must be given to the final consumer of the product. If the product was made in a facility for developmentally disabled individuals, the label must also disclose that fact. The person preparing the food or supervising the food preparation must obtain a food handler's card or certificate if one is issued by the local county and must register with an online registry established by the department pursuant to paragraph 13 of this subsection. For the purposes of this subdivision, "potentially hazardous" means baked and confectionary goods that meet the requirements of the food code published by the United States food and drug administration, as modified and incorporated by reference by the department by rule.

5. Prescribe reasonably necessary measures to assure that all meat and meat products for human consumption handled at the retail level are delivered in a manner and from sources approved by the Arizona department of agriculture and are free from unwholesome, poisonous or other foreign substances and filth, insects or disease-causing organisms. The rules shall prescribe standards for sanitary facilities to be used in identity, storage, handling and sale of all meat and meat products sold at the retail level.

6. Prescribe reasonably necessary measures regarding production, processing, labeling, handling, serving and transportation of bottled water to assure that all bottled drinking water distributed for human consumption is free from unwholesome, poisonous, deleterious or other foreign substances and filth or disease-causing organisms. The rules shall prescribe minimum standards for the sanitary facilities and conditions that shall be maintained at any source of water, bottling plant and truck or vehicle in which bottled water is produced, processed, stored or transported and shall provide for inspection and certification of bottled drinking water sources, plants, processes and transportation and for abatement as a public nuisance of any water supply, label, premises, equipment, process or vehicle that does not comply with the minimum standards. The rules shall prescribe minimum standards for bacteriological, physical and chemical quality for bottled water and for the submission of samples at intervals prescribed in the standards.

7. Define and prescribe reasonably necessary measures governing ice production, handling, storing and distribution to assure that all ice sold or distributed for human consumption or for the preservation or storage of food for human consumption is free from unwholesome, poisonous, deleterious or other foreign substances and filth or disease-causing organisms. The rules shall prescribe minimum standards for the sanitary facilities and conditions and the quality of ice that shall be maintained at any ice plant, storage and truck or vehicle in which ice is produced, stored, handled or transported and shall provide for inspection and licensing of the premises and vehicles, and for abatement as public nuisances of ice, premises, equipment, processes or vehicles that do not comply with the minimum standards.

8. Define and prescribe reasonably necessary measures concerning sewage and excreta disposal, garbage and trash collection, storage and disposal, and water supply for recreational and summer camps, campgrounds, motels, tourist courts, trailer coach parks and hotels. The rules shall prescribe minimum standards for preparation of food in community kitchens, adequacy of excreta disposal, garbage and trash collection, storage and disposal and water supply for recreational and summer camps, campgrounds, motels, tourist courts, trailer coach parks and hotels and shall provide for inspection of these premises and for abatement as public nuisances of any premises or facilities that do not comply with the rules.

9. Define and prescribe reasonably necessary measures concerning the sewage and excreta disposal, garbage and trash collection, storage and disposal, water supply and food preparation of all public schools. The rules shall prescribe minimum standards for sanitary conditions that shall be maintained in any public school and shall provide for inspection of these premises and facilities and for abatement as public nuisances of any premises that do not comply with the minimum standards.

10. Prescribe reasonably necessary measures to prevent pollution of water used in public or semipublic swimming pools and bathing places and to prevent deleterious health conditions at these places. The rules shall prescribe minimum standards for sanitary conditions that shall be maintained at any public or semipublic swimming pool or bathing place and shall provide for inspection of these premises and for

abatement as public nuisances of any premises and facilities that do not comply with the minimum standards. The rules shall be developed in cooperation with the director of the department of environmental quality and shall be consistent with the rules adopted by the director of the department of environmental quality pursuant to section 49-104, subsection B, paragraph 12.
11. Prescribe reasonably necessary measures to keep confidential information relating to diagnostic findings and treatment of patients, as well as information relating to contacts, suspects and associates of communicable disease patients. In no event shall confidential information be made available for political or commercial purposes.
12. Prescribe reasonably necessary measures regarding human immunodeficiency virus testing as a means to control the transmission of that virus, including the designation of anonymous test sites as dictated by current epidemiologic and scientific evidence.
13. Establish an online registry of food preparers that are authorized to prepare food for commercial purposes pursuant to paragraph 4 of this subsection.
I. The rules adopted under the authority conferred by this section shall be observed throughout the state and shall be enforced by each local board of health or public health services district, but this section does not limit the right of any local board of health or county board of supervisors to adopt ordinances and rules as authorized by law within its jurisdiction, provided that the ordinances and rules do not conflict with state law and are equal to or more restrictive than the rules of the director.
J. The powers and duties prescribed by this section do not apply in instances in which regulatory powers and duties relating to public health are vested by the legislature in any other state board, commission, agency or instrumentality, except that with regard to the regulation of meat and meat products, the department of health services and the Arizona department of agriculture within the area delegated to each shall adopt rules that are not in conflict.
K. The director, in establishing fees authorized by this section, shall comply with title 41, chapter 6. The department shall not set a fee at more than the department's cost of providing the service for which the fee is charged. State agencies are exempt from all fees imposed pursuant to this section.
L. After consultation with the state superintendent of public instruction, the director shall prescribe the criteria the department shall use in deciding whether or not to notify a local school district that a pupil in the district has tested positive for the human immunodeficiency virus antibody. The director shall prescribe the procedure by which the department shall notify a school district if, pursuant to these criteria, the department determines that notification is warranted in a particular situation. This procedure shall include a requirement that before notification the department shall determine to its satisfaction that the district has an appropriate policy relating to nondiscrimination of the infected pupil and confidentiality of test results and that proper educational counseling has been or will be provided to staff and pupils.
M. Until the department adopts exemptions by rule as required by subsection H, paragraph 4, subdivision (b) of this section, a kitchen in a private home that is used as a cooking school and that prepares and offers food to students is exempt from the rules prescribed in subsection H of this section if all of the following are true:
1. Only one cooking school meal per day is prepared and served.
2. The meal is served to not more than fifteen cooking school students.
3. The students are informed by a statement contained in a published advertisement, mailed brochure and placard posted at the cooking school's registration that the food is prepared in a kitchen that is not regulated and inspected by the department or by a local health authority.

36-601. <u>Public nuisances dangerous to public health</u>

A. The following conditions are specifically declared public nuisances dangerous to the public health:
1. Any condition or place in populous areas that constitutes a breeding place for flies, rodents, mosquitoes and other insects that are capable of carrying and transmitting disease-causing organisms to any person or persons or any condition or place that constitutes a feral colony of honeybees that is not currently maintained by a beekeeper and that poses a health or safety hazard to the public.
2. Any spoiled or contaminated food or drink intended for human consumption.
3. Any restaurant, food market, bakery or other place of business or any vehicle where food is prepared, packed, processed, stored, transported, sold or served to the public that is not constantly maintained in a sanitary condition.
4. Any place, condition or building that is controlled or operated by any governmental agency and that is not maintained in a sanitary condition.
5. All sewage, human excreta, wastewater, garbage or other organic wastes deposited, stored, discharged or exposed so as to be a potential instrument or medium in the transmission of disease to or between any person or persons.
6. Any vehicle or container that is used in the transportation of garbage, human excreta or other organic material and that is defective and allows leakage or spillage of contents.
7. The presence of ectoparasites such as bedbugs, lice, mites and others in any place where sleeping accommodations are offered to the public.
8. The maintenance of any overflowing septic tank or cesspool, the contents of which may be accessible to flies.
9. The pollution or contamination of any domestic waters.
10. The use of the so-called common drinking cup used for drinking purposes by more than one person. This paragraph does not apply to receptacles properly washed and sanitized after each service.
11. The presence of common towels for use of the public in any public or semipublic place unless properly washed and sanitized following each use.
12. Buildings or any parts of buildings that are in a filthy condition and that may endanger the health of persons living in the vicinity.
13. Spitting or urinating on sidewalks, or floors or walls of a public building or buildings used for public assemblage, or a building used for manufacturing or industrial purposes, or on the floors or platforms or any part of a railroad or other public conveyance.
14. The use of the contents of privies, cesspools or septic tanks or the use of sewage or sewage plant effluents for fertilizing or irrigation purposes for crops or gardens except by specific approval of the department of health services or the department of environmental quality.
15. The maintenance of public assemblage or places of assemblage without providing adequate sanitary facilities. Open surface privies are adequate sanitary facilities if they are outside populous areas and meet reasonable health requirements.
16. Hotels, tourist courts and other lodging establishments that are not kept in a clean and sanitary condition or for which suitable and adequate toilet facilities are not provided.
17. The storage, collection, transportation, disposal and reclamation of garbage, trash, rubbish, manure and other objectionable wastes other than as provided and authorized by law.
18. Water, other than that used by irrigation, industrial or similar systems for nonpotable purposes, that is sold to the public, distributed to the public or used in production, processing, storing, handling,

servicing or transportation of food and drink and that is unwholesome, poisonous or contains deleterious or foreign substances or filth or disease causing substances or organisms.
19. The emission of mercaptan in a concentration level that causes endangerment to the health or safety of any considerable number of persons of a neighborhood or community.
20. The operation of an environmental laboratory in violation of chapter 4.3, article 1 of this title.
B. If the director has reasonable cause to believe from information furnished to the director or from investigation made by the director that any person is maintaining a nuisance or engaging in any practice contrary to the health laws of this state, the director shall promptly serve on that person by certified mail a cease and desist order requiring the person, on receipt of the order, promptly to cease and desist from that act. Within fifteen days after receipt of the order, the person to whom it is directed may request the director to hold a hearing. The director, as soon as practicable, shall hold a hearing, and if the director determines the order is reasonable and just and that the practice engaged in is contrary to the health laws of this state, the director shall order the person to comply with the cease and desist order.
C. If a person fails or refuses to comply with the order of the director, or if a person to whom the order is directed does not request a hearing and fails or refuses to comply with the cease and desist order served by mail under subsection B, the director may file an action in the superior court in the county in which a violation occurred, restraining and enjoining the person from engaging in further acts. The court shall proceed as in other actions for injunctions.
D. Notwithstanding subsection A, paragraph 19, the emission of mercaptan as a by-product of a pesticide is not a nuisance if applied according to state and federal restrictions.
E. Notwithstanding subsection A, paragraph 3, a restaurant that uses sawdust on the floors of its dining areas is not in violation of this section or local health department sanitary rules if the restaurant replaces the sawdust each day with clean sawdust and complies with applicable standards for fire safety.

DEPARTMENT OF HEALTH SERVICES
Title 9, Chapter 8, Article 13, Hotels, Motels, and Tourist Courts

GOVERNOR'S REGULATORY REVIEW COUNCIL
ANALYSIS OF FIVE-YEAR REVIEW REPORT

MEETING DATE: September 6, 2017 **AGENDA ITEM: E-7**

TO: Members of the Governor's Regulatory Review Council ("Council")

FROM: Chris Kleminich, Staff Attorney

DATE : August 23, 2017

SUBJECT: **DEPARTMENT OF HEALTH SERVICES (F-17-0905)**
Title 9, Chapter 8, Article 13, Hotels, Motels, and Tourist Courts

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This five-year-review report from the Arizona Department of Health Services (Department) covers 12 rules in A.A.C. Title 9, Chapter 8, related to food, recreational, and institutional sanitation. The rules were established at some point prior to November 1, 1976, and have not been amended since.

The Department indicates that the rules are intended to set standards for the safe and sanitary building, operation, and maintenance of hotels, motels, and tourist courts. The rules establish minimum requirements for dwelling units, grounds, bedding, food service, drinking water, ice, refuse, water supply, toilets, lavatories, sewage disposal, and plumbing.

On March 7, 2017, the Council voted to return the five-year-review report initially submitted for this article, and to require that the rules be amended by January 1, 2019 to address issues identified by the Department in the report.

Proposed Action

The Department indicates that, in compliance with the Council's order, it plans to amend the rules by January 1, 2019.

Substantive or Procedural Concerns

None.

Analysis of the agency's report pursuant to criteria in A.R.S. § 41-1056 and R1-6-301:

1. **<u>Has the agency certified that it is in compliance with A.R.S. § 41-1091?</u>**

Yes. The Department has certified its compliance with A.R.S. § 41-1091.

2. Has the agency analyzed the rules' effectiveness in achieving their objectives?

Yes. The Department indicates that the rules are effective, despite being antiquated, because of the expertise of local health departments and the Department in interpreting requirements for present-day industry practices and facilities.

3. Has the agency received any written criticisms of the rules during the last five years, including any written analysis questioning whether the rules are based on valid scientific or reliable principles or methods?

Yes. The Department indicates that it has not received any written criticisms of the rules during the last five years.

4. Has the agency analyzed whether the rules are authorized by statute?

Yes. The Department cites to both general and specific authority for the rules. A.R.S. § 36-136(H)(8) requires the Department to enact rules "concerning sewage and excreta disposal, garbage and trash collection, storage and disposal, and water supply for recreational and summer camps, campgrounds, motels, tourist courts, trailer coach parks and hotels."

5. Has the agency analyzed the rules' consistency with statutes and other rules?

Yes. The Department indicates that the rules are consistent with statutes and other rules.

6. Has the agency analyzed the current enforcement status of the rules?

Yes. The Department indicates that it has delegated its inspection and abatement authority to the local health departments having jurisdiction over their respective hotels, motels, and tourist courts. The rules are enforced by local health departments and the Department through interpretations of the requirements for present-day industry practices and facilities.

7. Has the agency analyzed whether the rules are clear, concise, and understandable?

Yes. The Department indicates that all the rules are understandable.

8. Stringency of the Rules:

a. Are the rules more stringent than corresponding federal law?

No. The Department indicates that no federal laws directly correspond to these rules.

b. If so, is there statutory authority to exceed the requirements of federal law?

Not applicable.

9. For rules adopted after July 29, 2010:

a. Do the rules require issuance of a regulatory permit, license or agency authorization?

Not applicable, as the rules were adopted prior to July 29, 2010.

b. If so, are the general permit requirements of A.R.S. § 41-1037 met or does an exception apply?

Not applicable.

10. Has the agency indicated whether it completed the course of action identified in the previous five-year-review report?

Yes. In 2012, the Department indicated its intent to amend the rules by December 31, 2016, but described the rulemaking as low priority. The Department did not complete the course of action identified in the report.

Conclusion

As noted above, the Department intends to amend the rules by January 1, 2019. The report meets the requirements of A.R.S. § 41-1056 and R1-6-301, and as such, this analyst recommends that the report be approved.

GOVERNOR'S REGULATORY REVIEW COUNCIL
M E M O R A N D U M

MEETING DATE: September 6, 2017 **AGENDA ITEM: E-7**

TO: Members of the Governor's Regulatory Review Council ("Council")

FROM: GRRC Economic Team

DATE : August 23, 2017

SUBJECT: **DEPARTMENT OF HEALTH SERVICES (F-17-0905)**
Title 9, Chapter 8, Article 13, Hotels, Motels, and Tourist Courts

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I reviewed the five-year-review report's economic, small business, and consumer impact comparison for compliance with A.R.S. § 41-1056 and make the following comments.

1. Economic Impact Comparison

Economic, small business, and consumer impact statements (EIS) from the most recent rulemakings were available for the rules. The rules provide standards to ensure that hotels, motels, and tourist courts are built, operated, and maintained in a safe a sanitary manner, including authority for inspections and standards for dwelling units, grounds, bedding, food service, drinking water, ice, refuse, water supply, toilets, lavatories, sewage disposal, and plumbing. In FY 2015, there were 1,262 hotels, motels, and trailer courts located in Arizona. Local health departments performed 1,278 regular inspections, 288 complaint-based inspections, and 19 enforcement actions in these facilities.

2. Has the agency determined that the rules impose the least burden and costs to persons regulated by the rules?

The Department has determined that the rules are mostly effective and impose the least burden and costs to the regulated community.

3. Was an analysis submitted to the agency under A.R.S. § 41-1056(A)(7)?

No analysis was submitted to the agency by another person that compares the rules' impact on this state's business competitiveness to the impact on businesses in other states.

4. Conclusion

After review, staff concludes that the report complies with A.R.S. § 41-1056 and recommends approval.

ARIZONA DEPARTMENT
OF HEALTH SERVICES

July 10, 2017

Nicole O. Colyer, Chairperson
Governor's Regulatory Review Council
Arizona Department of Administration
100 N. 15th Avenue, Suite 305
Phoenix, AZ 85007

RE: Revised Reports – Arizona Administrative Code (A.A.C.) Title 9, Chapter 8, Article 6, Camp Grounds and Title 9, Chapter 8, Article 13, Hotels, Motels, and Tourist Courts

Dear Ms. Colyer:

On March 7, 2017, the Governor's Regulatory Review Council (Council) determined, pursuant to Arizona Revised Statutes (A.R.S.) § 41-1056(C) and A.A.C. R1-6-305, that the five-year-review reports from the Arizona Department of Health Services (Department) for A.A.C. Title 9, Chapter 8, Articles 6 and 13 were inadequate and did not meet the standards set-forth in A.R.S. § 41-1056(A). As a result of this determination, the Council, on March 7, 2017, voted to return (in whole) the five-year-review reports for A.A.C. Title 9, Chapter 8, Articles 6 and 13. On May 2, 2017, the Council voted to require submission of the revised reports by July 31, 2017.

In response to the Council's action, the Department hereby submits its revised reports for A.A.C. Title 9, Chapter 8, Articles 6 and 13. The revised reports contain a new course of action, which is based on the March 7, 2017 order by the Council requiring the Department to complete rulemakings for A.A.C. Title 9, Chapter 8, Articles 6 and 13 by January 1, 2019. *See* A.R.S. § 41-1056(E). The revised reports also contain language that was added to reflect what the Department believes is the Council's assessment.

The Department believes that these reports comply with the requirements of A.R.S. § 41-1056.

If you need any further information, please contact me at (602) 542-1020.

Sincerely,

Robert Lane
Director's Designee

Enclosures

FIVE-YEAR-REVIEW SUMMARY

Arizona Revised Statutes (A.R.S.) § 36-136(F) provides the Director of the Arizona Department of Health Services (Director) the authority to "make and amend rules necessary for the proper administration and enforcement of the laws relating to the public health." Section 36-136(H)(8) specifically directs the Arizona Department of Health Services (Department) to promulgate rules prescribing reasonably necessary measures concerning sewage and excreta disposal; garbage and trash collection, storage and disposal; and water supply for hotels, motels, and tourist courts in Arizona. Section 36-136(H)(8) further provides for inspection and for abatement as public nuisances[1] of premises or facilities that do not comply with the rules.

The 12 rules in Arizona Administrative Code (A.A.C.) Title 9, Chapter 8, Article 13 set minimum standards to ensure that hotels, motels, and tourist courts are built, operated, and maintained in a safe and sanitary manner, including authority for inspections and standards for dwelling units, grounds, bedding, food service, drinking water, ice, refuse, water supply, toilets, lavatories, sewage disposal, and plumbing.

For reasons discussed in this five-year-review report, the Department anticipates amending the rules in 9 A.A.C. 8, Article 13 by January 1, 2019, to comply with the March 7, 2017 order of the Governor's Regulatory Review Council (GRRC). *See* A.R.S. § 41-1056(E).

[1] Section 36-601(A) defines public nuisances that are under Department control as those that are dangerous to public health. Section 36-601(B) provides that based on reasonable cause the Director may serve a cease and desist order capable of leading to abatement as a public nuisance.

INFORMATION THAT IS IDENTICAL FOR ALL THE RULES

1. **Authorization of the rule by existing statutes**

The general statutory authority for the rules in 9 A.A.C. 8, Article 13 is A.R.S. §§ 36-132(A), 36-136(F), and 36-601. The specific statutory authority for the rules in 9 A.A.C. 8, Article 13 is A.R.S. § 36-136(H)(8).

2. **The purpose of the rules**

The purpose of the rules in 9 A.A.C. 8, Article 13 is to ensure public health by regulating sanitation in hotels, motels, and tourist courts.

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

The Department has delegated its inspection and abatement authority under A.R.S. § 36-136(H)(8) to the local health departments having jurisdiction over the respective hotels, motels, and tourist courts. *See* A.R.S. § 36-136(D). The rules are old, but the Department believes they are nonetheless effective in achieving their individual objectives because of the expertise of local health departments and the Department in interpreting requirements for present-day industry practices and facilities.

However, it is the Department's understanding that GRRC does not believe that "antiquated" rules are capable of being effective in achieving their objectives.

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

The rules are consistent with state and federal statutes and rules.

5. **Status of enforcement of the rules**

The Department has delegated its inspection and abatement authority to the local health departments having jurisdiction over their respective hotels, motels, and tourist courts, in accordance with A.R.S. § 36-136(D). Because the rules are old, they are enforced by virtue of the expertise of local health departments and the Department, interpreting the requirements for present-day industry practices and facilities.

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

Although old, all of the rules are understandable. All the rules fail to meet current rulemaking and style requirements published by the Office of the Secretary of State and could be clearer and more concise if these current standards were met. Some of the rules contain ambiguous language affecting the clarity and conciseness of the rules. Additional specific comments regarding the clarity and conciseness of the rules appear in the information for individual rules.

However, it is the Department's understanding that GRRC does not believe that "antiquated" rules are capable of being understood.

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

The Department has not received any written criticism of the rules.

8. **Economic, small business, and consumer impact comparison**

These rules were promulgated before November 1, 1976, and there is no economic impact statement on file.

In fiscal year 2015, there were 1,262 hotels, motels, and trailer courts located in Arizona. Local health departments performed 1,278 regular inspections, 288 complaint-based inspections, and 19 enforcement actions in these facilities. Because the Department has delegated its inspection and abatement authority to local health departments, the Department did not perform any inspections.

- The Department incurs a minimal[2] annual cost to administer the rules.
- A local health department incurs a moderate-to-substantial annual cost, depending on the number and size of hotels, motels, and tourist courts in a given county, to inspect and perform enforcement. This cost may be partially or wholly defrayed by fees or assessments, which vary by jurisdiction.
- An entity operating a hotel, motel, or tourist court incurs a minimal-to-moderate annual cost to comply with the rules, depending on the size of the hotel, motel, or tourist court and the age of its facilities and other structures.
- The public incurs a none-to-minimal annual cost as a result of hotels, motels, and tourist courts passing on the cost to comply with the rules to the public in the form of higher lodging prices.
- The public experiences a significant current and ongoing benefit from the rules by being assured that the hotels, motels, and tourist courts they visit are safe, sanitary, and in good repair.

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

The Department did not receive a business competitiveness analysis of the rules in the last five years.

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

[2] Costs are minimal when less than $1,000; moderate when $1,000 to $10,000; and substantial when greater than $10,000.

In the 2012 five-year-review report, the Department described a rulemaking as low priority, but noted its intent to amend the rules and submit a Notice of Final Rulemaking to the Governor's Regulatory Review Council by December 31, 2016. The Department was unable to fulfill this intention based upon the continuing rulemaking moratorium, Department rulemaking priorities, and the fact that the rules, although old, were being enforced through the expertise of local health departments and the Department in interpreting requirements for present-day industry practices and facilities.

11. A determination 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 rules are designed to prevent conditions that would negatively affect public health. *See* A.R.S. § 36-601(A) (defining conditions that are deemed "public nuisances dangerous to the public health"). The Department and local health departments continue to use the rules without an increase in cost or burden. For these reasons, the Department has determined that the rules provide the least burden and cost to achieve the underlying regulatory objective.

However, it is the Department's understanding that GRRC does not believe that "antiquated" rules are capable of providing the least burden and cost to achieve their underlying regulatory objective.

12. Analysis of stringency compared to federal laws

The rules are not related to federal laws.

13. For rules adopted after July 29, 2010 that require the issuance of a regulatory permit, license, or agency authorization, whether the rule complies with section 41-1037

The rules were adopted before July 29, 2010.

14. Proposed course of action

The Department has determined that the rules are necessary and effective, and sufficient to protect public health due to the expertise of local health departments and the Department in interpreting the requirements for present-day industry practices. *See* A.R.S. § 36-136((H)(8) (requiring the Department to prescribe by rule certain minimum standards for hotels, motels, and tourist courts).

In compliance with GRRC's March 7, 2017 order, the Department anticipates completing a rulemaking for A.A.C. Title 9, Chapter 8, Article 13 by January 1, 2019.

INFORMATION FOR INDIVIDUAL RULES

R9-8-1312. Definitions

2. **Objective**

The objective of the rule is to define terms used in the Article so a reader can consistently interpret requirements in the Article.

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

The rule could be clearer if it defined ambiguous language such as "temporary occupancy," "temporary basis," and "semi-permanent basis," and the language describing "[t]ransient dwelling establishment[s]" was updated to remove antiquated language such as "tourist court," "tourist camp," "rooming house," and "boarding house." Any negative consequence of this antiquated language is mitigated by the expertise of local health departments and the Department in interpreting requirements for present-day industry practices and facilities.

R9-8-1314. Inspection

2. **Objectives**

The objectives of the rule are to:

a. Establish inspection requirements for hotels, motels, and tourist courts;

b. Require that an entity operating a hotel, motel, or tourist court be furnished a copy of an inspection report; and

c. Notify an entity operating a hotel, motel, or tourist court of the consequences of failure to comply with the requirements in the Article.

R9-8-1321. Dwelling units

2. **Objective**

The objective of the rule is to establish minimum standards for dwelling units in a hotel, motel, or tourist court for:

a. Square footage;

b. Construction, cleanliness, and repair of floors;

c. Construction, cleanliness, and repair of walls;

d. Window areas;

e. Window opening and screening;

f. Cleanliness and repair of furniture, drapes, carpets, and other accessories;

g. Freedom from insects, rodents, and other vermin; and

h. Gas appliances.

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

The rule could be clearer if it defined ambiguous language such as "ample," "good repair," and "satisfactory means."

R9-8-1322. Grounds

2. **Objective**

The objective of the rule is to establish minimum standards for the grounds of a hotel, motel, or tourist court for:

a. Grading and drainage; and

b. Cleanliness and freedom from infestation.

R9-8-1331. Bedding

2. **Objective**

The objective of the rule is to establish minimum standards for the beds in a hotel, motel, or tourist court for:

a. Cleanliness, repair, and storage of beds and bedclothes;

b. Use of sheets and pillowcases; and

c. Replacement of bedclothes both periodically and upon lodging of a new guest.

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

The rule could be clearer if it defined ambiguous language such as "good repair," "other sleeping place," and "properly stored."

R9-8-1332. Food service

2. **Objective**

The objective of the rule is to require that hotels, motels, and tourist courts follow the requirements in 9 A.A.C. 8, Article 1 (Food and Drink).

R9-8-1333. Drinking water; ice

2. **Objective**

The objective of the rule is to establish minimum standards for:

a. Construction and configuration of drinking fountains;

b. Cleanliness of glasses and utensils, and prohibition against the use of a common drinking cup; and

c. Sourcing, handling, and storage of ice.

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

The rule could be clearer if it defined ambiguous language such as "orifice," "easily cleanable material," "approved manner," "suitable dispenser," "common drinking cup," and "approved source."

R9-8-1334. Refuse

2. **Objective**

The objective of the rule is to establish minimum standards in hotels, motels, and tourist courts for:

a. Disposal of refuse and

b. Cleanliness and repair of garbage cans and other containers.

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

Subsection (A) contains a reference to Article 4 of the Chapter, which at the time the rule was adopted concerned "Refuse and other objectionable wastes." Article 4 currently contains rules on another subject (children's camps). Accordingly, the reference is outdated. The remainder of the rule is consistent.

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

The rule could be clearer if the outdated reference discussed in paragraph 4 was corrected.

R9-8-1335. Water supply

2. **Objective**

The objective of the rule is to establish minimum standards in a hotel, motel, and tourist court for:

a. Adequate and safe water supply from an approved source,

b. Obtaining prior approval from the Department before changing a water source, and

c. Construction and operation of a water supply system.

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

The rule contains a reference to Article 2 of the Chapter, which at the time the rule was adopted concerned "Public or semi-public water supply systems." Article 2 currently contains rules on another subject (bottled water). Information regarding the "water supply system" has since been recodified to A.A.C. Title 18, Chapter 4, Article 2, State Drinking Water Regulations. In enforcing this rule, the county health departments are aware of the correct location of the water supply rules.

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

The rule could be clearer if the outdated reference discussed in paragraph 4 was corrected.

R9-8-1336. Toilet; lavatory

2. **Objective**

The objective of the rule is to establish minimum standards for:

a. Adequate and convenient toilet, lavatory, and bathing facilities to be available to guests at all times;

b. Central or common restrooms when private toilet rooms are not available;

c. The provision of hot and cold water, soap, and towels;

d. Lighting and ventilation of restrooms;

e. Construction, cleanliness, repair, and drainage of restroom floors; and

f. Construction, cleanliness, and repair of restroom walls.

R9-8-1337. Sewage disposal

2. **Objective**

The objective of the rule is to establish the following minimum standards for sewage disposal at hotels, motels, tourist courts:

a. That wastes be discharged into sewage systems in accordance with applicable local ordinances, or into a separate sewage disposal facility as approved by the Department in circumstances where no public sewer connection is practicable;

b. That the design, construction, and operation of a separate sewage disposal system be in accordance with Article 3 of this Chapter, and that plans and specifications for the system be approved by the Department; and

c. That sewage or wastewater may not be deposited on the surface of the ground except as approved by the Department.

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

The rule contains a reference to Article 3 of the Chapter, which at the time the rule was adopted concerned "Sewerage systems and treatment works." Article 3 currently contains rules on another subject (public toilet facilities). Accordingly, the reference is outdated. The remainder of the rule is consistent. In enforcing this rule, the county health departments are aware of the incorrect citation.

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

The rule could be clearer if the outdated reference discussed in paragraph 4 was corrected.

R9-8-1338. **Plumbing**

2. **Objective**

The objective of the rule is to require that hotels, motels, and tourist courts follow local ordinances and codes with respect to plumbing installation, or where such authority is not available, the requirements in A.A.C. R9-1-412.

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

The rule contains a reference to "R9-1-412(D)." The reference is outdated because subsection (D) no longer exists in A.A.C. R9-1-412. The plumbing codes adopted by reference appear instead in R9-1-412(A). The remainder of the rule is consistent. In enforcing this rule, the county health departments are aware of the correct location of the plumbing code rules.

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

The rule could be clearer if the outdated reference discussed in paragraph 4 was corrected.

effective March 31, 2002 (Supp 02-2)

R9-8-916. Expired

Historical Note
Adopted effective October 9, 1998 (Supp 98-4) Section expired under A R S § 41-1056(E) at 8 A.A R 2056, effective March 31, 2002 (Supp 02-2)

R9-8-917. Expired

Historical Note
Adopted effective October 9, 1998 (Supp 98-4) Section expired under A.R S § 41-1056(E) at 8 A.A.R 2056, effective March 31, 2002 (Supp 02-2)

ARTICLE 10. RENUMBERED

See Title 18, Chapter 5 Article 4

ARTICLE 11. PRESERVATION, TRANSPORTATION, AND DISPOSITION OF HUMAN REMAINS

Article 11, consisting of Sections R9-8-1111 repealed effective April 10 1997 (Supp 97-2)

R9-8-1101. Reserved

R9-8-1102. Expired

Historical Note
New Section recodified from R9-19-312 at 11 A.A R 3578, effective September 2, 2005 (Supp 05-4). Section expired under A R.S. § 41-1056(E) at 16 A.A R 2062, effective September 30, 2010 (Supp. 10-3)

R9-8-1103. Expired

Historical Note
New Section recodified from R9-19-314 at 11 A.A R 3578, effective September 2, 2005 (Supp 05-4). Section expired under A R.S § 41-1056(E) at 16 A.A R. 2062, effective September 30, 2010 (Supp 10-3)

R9-8-1104. Expired

Historical Note
New Section recodified from R9-19-326 at 11 A A R. 3578, effective September 2, 2005 (Supp. 05-4). Section expired under A R.S § 41-1056(E) at 16 A.A R 2062, effective September 30, 2010 (Supp 10-3)

R9-8-1105. Expired

Historical Note
New Section recodified from R9-19-321 at 11 A.A R 3578, effective September 2, 2005 (Supp 05-4). Section expired under A R.S § 41-1056(E) at 16 A.A R. 2062, effective September 30, 2010 (Supp 10-3)

R9-8-1106. Expired

Historical Note
New Section recodified from R9-19-327 at 11 A.A R 3578, effective September 2, 2005 (Supp 05-4). Section expired under A R S § 41-1056(E) at 16 A.A.R 2062, effective September 30, 2010 (Supp 10-3)

R9-8-1107. Expired

Historical Note
New Section recodified from R9-19-330 at 11 A A R 3578, effective September 2, 2005 (Supp 05-4). Section expired under A R S § 41-1056(E) at 16 A.A R. 2062, effective September 30, 2010 (Supp 10-3)

R9-8-1108. Expired

Historical Note
New Section recodified from R9-19-333 at 11 A.A.R 3578, effective September 2, 2005 (Supp. 05-4). Section expired under A R S § 41-1056(E) at 16 A.A R. 2062, effective September 30, 2010 (Supp 10-3)

R9-8-1109 Reserved

R9-8-1110. Reserved

R9-8-1111. Repealed

Historical Note
Repealed effective April 10, 1997 (Supp 97-2)

ARTICLE 12. RENUMBERED

See Title 18, Chapter 8 Article 6.

ARTICLE 13. HOTELS, MOTELS, AND TOURIST COURTS

R9-8-1301. Reserved

R9-8-1302. Reserved

R9-8-1303. Reserved

R9-8-1304 Reserved

R9-8-1305 Reserved

R9-8-1306 Reserved

R9-8-1307 Reserved

R9-8-1308. Reserved

R9-8-1309. Reserved

R9-8-1310. Reserved

R9-8-1311 Expired

Historical Note
Section expired under A.R S. § 41-1056(E) at 8 A A R. 3256, effective June 17, 2002 (Supp. 02-3)

R9-8-1312. Definitions

A. "Approved" means acceptable to the Department.

B "Department" means the Arizona Department of Health Services or a local health department designated by the Arizona Department of Health Services.

C. "Dwelling unit" means any suite, room, cottage, bedroom, or other unit established or maintained by a transient dwelling establishment for temporary occupancy.

D. "Person" means the state, a municipality, district, or other political subdivision, a cooperative, institution, corporation, company, firm, partnership, or individual.

E. "Plumbing or plumbing system" means and includes the water supply distributing pipes; the fixtures and fixture traps; the soil, waste, and vent pipes; and the building drains with their devices, appurtenances and connections either within or adjacent to the transient dwelling establishment.

F. "Transient" means any member of the public who occupies a dwelling unit on a temporary basis in a transient dwelling establishment as defined above

G. "Transient dwelling establishment" means and includes any place where sleeping accommodations are available to transients or tourists on a temporary basis such as a hotel, motel, motor hotel, tourist court, tourist camp, rooming house, boarding house, inn, and similar facilities by whatever name called, consisting of two or more dwelling units; provided, however, that the term shall not be construed to include apartments, clubs boarding houses, rooming houses, and similar facilities

where occupancy of all dwelling units is on a permanent or semi-permanent basis

R9-8-1313. Expired

Historical Note
Section expired under A R S. § 41-1056(E) at 13 A A R 2930, effective June 30, 2007 (Supp 07-3)

R9-8-1314. Inspection
Representatives of the local health department shall make such inspections of any transient dwelling establishment as are necessary to assure compliance with these regulations, but not less than once each year. A copy of the report of the inspection shall be furnished the owner, lessee, or operator of the transient dwelling establishment indicating the degree of compliance or non-compliance with the provisions of these regulations Failure to correct any discrepancies noticed within the time limit specified shall be cause for denial revocation, or suspension of the permit to operate

R9-8-1315. Expired

Historical Note
Section expired under A R S. § 41-1056(E) at 8 A A R 3256, effective June 17, 2002 (Supp 02-3)

R9-8-1316. Reserved

R9-8-1317. Reserved

R9-8-1318. Reserved

R9-8-1319. Reserved

R9-8-1320. Reserved

R9-8-1321. Dwelling units
A. Dwelling units shall be of sufficient size to afford ample circulation of air and freedom of movement, but not less than 100 square feet of floor area shall be provided for each unit, exclusive of bathrooms, closets, kitchens, and similar ancillary facilities.
B. Floors of all rooms shall be of such construction as to be easily cleaned and shall be kept clean and in good repair
C. The walls and ceilings of all rooms shall be of a finish that will permit easy cleaning and shall be kept clean and in good repair.
D. Where windows are relied on to provide light and ventilation, the area of the windows for each dwelling unit shall be equal to at least 20% of the floor area
E. Not less than 25% of the window area furnished shall be capable of being opened unless other satisfactory means of ventilation is provided Windows capable of being opened shall be effectively screened.
F Furniture, drapes, carpets, and other accessories shall be kept clean and in good repair.
G. Dwelling units shall be maintained free of insects, rodents, and other vermin
H. The provisions of A R.S. Title 36, Chapter 13, Article 2 relating to gas appliances shall be met

R9-8-1322. Grounds
A. Grounds of a transient dwelling establishment shall be properly graded and drained
B. Grounds shall be kept clean and free of accumulations of refuse and other debris There shall be no evidence of fly, mosquito, or rodent breeding or infestation

R9-8-1323. Reserved

R9-8-1324. Reserved

R9-8-1325. Reserved

R9-8-1326. Reserved

R9-8-1327. Reserved

R9-8-1328. Reserved

R9-8-1329. Reserved

R9-8-1330. Reserved

R9-8-1331. Bedding
A The beds, mattresses, pillows, and bed linen, including sheets, pillow slips, blankets, etc , used in all transient dwelling establishments shall be maintained in good repair, shall be kept clean and free of vermin, and shall be properly stored when not in use
B Each bed, bunk, cot, or other sleeping place shall be provided with pillow slips, under and top sheets for the use of guests Sheets and pillow slips shall be adequately sized to completely cover the mattress and pillow.
C Clean linen shall be provided to each new guest and shall be changed at least once each week when occupancy exceeds this period

R9-8-1332. Food service
The storage, preparation and serving of food and drink shall comply with the requirements of Article 1 of this Chapter

R9-8-1333. Drinking water; ice
A. Where drinking fountains are provided, the fountain shall be constructed so that the drinking is from a free jet projected at an angle from the vertical and provided with a guard to prevent the mouth being placed directly against the orifice There shall be no possibility of the orifice becoming submerged The fountain bowl shall be constructed of nonabsorbent, easily cleanable material
B All glasses and other multi-use utensils furnished to each dwelling unit shall be cleaned and sanitized in an approved manner after each occupancy Single-service paper cups with suitable dispenser may be substituted for glasses
C The use of a common drinking cup is prohibited.
D Ice shall be obtained from an approved source and shall be stored and handled in such a manner as to prevent contamination

R9-8-1334. Refuse
A All refuse shall be stored and disposed of in accordance with Article 4 of these regulations
B Garbage cans shall be thoroughly washed after emptying and shall be maintained free of odors and other objectionable conditions
C. All containers for rubbish shall be cleaned as often as necessary to prevent a nuisance
D. All refuse containers shall be maintained in good repair

R9-8-1335. Water supply
Each transient dwelling establishment shall be provided with an adequate and safe water supply from an approved source Whenever a transient dwelling establishment finds it necessary to develop a source or sources of supply, complete plans and specifications of the proposed water system shall be submitted to the Department and approval received prior to the start of construction The design, construction, and operation of all such water supply systems shall comply with Article 2 of this Chapter

R9-8-1336 Toilet; lavatory
A. Adequate and convenient toilet, lavatory, and bathing facilities shall be provided at all transient dwelling establishments and shall be available to the guests at all times.
B. Where private or connecting toilet rooms are not available for each dwelling unit, separate and plainly marked central toilet

rooms for each sex shall be provided, located within 200 feet of such units

C. Central toilet rooms shall provide not less than one toilet, one lavatory, and one tub or shower for each sex for each 10 dwelling units, or major faction thereof, not having private or connecting baths. At least one urinal shall be provided in each central toilet room designated for men

D. Hot and cold water and soap shall be provided in all toilet rooms Clean, individual sanitary towels shall be furnished for each guest.

E. Toilet rooms shall be well lighted and ventilated Where gravity or mechanical ventilation is provided, the ventilation ducts for the toilet rooms shall not be connected into ventilation ducts from or to any dwelling unit

F. Floors of all toilet rooms shall be of easily cleanable construction, shall be kept clean and in good repair, and where necessary shall slope to properly located drains.

G. Walls and ceilings of all toilet rooms shall be of easily cleanable construction and shall be kept clean and in good repair

R9-8-1337 Sewage disposal

A. The liquid wastes from all transient dwelling establishments shall be discharged into a public sewer system in compliance with applicable local ordinances or codes or into separate sewage disposal facilities approved by the Department

B. Separate sewage disposal facilities will not be approved where in the opinion of the Department connection to a public sewer is practicable

C. Where separate sewage disposal facilities are proposed the design, construction and operation of such systems shall be in accordance with Article 3 of this Chapter Plans and specifications for such systems shall be submitted to the Department and approval received prior to the start of construction

D. Recommendations are found in the Engineering Bulletins of the Department to assist in compliance with these regulations regarding the design of sewage disposal systems Copies of these Bulletins may be obtained from the Department

E. No sewage treatment effluent or other wastewater shall be deposited on the surface of the ground except in a manner approved by the Department.

R9-8-1338. Plumbing

All plumbing shall be installed in accordance with any local ordinance or code. Where a local ordinance or code does not exist, plumbing shall be installed in accordance with the requirements adopted by reference in R9-1-412(D)

ARTICLE 14 REPEALED

Article 14, consisting of Sections R9-8-1411 thru R9-8-1413 repealed effective April 10 1997 (Supp 97-2)

R9-8-1411. Repealed

Historical Note
Repealed effective April 10, 1997 (Supp 97-2)

R9-8-1412. Repealed

Historical Note
Repealed effective April 10, 1997 (Supp. 97-2)

R9-8-1413. Repealed

Historical Note
Repealed effective April 10, 1997 (Supp 97-2)

ARTICLE 15. REPEALED

Article 15, consisting of Sections R9-8-1511 and R9-8-1512 repealed effective August 15 1989 (Supp 89-3)

ARTICLE 16. REPEALED

R9-8-1601. Reserved

R9-8-1602. Reserved

R9-8-1603. Reserved

R9-8-1604. Reserved

R9-8-1605. Reserved

R9-8-1606 Reserved

R9-8-1607 Reserved

R9-8-1608 Reserved

R9-8-1609 Reserved

R9-8-1610. Reserved

R9-8-1611. Repealed

Historical Note
Adopted effective September 21, 1976 (Supp. 76-4)
Repealed effective October 9, 1998 (Supp 98-4)

R9-8-1612. Repealed

Historical Note
Adopted effective September 21, 1976 (Supp. 76-4)
Repealed effective October 9, 1998 (Supp 98-4)

R9-8-1613 Reserved

R9-8-1614 Repealed

Historical Note
Adopted effective September 21, 1976 (Supp. 76-4)
Repealed effective October 9, 1998 (Supp 98-4).

R9-8-1615 Repealed

Historical Note
Adopted effective September 21, 1976 (Supp. 76-4)
Repealed effective October 9, 1998 (Supp. 98-4).

R9-8-1616. Repealed

Historical Note
Adopted effective September 21, 1976 (Supp. 76-4)
Repealed effective October 9, 1998 (Supp 98-4).

R9-8-1617. Repealed

Historical Note
Adopted effective September 21, 1976 (Supp. 76-4)
Repealed effective October 9, 1998 (Supp 98-4).

R9-8-1618. Repealed

Historical Note
Adopted effective September 21, 1976 (Supp. 76-4)
Repealed effective October 9, 1998 (Supp 98-4)

R9-8-1619. Repealed

Historical Note
Adopted effective September 21, 1976 (Supp. 76-4)
Repealed effective October 9, 1998 (Supp 98-4)

R9-8-1620. Repealed

Historical Note
Adopted effective September 21, 1976 (Supp. 76-4).
Repealed effective October 9, 1998 (Supp 98-4)

R9-8-1621. Repealed

Historical Note
Adopted effective September 21, 1976 (Supp 76-4)

36-132. Department of health services; functions; contracts

A. The department shall, in addition to other powers and duties vested in it by law:

1. Protect the health of the people of the state.

2. Promote the development, maintenance, efficiency and effectiveness of local health departments or districts of sufficient population and area that they can be sustained with reasonable economy and efficient administration, provide technical consultation and assistance to local health departments or districts, provide financial assistance to local health departments or districts and services that meet minimum standards of personnel and performance and in accordance with a plan and budget submitted by the local health department or districts to the department for approval, and recommend the qualifications of all personnel.

3. Collect, preserve, tabulate and interpret all information required by law in reference to births, deaths and all vital facts, and obtain, collect and preserve information relating to the health of the people of the state and the prevention of diseases as may be useful in the discharge of functions of the department not in conflict with the provisions of chapter 3 of this title, and sections 36-693, 36-694 and 39-122.

4. Operate such sanitariums, hospitals or other facilities assigned to the department by law or by the governor.

5. Conduct a statewide program of health education relevant to the powers and duties of the department, prepare educational materials and disseminate information as to conditions affecting health, including basic information for the promotion of good health on the part of individuals and communities, and prepare and disseminate technical information concerning public health to the health professions, local health officials and hospitals. In cooperation with the department of education, the department of health services shall prepare and disseminate materials and give technical assistance for the purpose of education of children in hygiene, sanitation and personal and public health, and provide consultation and assistance in community organization to counties, communities and groups of people.

6. Administer or supervise a program of public health nursing, prescribe the minimum qualifications of all public health nurses engaged in official public health work, and encourage and aid in coordinating local public health nursing services.

7. Encourage and aid in coordinating local programs concerning control of preventable diseases in accordance with statewide plans that shall be formulated by the department.

8. Encourage and aid in coordinating local programs concerning maternal and child health, including midwifery, antepartum and postpartum care, infant and preschool health and the health of school children, including special fields such as the prevention of blindness and conservation of sight and hearing.

9. Encourage and aid in the coordination of local programs concerning nutrition of the people of the state.

10. Encourage, administer and provide dental health care services and aid in coordinating local programs concerning dental public health, in cooperation

with the Arizona dental association. The department may bill and receive payment for costs associated with providing dental health care services and shall deposit the monies in the oral health fund established by section 36-138.
11. Establish and maintain adequate serological, bacteriological, parasitological, entomological and chemical laboratories with qualified assistants and facilities necessary for routine examinations and analyses and for investigations and research in matters affecting public health.
12. Supervise, inspect and enforce the rules concerning the operation of public bathing places and public and semipublic swimming pools adopted pursuant to section 36-136, subsection H, paragraph 10.
13. Take all actions necessary or appropriate to ensure that bottled water sold to the public and water used to process, store, handle, serve and transport food and drink are free from filth, disease-causing substances and organisms and unwholesome, poisonous, deleterious or other foreign substances. All state agencies and local health agencies involved with water quality shall provide to the department any assistance requested by the director to ensure that this paragraph is effectuated.
14. Enforce the state food, caustic alkali and acid laws in accordance with chapter 2, article 2 of this title, chapter 8, article 1 of this title and chapter 9, article 4 of this title, and collaborate in the enforcement of the federal food, drug and cosmetic act of 1938 (52 Stat. 1040; 21 United States Code sections 1 through 905).
15. Recruit and train personnel for state, local and district health departments.
16. Conduct continuing evaluations of state, local and district public health programs, study and appraise state health problems and develop broad plans for use by the department and for recommendation to other agencies, professions and local health departments for the best solution of these problems.
17. License and regulate health care institutions according to chapter 4 of this title.
18. Issue or direct the issuance of licenses and permits required by law.
19. Participate in the state civil defense program and develop the necessary organization and facilities to meet wartime or other disasters.
20. Subject to the availability of monies, develop and administer programs in perinatal health care, including:
(a) Screening in early pregnancy for detecting high risk conditions.
(b) Comprehensive prenatal health care.
(c) Maternity, delivery and postpartum care.
(d) Perinatal consultation, including transportation of the pregnant woman to a perinatal care center when medically indicated.
(e) Perinatal education oriented toward professionals and consumers, focusing on early detection and adequate intervention to avert premature labor and delivery.
21. License and regulate the health and safety of group homes for the developmentally disabled. The department shall issue a license to an accredited facility for a period of the accreditation, except that no licensing

period shall be longer than three years. The department is authorized to conduct an inspection of an accredited facility to ensure that the facility meets health and safety licensure standards. The results of the accreditation survey shall be public information. A copy of the final accreditation report shall be filed with the department of health services. For the purposes of this paragraph, "accredited" means accredited by a nationally recognized accreditation organization.

B. The department may accept from the state or federal government, or any agency of the state or federal government, and from private donors, trusts, foundations or eleemosynary corporations or organizations grants or donations for or in aid of the construction or maintenance of any program, project, research or facility authorized by this title, or in aid of the extension or enforcement of any program, project or facility authorized, regulated or prohibited by this title, and enter into contracts with the federal government, or an agency of the federal government, and with private donors, trusts, foundations or eleemosynary corporations or organizations, to carry out such purposes. All monies made available under this section are special project grants. The department may also expend these monies to further applicable scientific research within this state.

C. The department, in establishing fees authorized by this section, shall comply with title 41, chapter 6. The department shall not set a fee at more than the department's cost of providing the service for which the fee is charged. State agencies are exempt from all fees imposed pursuant to this section.

D. The department may enter into contracts with organizations that perform nonrenal organ transplant operations and organizations that primarily assist in the management of end stage renal disease and related problems to provide, as payors of last resort, prescription medications necessary to supplement treatment and transportation to and from treatment facilities. The contracts may provide for department payment of administrative costs it specifically authorizes.

36-136. Powers and duties of director; compensation of personnel

A. The director shall:

1. Be the executive officer of the department of health services and the state registrar of vital statistics but shall not receive compensation for services as registrar.

2. Perform all duties necessary to carry out the functions and responsibilities of the department.

3. Prescribe the organization of the department. The director shall appoint or remove personnel as necessary for the efficient work of the department and shall prescribe the duties of all personnel. The director may abolish any office or position in the department that the director believes is unnecessary.

4. Administer and enforce the laws relating to health and sanitation and the rules of the department.

5. Provide for the examination of any premises if the director has reasonable cause to believe that on the premises there exists a violation of any health law or rule of the state.

6. Exercise general supervision over all matters relating to sanitation and health throughout the state. When in the opinion of the director it is necessary or advisable, a sanitary survey of the whole or of any part of the state shall be made. The director may enter, examine and survey any source and means of water supply, sewage disposal plant, sewerage system, prison, public or private place of detention, asylum, hospital, school, public building, private institution, factory, workshop, tenement, public washroom, public restroom, public toilet and toilet facility, public eating room and restaurant, dairy, milk plant or food manufacturing or processing plant, and any premises in which the director has reason to believe there exists a violation of any health law or rule of the state that the director has the duty to administer.

7. Prepare sanitary and public health rules.

8. Perform other duties prescribed by law.

B. If the director has reasonable cause to believe that there exists a violation of any health law or rule of the state, the director may inspect any person or property in transportation through the state, and any car, boat, train, trailer, airplane or other vehicle in which that person or property is transported, and may enforce detention or disinfection as reasonably necessary for the public health if there exists a violation of any health law or rule.

C. The director may deputize, in writing, any qualified officer or employee in the department to do or perform on the director's behalf any act the director is by law empowered to do or charged with the responsibility of doing.

D. The director may delegate to a local health department, county environmental department or public health services district any functions, powers or duties that the director believes can be competently, efficiently and properly performed by the local health department, county environmental department or public health services district if:

1. The director or superintendent of the local health agency, environmental agency or public health services district is willing to accept the delegation and agrees to perform or exercise the functions, powers and duties conferred in accordance with the standards of performance established by the director.

2. Monies appropriated or otherwise made available to the department for distribution to or division among counties or public health services districts for local health work may be allocated or reallocated in a manner designed to assure the accomplishment of recognized local public health activities and delegated functions, powers and duties in accordance with applicable standards of performance. Whenever in the director's opinion there is cause, the director may terminate all or a part of any delegation and may reallocate all or a part of any funds that may have been conditioned on the further performance of the functions, powers or duties conferred.
E. The compensation of all personnel shall be as determined pursuant to section 38-611.
F. The director may make and amend rules necessary for the proper administration and enforcement of the laws relating to the public health.
G. Notwithstanding subsection H, paragraph 1 of this section, the director may define and prescribe emergency measures for detecting, reporting, preventing and controlling communicable or infectious diseases or conditions if the director has reasonable cause to believe that a serious threat to public health and welfare exists. Emergency measures are effective for no longer than eighteen months.
H. The director, by rule, shall:
1. Define and prescribe reasonably necessary measures for detecting, reporting, preventing and controlling communicable and preventable diseases. The rules shall declare certain diseases reportable. The rules shall prescribe measures, including isolation or quarantine, reasonably required to prevent the occurrence of, or to seek early detection and alleviation of, disability, insofar as possible, from communicable or preventable diseases. The rules shall include reasonably necessary measures to control animal diseases transmittable to humans.
2. Define and prescribe reasonably necessary measures, in addition to those prescribed by law, regarding the preparation, embalming, cremation, interment, disinterment and transportation of dead human bodies and the conduct of funerals, relating to and restricted to communicable diseases and regarding the removal, transportation, cremation, interment or disinterment of any dead human body.
3. Define and prescribe reasonably necessary procedures not inconsistent with law in regard to the use and accessibility of vital records, delayed birth registration and the completion, change and amendment of vital records.
4. Except as relating to the beneficial use of wildlife meat by public institutions and charitable organizations pursuant to title 17, prescribe reasonably necessary measures to assure that all food or drink, including meat and meat products and milk and milk products sold at the retail level, provided for human consumption is free from unwholesome, poisonous or other foreign substances and filth, insects or disease-causing organisms. The rules shall prescribe reasonably necessary measures governing the production, processing, labeling, storing, handling, serving and transportation of these products. The rules shall prescribe minimum standards for the sanitary facilities and conditions that shall be maintained in any warehouse, restaurant or other premises, except a meat packing plant,

slaughterhouse, wholesale meat processing plant, dairy product manufacturing plant or trade product manufacturing plant. The rules shall prescribe minimum standards for any truck or other vehicle in which food or drink is produced, processed, stored, handled, served or transported. The rules shall provide for the inspection and licensing of premises and vehicles so used, and for abatement as public nuisances of any premises or vehicles that do not comply with the rules and minimum standards. The rules shall provide an exemption relating to food or drink that is:

(a) Served at a noncommercial social event that takes place at a workplace, such as a potluck.

(b) Prepared at a cooking school that is conducted in an owner-occupied home.

(c) Not potentially hazardous and prepared in a kitchen of a private home for occasional sale or distribution for noncommercial purposes.

(d) Prepared or served at an employee-conducted function that lasts less than four hours and is not regularly scheduled, such as an employee recognition, an employee fund-raising or an employee social event.

(e) Offered at a child care facility and limited to commercially prepackaged food that is not potentially hazardous and whole fruits and vegetables that are washed and cut on site for immediate consumption.

(f) Offered at locations that sell only commercially prepackaged food or drink that is not potentially hazardous and that is displayed in an area of less than ten linear feet.

(g) Baked and confectionary goods that are not potentially hazardous and that are prepared in a kitchen of a private home for commercial purposes if packaged with a label that clearly states the address of the maker, includes contact information for the maker, lists all the ingredients in the product and discloses that the product was prepared in a home. The label must be given to the final consumer of the product. If the product was made in a facility for developmentally disabled individuals, the label must also disclose that fact. The person preparing the food or supervising the food preparation must obtain a food handler's card or certificate if one is issued by the local county and must register with an online registry established by the department pursuant to paragraph 13 of this subsection. For the purposes of this subdivision, "potentially hazardous" means baked and confectionary goods that meet the requirements of the food code published by the United States food and drug administration, as modified and incorporated by reference by the department by rule.

5. Prescribe reasonably necessary measures to assure that all meat and meat products for human consumption handled at the retail level are delivered in a manner and from sources approved by the Arizona department of agriculture and are free from unwholesome, poisonous or other foreign substances and filth, insects or disease-causing organisms. The rules shall prescribe standards for sanitary facilities to be used in identity, storage, handling and sale of all meat and meat products sold at the retail level.

6. Prescribe reasonably necessary measures regarding production, processing, labeling, handling, serving and transportation of bottled water to assure that all bottled drinking water distributed for human consumption is

free from unwholesome, poisonous, deleterious or other foreign substances and filth or disease-causing organisms. The rules shall prescribe minimum standards for the sanitary facilities and conditions that shall be maintained at any source of water, bottling plant and truck or vehicle in which bottled water is produced, processed, stored or transported and shall provide for inspection and certification of bottled drinking water sources, plants, processes and transportation and for abatement as a public nuisance of any water supply, label, premises, equipment, process or vehicle that does not comply with the minimum standards. The rules shall prescribe minimum standards for bacteriological, physical and chemical quality for bottled water and for the submission of samples at intervals prescribed in the standards.

7. Define and prescribe reasonably necessary measures governing ice production, handling, storing and distribution to assure that all ice sold or distributed for human consumption or for the preservation or storage of food for human consumption is free from unwholesome, poisonous, deleterious or other foreign substances and filth or disease-causing organisms. The rules shall prescribe minimum standards for the sanitary facilities and conditions and the quality of ice that shall be maintained at any ice plant, storage and truck or vehicle in which ice is produced, stored, handled or transported and shall provide for inspection and licensing of the premises and vehicles, and for abatement as public nuisances of ice, premises, equipment, processes or vehicles that do not comply with the minimum standards.

8. Define and prescribe reasonably necessary measures concerning sewage and excreta disposal, garbage and trash collection, storage and disposal, and water supply for recreational and summer camps, campgrounds, motels, tourist courts, trailer coach parks and hotels. The rules shall prescribe minimum standards for preparation of food in community kitchens, adequacy of excreta disposal, garbage and trash collection, storage and disposal and water supply for recreational and summer camps, campgrounds, motels, tourist courts, trailer coach parks and hotels and shall provide for inspection of these premises and for abatement as public nuisances of any premises or facilities that do not comply with the rules.

9. Define and prescribe reasonably necessary measures concerning the sewage and excreta disposal, garbage and trash collection, storage and disposal, water supply and food preparation of all public schools. The rules shall prescribe minimum standards for sanitary conditions that shall be maintained in any public school and shall provide for inspection of these premises and facilities and for abatement as public nuisances of any premises that do not comply with the minimum standards.

10. Prescribe reasonably necessary measures to prevent pollution of water used in public or semipublic swimming pools and bathing places and to prevent deleterious health conditions at these places. The rules shall prescribe minimum standards for sanitary conditions that shall be maintained at any public or semipublic swimming pool or bathing place and shall provide for inspection of these premises and for abatement as public nuisances of any premises and facilities that do not comply with the minimum standards. The rules shall be developed in cooperation with the director of the department of environmental quality and shall be consistent with the rules

adopted by the director of the department of environmental quality pursuant to section 49-104, subsection B, paragraph 12.
11. Prescribe reasonably necessary measures to keep confidential information relating to diagnostic findings and treatment of patients, as well as information relating to contacts, suspects and associates of communicable disease patients. In no event shall confidential information be made available for political or commercial purposes.
12. Prescribe reasonably necessary measures regarding human immunodeficiency virus testing as a means to control the transmission of that virus, including the designation of anonymous test sites as dictated by current epidemiologic and scientific evidence.
13. Establish an online registry of food preparers that are authorized to prepare food for commercial purposes pursuant to paragraph 4 of this subsection.
I. The rules adopted under the authority conferred by this section shall be observed throughout the state and shall be enforced by each local board of health or public health services district, but this section does not limit the right of any local board of health or county board of supervisors to adopt ordinances and rules as authorized by law within its jurisdiction, provided that the ordinances and rules do not conflict with state law and are equal to or more restrictive than the rules of the director.
J. The powers and duties prescribed by this section do not apply in instances in which regulatory powers and duties relating to public health are vested by the legislature in any other state board, commission, agency or instrumentality, except that with regard to the regulation of meat and meat products, the department of health services and the Arizona department of agriculture within the area delegated to each shall adopt rules that are not in conflict.
K. The director, in establishing fees authorized by this section, shall comply with title 41, chapter 6. The department shall not set a fee at more than the department's cost of providing the service for which the fee is charged. State agencies are exempt from all fees imposed pursuant to this section.
L. After consultation with the state superintendent of public instruction, the director shall prescribe the criteria the department shall use in deciding whether or not to notify a local school district that a pupil in the district has tested positive for the human immunodeficiency virus antibody. The director shall prescribe the procedure by which the department shall notify a school district if, pursuant to these criteria, the department determines that notification is warranted in a particular situation. This procedure shall include a requirement that before notification the department shall determine to its satisfaction that the district has an appropriate policy relating to nondiscrimination of the infected pupil and confidentiality of test results and that proper educational counseling has been or will be provided to staff and pupils.
M. Until the department adopts exemptions by rule as required by subsection H, paragraph 4, subdivision (b) of this section, a kitchen in a private home that is used as a cooking school and that prepares and offers food to

students is exempt from the rules prescribed in subsection H of this section if all of the following are true:

1. Only one cooking school meal per day is prepared and served.
2. The meal is served to not more than fifteen cooking school students.
3. The students are informed by a statement contained in a published advertisement, mailed brochure and placard posted at the cooking school's registration that the food is prepared in a kitchen that is not regulated and inspected by the department or by a local health authority.

36-601. Public nuisances dangerous to public health

A. The following conditions are specifically declared public nuisances dangerous to the public health:

1. Any condition or place in populous areas that constitutes a breeding place for flies, rodents, mosquitoes and other insects that are capable of carrying and transmitting disease-causing organisms to any person or persons or any condition or place that constitutes a feral colony of honeybees that is not currently maintained by a beekeeper and that poses a health or safety hazard to the public.

2. Any spoiled or contaminated food or drink intended for human consumption.

3. Any restaurant, food market, bakery or other place of business or any vehicle where food is prepared, packed, processed, stored, transported, sold or served to the public that is not constantly maintained in a sanitary condition.

4. Any place, condition or building that is controlled or operated by any governmental agency and that is not maintained in a sanitary condition.

5. All sewage, human excreta, wastewater, garbage or other organic wastes deposited, stored, discharged or exposed so as to be a potential instrument or medium in the transmission of disease to or between any person or persons.

6. Any vehicle or container that is used in the transportation of garbage, human excreta or other organic material and that is defective and allows leakage or spillage of contents.

7. The presence of ectoparasites such as bedbugs, lice, mites and others in any place where sleeping accommodations are offered to the public.

8. The maintenance of any overflowing septic tank or cesspool, the contents of which may be accessible to flies.

9. The pollution or contamination of any domestic waters.

10. The use of the so-called common drinking cup used for drinking purposes by more than one person. This paragraph does not apply to receptacles properly washed and sanitized after each service.

11. The presence of common towels for use of the public in any public or semipublic place unless properly washed and sanitized following each use.

12. Buildings or any parts of buildings that are in a filthy condition and that may endanger the health of persons living in the vicinity.

13. Spitting or urinating on sidewalks, or floors or walls of a public building or buildings used for public assemblage, or a building used for manufacturing or industrial purposes, or on the floors or platforms or any part of a railroad or other public conveyance.

14. The use of the contents of privies, cesspools or septic tanks or the use of sewage or sewage plant effluents for fertilizing or irrigation purposes for crops or gardens except by specific approval of the department of health services or the department of environmental quality.

15. The maintenance of public assemblage or places of assemblage without providing adequate sanitary facilities. Open surface privies are adequate sanitary facilities if they are outside populous areas and meet reasonable health requirements.

16. Hotels, tourist courts and other lodging establishments that are not kept in a clean and sanitary condition or for which suitable and adequate toilet facilities are not provided.
17. The storage, collection, transportation, disposal and reclamation of garbage, trash, rubbish, manure and other objectionable wastes other than as provided and authorized by law.
18. Water, other than that used by irrigation, industrial or similar systems for nonpotable purposes, that is sold to the public, distributed to the public or used in production, processing, storing, handling, servicing or transportation of food and drink and that is unwholesome, poisonous or contains deleterious or foreign substances or filth or disease causing substances or organisms.
19. The emission of mercaptan in a concentration level that causes endangerment to the health or safety of any considerable number of persons of a neighborhood or community.
20. The operation of an environmental laboratory in violation of chapter 4.3, article 1 of this title.
B. If the director has reasonable cause to believe from information furnished to the director or from investigation made by the director that any person is maintaining a nuisance or engaging in any practice contrary to the health laws of this state, the director shall promptly serve on that person by certified mail a cease and desist order requiring the person, on receipt of the order, promptly to cease and desist from that act. Within fifteen days after receipt of the order, the person to whom it is directed may request the director to hold a hearing. The director, as soon as practicable, shall hold a hearing, and if the director determines the order is reasonable and just and that the practice engaged in is contrary to the health laws of this state, the director shall order the person to comply with the cease and desist order.
C. If a person fails or refuses to comply with the order of the director, or if a person to whom the order is directed does not request a hearing and fails or refuses to comply with the cease and desist order served by mail under subsection B, the director may file an action in the superior court in the county in which a violation occurred, restraining and enjoining the person from engaging in further acts. The court shall proceed as in other actions for injunctions.
D. Notwithstanding subsection A, paragraph 19, the emission of mercaptan as a by-product of a pesticide is not a nuisance if applied according to state and federal restrictions.
E. Notwithstanding subsection A, paragraph 3, a restaurant that uses sawdust on the floors of its dining areas is not in violation of this section or local health department sanitary rules if the restaurant replaces the sawdust each day with clean sawdust and complies with applicable standards for fire safety.