

NOTICES OF PROPOSED RULEMAKING Initiated Before January 1, 1995

Unless exempted by A.R.S. § 41-1055, each agency shall begin the rulemaking process by first filing a Notice of Proposed Rulemaking with the Governor's Regulatory Review Council as specified by A.R.S. § 41-1052. The agency shall also submit the text of the rules being proposed, an estimate of the economic impact, and a cost/benefit analysis of the proposed action. Following the Council's review and approval of the rule, the Council shall forward the rule to the Office of the Secretary of State for filing and publication in the *Arizona Administrative Register*.

Under the Administrative Procedure Act (A.R.S. § 41-1001 *et seq.*), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for adoption, amendment, or repeal of any rule. A.R.S. §§ 41-1013 and 41-1022 and A.A.C. R1-2-202.

TITLE 6. ECONOMIC SECURITY

CH. 3. DEPARTMENT OF ECONOMIC SECURITY INCOME MAINTENANCE

The undersigned hereby gives notice that pursuant to the statutory authority of A.R.S. §§ 41-1954(A)(1)(a) and (3) and 46-134(1) and (2), (general authority) and 23-601 through 23-625.02, 23-642 through 23-645, 23-671 through 23-683, 23-701 through 23-708, 23-721 through 23-757, 23-771 through 23-791, 41-1954(A)(10), 41-1959, and 41-1991 through 41-1994 (specific authority), the following actions are proposed:

Repeal:

- R6-3-1301. Definition of terms
- R6-3-1724. Sick pay
- R6-3-1802. Claims for benefits for unemployment
- R6-3-5470. Citizenship or residence requirements
- R6-3-5475. Claims and registration

Adopt:

- R6-3-1301. Definitions
- R6-3-1401. Policy of Nondiscrimination
- R6-3-1813. Overpayment Deduction Percentage
- R6-3-5475. Claims and Registration

Amend:

- R6-3-1401. Employer Elections to Cover Multi-state Workers
- R6-3-1403. Disclosure of Information and Confidentiality
- R6-3-1502. Appeals Process, General
- R6-3-1503. Appeals Before an Appeal Tribunal
- R6-3-1504. Review of Appeal Tribunal Decisions
- R6-3-1506. Contribution Cases
- R6-3-1507. Appeals from Labor Dispute Determinations
- R6-3-1701. Identification of Workers Covered by Employment Security Law of Arizona
- R6-3-1709. Part-time Employment - Employer Responsibilities
- R6-3-1712. Joint, Multiple, and Combined Employer Experience Rating Accounts
- R6-3-1718. Employer Refunds
- R6-3-1720. Exempting Certain Direct Sellers and Income Tax Preparers
- R6-3-1803. Determination of Benefit Rights
- R6-3-50150. Distance to Work
- R6-3-5105. General (Misconduct)
- R6-3-51140. Dishonesty

Renumber:

- R6-3-1401 to R6-3-1406. Employer Elections to Cover Multi-state Workers

Summary

The Department proposes to amend, adopt, or repeal the above rules concerning unemployment insurance. Many of the proposed amendments are nonsubstantive changes designed to bring the rules into conformity with current format and style requirements for rules. These changes include deletion of language which merely quotes or paraphrases statutory text, consolidation of defined terms that apply to all unemployment insurance rules into one Section (R6-3-1301), placement of all defined terms into numbered alphabetical order, and elimination of gender-specific terminology.

The Department is also making other changes to reflect recent statutory changes and court decisions and to better conform to controlling federal and state law. These changes include:

- Adopting a rule stating the Department's policy not to discriminate in administration of the unemployment insurance program;
- Amending the rules on hearings and appeals of unemployment insurance cases to reflect recent statutory changes about certified mailing and attorneys' fees, and to limit the number of times a person may obtain a hearing on a request to reopen a case;
- Amending rules affecting unemployment insurance tax activities by adding "fixtures" to the definition of consumer goods; adding "delinquency, deficiency, or jeopardy assessment" as issues for which a petition for review may be filed; providing a reimbursement employer credit for benefit overpayments attributable to Department error; defining "to the same extent" for the purposes of A.R.S. § 23-727(E); and eliminating a sick pay rule which is partially inconsistent with and partially duplicates statutory text;
- Repealing R6-3-1802 and amending R6-3-5475 to eliminate internal inconsistency and to clarify the requirements for filing claims for unemployment insurance benefits;
- Adopting R6-3-1813 to define "no reasonable attempt" as used in A.R.S. § 23-787(D);
- Amending R6-3-50150 to better define "beyond reasonable commuting distance" and conform the rule to statutory text; and
- Amending R6-3-51140 concerning "dishonesty" to better conform to the statutory definition in A.R.S. § 23-619.01.

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Governor's Regulatory Review Council

The proposed rules with the economic impact, cost/benefit analysis, and impact on small businesses were heard by the Governor's Regulatory Review Council on April 4, 1995.

Opportunity for Public Comment

Notice is given that any person may file written comments on the proposed rulemaking with the agency contact person on or before 5:00 p.m., Friday June 16, 1995.

Contact: Vista Thompson Brown, Department of Economic Security, Site Code 837A, P.O. Box 6123, Phoenix 85005, (602) 542-6555.

The Department has scheduled oral proceedings to be held:

Date:	Phoenix, District I June 15, 1995
Time:	10:00 a.m.
Location:	DES Conference Room 815 North 18th Street Phoenix
Coordin. Pgm Mgr.:	Vince Ornelas (602) 255-3722
Date:	Tucson, District II June 15, 1995
Time:	10:00 a.m.
Location:	DES Conference Room 400 West Congress #420 Tucson
Coordin. Pgm Mgr.:	Henry Granillo (520) 628-6810
Date:	Flagstaff, District III June 15, 1995
Time:	10:00 a.m.
Location:	DES Conference Room 220 North LeRoux Flagstaff
Coordin. Pgm Mgr.:	Pam Estrella (520) 779-2731, ext. 238
Date:	Yuma, District IV June 15, 1995
Time:	10:00 a.m.
Location:	DES Conference Room 350 West 16th Street, # 232 Yuma
Coordin. Pgm Mgr.:	Tim Acuff (520) 782-4343
Date:	Casa Grande, District V June 15, 1995
Time:	10:00 a.m.
Location:	DES Conference Room 2510 North Trekell Casa Grande
Coordin. Pgm Mgr.:	Clay Ross (520) 836-2351
Date:	Bisbee, District VI June 15, 1995
Time:	10:00 a.m.
Location:	District Conference Room 209 Bisbee Road Bisbee
Coordin. Pgm Mgr.:	Mary White (520) 432-5703

The Department of Economic Security (DES) follows and supports Title II of the Americans with Disabilities Act. DES

does not discriminate against persons with disabilities who wish to make oral or written comments on proposed rulemaking or otherwise participate in the public comment process. Persons with disabilities who need accommodation (including auxiliary aids or services) to participate in the above-scheduled hearings may contact the coordinating program managers identified above at least 72 hours before the scheduled hearing, to request accommodation.

To request accommodation to participate in the public comment process, or to obtain this notice in large print, Braille, or on audio tape, contact Vista Thompson Brown, at (602) 542-6555, P. O. Box 6123, Site 837A, Phoenix, Arizona 85005. TDD 1-800-367-8939

Dated: March 3, 1995

/s/ Michael Koppelman
Deputy Director

Filed in the Office of the
Secretary of State 4/18/95

TITLE 6. ECONOMIC SECURITY

**CH. 6. DEPARTMENT OF ECONOMIC SECURITY
DEVELOPMENTAL DISABILITIES**

The undersigned hereby gives notice that pursuant to the statutory authority of A.R.S. §§ 41-1954(A)(1)(i) and (j), 41-1954(A)(13), 46-134(12), 36-552, 36-554, 36-557(B) and (E), and 36-558, (general authority) and 36-596.52 and 36-596.54(A) (specific authority), the following actions are proposed:

Adopt:

Article 15. Standards for Certification of Home and Community-based Service (HCBS) Providers

- R6-6-1501. Definitions
- R6-6-1502. Applicability
- R6-6-1503. Requirement for an HCBS Certification
- R6-6-1504. Application for an Initial HCBS Certification
- R6-6-1505. Setting Requirements for HCBS Service Providers
- R6-6-1506. Fingerprinting Requirements
- R6-6-1507. Application for an HCBS Certification Renewal
- R6-6-1508. Issuing an HCBS Certification
- R6-6-1509. Duration of an HCBS Certification
- R6-6-1510. Amending an HCBS Certification
- R6-6-1511. Maintenance of an HCBS Certification
- R6-6-1512. Compliance Audit of HCBS Service Providers
- R6-6-1513. Complaints
- R6-6-1514. Denial, Suspension, or Revocation of an HCBS Certification
- R6-6-1515. Corrective Action Plan
- R6-6-1516. Appeals
- R6-6-1517. Reporting Obligations of HCBS Service Providers
- R6-6-1518. Rights of Clients
- R6-6-1519. Records
- R6-6-1520. Basic Qualifications, Training, and Responsibilities
- R6-6-1521. Provisions for Attendant Care Services
- R6-6-1522. Additional Qualifications for Day Treatment and Training Services

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- R6-6-1523. Additional Qualifications for Habilitation Services
R6-6-1524. Additional Qualifications for Home Health Aid Services
R6-6-1525. Additional Qualifications for Home Health Nurse Services
R6-6-1526. Additional Qualifications for Hospice Services
R6-6-1527. Additional Qualifications for House-keeping Services
R6-6-1528. Additional Qualifications for Non-emergency Transportation Services
R6-6-1529. Additional Qualifications for Occupational Therapy Services
R6-6-1530. Additional Qualifications for Personal Care Services
R6-6-1531. Additional Qualifications for Physical Therapy Services
R6-6-1532. Additional Qualifications for Respiratory Therapy Services
R6-6-1533. Additional Qualifications for Respite Services
R6-6-1534. Additional Qualifications for Speech/Hearing Therapy Services
Amend: R6-6-101. Definitions

Summary

The Department is proposing the above rules and amending R6-6-101 to implement statutory requirements to develop certification standards for service providers. The rules define applicability and list the specific services which require a service provider to be certified before the service provider renders services to DDD clients.

Governor's Regulatory Review Council

The proposed rules with the economic impact, cost/benefit analysis, and impact on small businesses were heard by the Governor's Regulatory Review Council on April 4, 1995.

Opportunity for Public Comment

Notice is given that any person may file written comments on the proposed rulemaking with the agency contact person on or before 5:00 p.m., Friday June 16, 1995.

Contact: Vista Thompson Brown, Department of Economic Security, Site Code 837A, P.O. Box 6123, Phoenix 85005, (602) 542-6555.

The Department has scheduled oral proceedings to be held:

Date: Phoenix, District I June 15, 1995
Time: 1:30 p.m.
Location: DES Conference Room 815 North 18th Street Phoenix
Coordin. Pgm Mgr.: Vince Ornelas (602) 255-3722

Tucson, District II
Date: June 15, 1995
Time: 1:30 p.m.
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Coordin. Pgm Mgr.: Henry Granillo (520) 628-6810

Flagstaff, District III
Date: June 15, 1995
Time: 1:30 p.m.
Location: DES Conference Room 220 North LeRoux Flagstaff
Coordin. Pgm Mgr.: Pam Estrella (520) 779-2731, ext.238

Yuma, District IV
Date: June 15, 1995
Time: 1:30 p.m.
Location: DES Conference Room 350 West 16th Street, # 232 Yuma
Coordin. Pgm Mgr.: Tim Acuff (520) 782-4343

Casa Grande, District V
Date: June 15, 1995
Time: 1:30 p.m.
Location: DES Conference Room 2510 North Trekell Casa Grande
Coordin. Pgm Mgr.: Clay Ross (520) 836-2351

Bisbee, District VI
Date: June 15, 1995
Time: 1:30 p.m.
Location: District Conference Room 209 Bisbee Road Bisbee
Coordin. Pgm Mgr.: Mary White (520) 432-5703

The Department of Economic Security (DES) follows and supports Title II of the Americans with Disabilities Act. DES does not discriminate against persons with disabilities who wish to make oral or written comments on proposed rulemaking, or otherwise participate in the public comment process.

To request accommodation to participate in the public comment process, or to obtain this notice in large print, Braille, or on audio tape, contact Vista Thompson Brown, at (602) 542-6555, P. O. Box 6123, Site 837A, Phoenix, Arizona 85005. TDD 1-800-367-8939

Dated: March 3, 1995 /s/ Michael Koppelman Deputy Director
Filed in the Office of the Secretary of State 4/18/95

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TITLE 15. REVENUE

CH. 10. DEPARTMENT OF REVENUE
GENERAL ADMINISTRATION

The undersigned hereby gives notice that pursuant to the statutory authority of A.R.S. § 42-105, the following action is proposed:

Amend:

R15-10-131. Review of Decision of the Hearing Officer

Summary

The Department is proposing to amend the above rule that addresses the process of review of a decision of the Hearing Officer by the Director of the Department of Revenue. Either the petitioner or the Department may petition the Director to review the decision or the Director may independently determine that the decision requires review. The amendment also provides additional time to petition for review by the Director, to file a request for an extension of time, and to send notice to the affected parties of the Director's independent determination that review is required.

Governor's Regulatory Review Council

The proposed rules with the economic impact, cost/benefit analysis, and impact on small businesses were heard by the Governor's Regulatory Review Council on April 4, 1995.

Opportunity for Public Comment

Notice is given that any person may file written comments on the proposed rulemaking with the agency contact person on or before June 30, 1995.

Contact for further information:

Contact: Kimberly Modic, Tax Analyst, Tax Research and Analysis Section, Department of Revenue, 1600 West Monroe, Phoenix, Arizona 85007, (602) 542-4672, ext. 35.

The Department has not scheduled oral proceedings but will do so if five or more persons file written requests with the agency contact person within 30 days after the Notice is published in the *Administrative Register*.

Dated: March 2, 1995

/s/ Leigh A. Cheatham,
Acting Director

Filed in the Office of the
Secretary of State 4/18/95

TITLE 17. TRANSPORTATION

CH. 4. DEPARTMENT OF TRANSPORTATION
MOTOR VEHICLE DIVISION

The undersigned hereby gives notice that pursuant to the statutory authority of A.R.S. § 28-202, 28-209, 28-210, 28-430, 28-2401.01, 28-2402, and 28-2412, the following actions are proposed:

Repeal:

R17-4-804. Employee Certification

Amend:

R17-4-436. Hazardous Materials Transportation

R17-4-702. Fees for Copies of Public Records

Summary

The Department is proposing the above rules as follows:

R17-4-436 prescribes standards and procedures for the transportation of hazardous materials, hazardous substances, and hazardous waste by adopting enumerated federal regulations set forth in 49 CFR 171, 172, 173, 177, 178, and 180, dated October 1, 1993, as mandated by A.R.S. §§ 28-2401.01, 28-2402, and 28-2412.

R17-4-702 establishes the fees that will be charged to subscribers for access to multiple or single driving records by electronic file transfer and increases the fee to obtain driving records by the computer tape-to-tape method which currently is insufficient to cover the costs of this service.

R17-4-804, proposed for repeal, will require those persons initially applying for a commercial motor vehicle license to take a demonstration test. Driving experience can no longer be used in lieu of the demonstration test.

Governor's Regulatory Review Council

The proposed rules with the economic impact, cost/benefit analysis, and impact on small businesses were heard by the Governor's Regulatory Review Council on April 4, 1995.

Opportunity for Public Comment

Notice is given that any person may file written comments on the proposed rulemaking with the agency contact person on or before Monday, July 3, 1995.

Contact for further information:

Contact: Randall X. Ramsey or Glenn C. Johnson, Department of Transportation, Motor Vehicle Division, 4747 North Seventh Avenue, Phoenix, Arizona 85013-2401, (602) 255-7737.

The Department has scheduled oral proceedings to be held:

Date: June 21, 1995
Time: 10:00 a.m.
Location: Arizona State Building, Room 222
400 West Congress
Tucson

Date: June 22, 1995
Time: 1 p.m.
Location: Arizona Department of Transportation
Auditorium
206 South 17th Avenue
Phoenix

Date: June 23, 1995
Time: 10:00 a.m.
Location: Flagstaff City Hall
City Council Chambers
211 West Aspen
Flagstaff

Dated: April 12, 1995

/s/ Russell K. Pearce,
Division Director
Filed in the Office of the
Secretary of State 4/18/95

NOTICES OF PROPOSED RULEMAKING
Initiated After January 1, 1995

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first filing a Notice of Proposed Rulemaking, containing the preamble and the full text of the rules, with the Secretary of State's Office. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Arizona Administrative Register*.

Under the Administrative Procedure Act (A.R.S. § 41-1001 *et seq.*), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for adoption, amendment, or repeal of any rule. A.R.S. §§ 41-1013 and 41-1022.

TITLE 12. NATURAL RESOURCES
CHAPTER 4. GAME AND FISH COMMISSION

PREAMBLE

- 1. Sections Affected** **Rulemaking Action**
R12-4-102 Amend
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statute: A.R.S. § 17-231(A)(1)
Implementing statute: A.R.S. § 17-333(A)(8)
- 3. The name and address of agency personnel with whom persons may communicate regarding the rule:**
Name: Susan Alandar, Administrative Services Manager
Address: Arizona Game and Fish Department DO HQ
2221 West Greenway Road
Phoenix, Arizona 85023
Telephone: (602) 789-3289
Fax: (602) 789-3299
- 4. An explanation of the rule, including the agency's reasons for initiating the rule:**
The objective of this rule is to prescribe fees, within statutory confines, to cover necessary Department expenditures. The Arizona Game and Fish Department receives no appropriation from the state general fund. The license fees prescribed in this rule are the major source of funding.

The agency is proposing to decrease fees for the Class F "combination" hunting and fishing license, effective January 1, 1997. In conjunction with this fee decrease proposal, the agency is deleting from the rule the "Lifetime Class A general fishing license" and its fee of \$27.50. This is a housekeeping measure only as statutory authority for this fee disappeared when the governing statute, A.R.S. § 17-335.01, "sunset" on June 30, 1992. The license has not, of course, been available to the public since June 30, 1992; there is therefore no economic impact from this deletion.

The Class F "combination" fee reduction is intended to benefit hunters and anglers who support wildlife management in Arizona. The direct revenue reduction has been made possible due to increased efficiency in agency operations and because there are revenue sources for wildlife management activities not directly tied to hunting and fishing.
- 5. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable.
- 6. The preliminary summary of the economic, small business, and consumer impact:**
The agency recognizes that the loss of other revenue sources may necessitate terminating this rule proceeding or making a small decrease than is being initially proposed. The initial proposal is:

Resident adult:	from \$34 to \$32 (\$2 reduction)
Resident youth:	from \$25 to \$20 (\$5 reduction)
Nonresident:	from \$137.50 to \$100 (\$37.50 reduction)

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The Class F license is authorized by A.R.S. § 17-333(A)(8) with a ceiling of \$32 for residents and \$135.50 for nonresidents. The "resident adult" and nonresident fees currently established in R12-4-102 are at the ceiling plus including a \$2 surcharge authorized by A.R.S. § 17-345. The resident youth fee of \$25 also includes the \$2 surcharge. No change in the surcharge is included in this proposal, so it is not addressed in the following evaluations.

The combination license contains the same authority as a Class A, general fishing license (fee \$12 resident, \$38 nonresident), a class G general hunting license (fee \$18 resident, \$85.50 nonresident), and trout stamp (\$10 for resident or nonresident).

Principle impact of this fee decrease would be on resident and nonresident hunters and anglers. In particular, reducing the license fee for young resident hunters meets the agency's objective of encouraging the younger generation to hunt and fish. The proposed reduction to \$20 should encourage greater sales since it is truly a "half price" sale to youngsters: to purchase the hunting, fishing, and trout stamp separately would cost \$40.

Initial evaluation shows that impact on agency revenues could be lessened by increased sales, by persons changing from single-license to combination purchases, and potential resulting increase in federal apportionment dollars related to license sales.

Any increase in hunting and fishing activities has beneficial impact to businesses dealing in recreational goods and services.

7. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Susan Alandar, Administrative Services Manager
Address: Arizona Game and Fish Department DO HQ
2221 West Greenway Road
Phoenix, Arizona 85023
2221 West Greenway Road
Telephone: (602) 789-3289
Fax: (602) 789-3299

8. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule; or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Written comments will be accepted at the above address until July 11, 1995. Public hearings to discuss this proposal will be held as follows:

Date: June 21, 1995
Time: 7 p.m.
Location: Arizona Game and Fish Department
Region I Office, HC 66, Box 57201
Pinetop, Arizona 85935

Date: June 22, 1995
Time: 7 p.m.
Location: Arizona Game and Fish Department
3500 South Lake Mary Road
Flagstaff, Arizona 86001-9342

Date: June 21, 1995
Time: 7 p.m.
Location: Arizona Game and Fish Department
5025 North Stockton Hill Road
Kingman, Arizona 86401-5499

Date: June 19, 1995
Time: 6 p.m.
Location: Arizona Game and Fish Department
9140 East County 10 1/2 Street
Yuma, Arizona 85365-3596

Date: June 21, 1995
Time: 7 p.m.
Location: Foothills Ramada Inn
6944 East Tanque Verde
Tucson, Arizona

Date: June 23, 1995
Time: 7 p.m.
Location: Arizona Game and Fish Department
7200 East University
Mesa, Arizona 85207-6502

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The Game and Fish Commission will hold an additional public hearing and may take final action to amend the rule on:

Date: August 4, 1995
 Time: 1:30 p.m.
 Location: Pinetop-Lakeside Town Council Chambers
 1360 North Niels Hansen Lane
 Lakeside, Arizona

9. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:
None.
10. Incorporations by reference and their location in the rules:
None.
11. The full text of the rules follows:

**TITLE 12. EDUCATION
 CHAPTER 4. GAME AND FISH COMMISSION**

ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS

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

ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS

R7-2-302. Fees for Licenses, Tags, Stamps, and Permits

- A. No change
- B. Hunting and fishing license fees:
 1. Class A, general fishing license

Resident	\$ 12.00
Nonresident	\$ 38.00
Resident	\$ 27.50
 - ~~2. Lifetime Class A general fishing license~~
 - ~~3. Class B, four-month fishing license~~
 - ~~4. Class C, five-day fishing license~~
 - ~~5. Class D, one-day fishing license~~
 - ~~6. Class E, Colorado River only fishing license~~
 - ~~7. Class F, combination hunting and fishing license.~~
 Youth fee applies before and through the calendar year of the applicant's 20th birthday.

Resident Adult	\$ 34.00
Resident Youth	\$ 25.00
Nonresident	\$ 137.50
 - ~~8. Class G, general hunting license~~
 - ~~9. Class H, three-day hunting license~~
 - ~~10. Resident youth group two-day fishing license~~
 - ~~11. Urban fishing license~~

Resident or	
Nonresident	\$ 12.00
- C. No change
- D. No change
- E. No change
- F. No change
- G. This rule is effective January 1, 1995 1997.