

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. 5. DEPARTMENT OF ECONOMIC SECURITY SOCIAL SERVICES

The undersigned hereby gives notice that pursuant to the statutory authority of A.R.S. §§ 41-1003, 41-1954(A)(1)(b) and (3), 46-134(2) and (12), 8-101 to 8-135, 8-548 through 548.06, and Laws 1995, Ch. 123 (general), and A.R.S. §§ 8-101, 8-114 to 8-114.01, 8-120 through 8-122, 8-126, 8-131, 8-133, 8-134, 8-105 to 8-107, 8-112 to 8-113, 8-126, 8-129 through 8-131, 8-134, 8-120 to 8-121, 8-126, 8-130, 8-134, and 46-141(J) (specific), the following actions are proposed:

Repeal:

Article 65.	Adoption Placement
R6-5-6501.	Goals
R6-5-6502.	Objective
R6-5-6503.	Authority
R6-5-6504.	Definitions
R6-5-6505.	Description of services
R6-5-6506.	Determining financial eligibility
R6-5-6507.	Determining the need
R6-5-6508.	Central registry of children
R6-5-6509.	Case management
Article 66.	Adoption Study
R6-5-6601.	Goal
R6-5-6602.	Objective
R6-5-6604.	Description of services
R6-5-6605.	Definitions
R6-5-6606.	Application to adopt
R6-5-6607.	Home Study
R6-5-6608.	Fees
R6-5-6609.	Registry
R6-5-6610.	Case management
Article 70.	Adoption Agency Licensing Standards
R6-5-7001.	Definitions
R6-5-7002.	License application
R6-5-7003.	License fee
R6-5-7004.	License term
R6-5-7005.	License non-transferable
R6-5-7006.	License renewal
R6-5-7007.	License amendments
R6-5-7008.	Waiver of special standards
R6-5-7009.	Denial, suspension, or revocation of license
R6-5-7010.	Appeals
R6-5-7011.	Inspections and interviews
R6-5-7012.	Governing body
R6-5-7013.	Written fiscal plan
R6-5-7014.	Budget and financial reports

R6-5-7015.	Accounting procedures
R6-5-7016.	Insurance
R6-5-7017.	Adoption fees
R6-5-7018.	Operations manual
R6-5-7019.	Personnel records
R6-5-7020.	Adoption records
R6-5-7021.	Unusual incident records
R6-5-7022.	Confidentiality
R6-5-7023.	Dissolution of the agency
R6-5-7024.	Personnel qualifications
R6-5-7025.	Staff training
R6-5-7026.	External professional services
R6-5-7027.	Volunteers
R6-5-7028.	Student field placement/internships
R6-5-7029.	Staff responsibilities and qualifications
R6-5-7030.	Administrator
R6-5-7031.	Social services director
R6-5-7032.	Social services workers
R6-5-7033.	Recruitment and orientation
R6-5-7034.	Adoption application
R6-5-7035.	Adoption study
R6-5-7036.	Payments to or for natural parents
R6-5-7037.	Services to natural parents
R6-5-7038.	Services to children
R6-5-7039.	Services to adoptive family
R6-5-7040.	Internal adoptions

Adopt:

Article 65.	Department Adoption Functions and Procedures for Providing Adoption Services
R6-5-6501.	Definitions
R6-5-6502.	Central Adoption Registry; Information Maintained; Confidentiality
R6-5-6503.	Department Review of Adoption Expenses
R6-5-6503.01.	Department Review of Adoption Expenses Under the ICPC
R6-5-6504.	Department Adoption Services
R6-5-6505.	Department Procedures for Processing Certification Applications
R6-5-6506.	Department Priorities for Receipt of Services
R6-5-6507.	Department Recruitment Efforts
R6-5-6508.	Referrals to Other Sources
R6-5-6509.	Fees
R6-5-6510.	International Adoptions
R6-5-6511.	Termination of Services
Article 66.	Adoption Services
R6-5-6601.	Definitions
R6-5-6602.	Recruitment

Arizona Administrative Register

Notices of Proposed Rulemaking

- R6-5-6603. Orientation: Persons Interested in Adoption
- R6-5-6604. Application for Certification; Fees; Waiver
- R6-5-6605. Certification Investigation
- R6-5-6606. Certification Report and Recommendation
- R6-5-6607. Renewal of Certification
- R6-5-6608. Communications with Certified Parents Awaiting Placement
- R6-5-6609. Prohibitions Regarding Birth Parents
- R6-5-6610. Information About Birth Parents
- R6-5-6611. Pre-consent Interviews with Birth Parents
- R6-5-6612. Consent to Adopt; Unknown Birth Parent
- R6-5-6613. Adoptable Child; Assessment and Service Plan
- R6-5-6614. Placement Determination
- R6-5-6615. Provision of Information on Placed Child
- R6-5-6616. Transportation
- R6-5-6617. Placement Investigation and Report
- R6-5-6618. Placement Services
- R6-5-6619. Post-placement Supervision: Non-foster Parent Placements
- R6-5-6620. Post-placement Supervision: Foster Parent Placements
- R6-5-6621. Protracted Placements
- R6-5-6622. Finalizing the Placement
- R6-5-6623. Placement Disruption
- Article 70. Adoption Agency Licensing
- R6-5-7001. Definitions
- R6-5-7002. Who Shall Be Licensed
- R6-5-7003. Licensing: Initial Application; Fee
- R6-5-7004. Licensing: Out-of-state Agencies
- R6-5-7005. Department Procedures for Processing License Applications
- R6-5-7006. License: Issuance; Denial
- R6-5-7007. License: Term; Nontransferability
- R6-5-7008. Application for License Renewal; Fee
- R6-5-7009. Renewal License; Issuance
- R6-5-7010. Amended License
- R6-5-7011. Governing Body
- R6-5-7012. Agency Administrator
- R6-5-7013. Social Services Director
- R6-5-7014. Social Workers
- R6-5-7015. Agency Employees: Hiring; References; Fingerprinting
- R6-5-7016. Agency Volunteers; Interns
- R6-5-7017. Personnel Records
- R6-5-7018. Training Requirements
- R6-5-7019. Contracted Services
- R6-5-7020. Staffing Ratios
- R6-5-7021. Operations Manual
- R6-5-7022. Agency Operations Budget; Financial Records
- R6-5-7023. Annual Financial Audit
- R6-5-7024. Insurance Coverage
- R6-5-7025. Protecting Confidentiality of Adoption Records
- R6-5-7026. Recordkeeping Requirements: Adoptive Children
- R6-5-7027. Recordkeeping Requirements: Adoptive Parents
- R6-5-7028. Reporting Requirements: Abuse, Unauthorized Practice; Changes; Registry Information

- R6-5-7029. Birth Parent: Service Agreement; Prohibitions
- R6-5-7030. Adoption Fees; Reasonableness
- R6-5-7031. Adoption Fee Agreement
- R6-5-7032. AHCCCS Reimbursement; Disclosure of Third-party Coverage
- R6-5-7033. Monitoring: Inspections and Interviews; Compliance Audit
- R6-5-7034. Complaints; Investigations
- R6-5-7035. Non-compliance Status
- R6-5-7036. Suspension
- R6-5-7037. Revocation
- R6-5-7038. Adverse Action: Procedures
- R6-5-7039. Appeals
- R6-5-7040. International Adoptions

Summary

The Arizona Department of Economic Security proposes to repeal current rules governing the Department's procedures for adoption placement and study, as well as its current rules setting licensing standards for adoption agencies. The Department proposes to adopt three new Articles of rules covering all aspects of adoption practice and licensing. The rules reflect changes made to the adoptions statutes since 1990.

Article 65 will contain a comprehensive set of definitions applicable to all Articles of rules governing adoptions. These rules describe procedures for maintenance of the Central Adoption Registry and conditions for the release of Registry information. These rules describe procedures and standards for the Department's review of adoption expenses as provided in A.R.S. § 8-114. These rules also describe the Department's guidelines for accepting certification applications and its procedures and fees for performing certification investigations and other adoption services.

Article 66 applies to private adoption agencies and the Department and establishes comprehensive requirements for the provision of all adoption services, including: orientation, certification, services to birth parents, obtaining consents, communications with adoptive parents and birth parents, placement determinations and services, post-placement services and supervision, and finalization of the adoption.

Article 70 contains all procedures and standards for licensing, monitoring, and disciplining adoption agencies. The rules explain the license application and renewal process; list personnel, training, recordkeeping, reporting, operational, and financial standards an agency must meet to obtain and retain a license; establish procedures for monitoring of agencies, making complaints against agencies, and taking disciplinary action against a licensee; and describe procedures for adverse action and appeals.

The rules also address the new requirements of Laws 1995, Ch. 123 regarding duties to disclose information to the Arizona Health Care Cost Containment System (AHCCCS) and to reimburse AHCCCS for monies expended on adoption medical expenses for adoptions conducted under the Interstate Compact on the Placement of Children.

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 June 6, 1995.

Arizona Administrative Register
Notices of Proposed Rulemaking

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 p.m. on September 1, 1995.

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

The Department has scheduled oral proceedings to be held as follows:

Date:	District I August 31, 1995
Time:	10 a.m.
Location:	DES Conference Room 815 North 18th Street Phoenix, Arizona
Coord. Program Mgr:	Vince Ornelas (255-3722)
Date:	District II August 31, 1995
Time:	10 a.m.
Location:	DES Conference Room 400 West Congress #420 Tucson, Arizona
Coord. Program Mgr.	Henry Granillo (628-6810)
Date:	District III August 31, 1995
Time:	10 a.m.
Location:	DES Conference Room 220 North LeRoux Flagstaff, Arizona
Coord. Program Mgr.	Pam Estrella (779-2731, ext. 238)
Date:	District IV August 31, 1995
Time:	10 a.m.
Location:	DES Conference Room, Suite 232 350 West 16th Street Yuma, Arizona
Coord. Program Mgr.	Tim Acuff (782-4343)
Date:	District V August 31, 1995
Time:	10 a.m.
Location:	DES Conference Room 2510 North Trekell Casa Grande, Arizona
Coord. Program Mgr.	Clay Ross (836-2351)
Date:	District VI August 31, 1995
Time:	10 a.m.
Location:	DES Conference Room 209 Bisbee Road Bisbee, Arizona
Coord. Program Mgr.	Marty White (432-5703)

The Department of Economic Security 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 audiotape, contact Vista Thompson Brown at (602) 542-6555, P.O. Box 6123, Site Code 837A, Phoenix, Arizona 85005; TDD 1-800-367-8939.

Dated: May 11, 1995

/s/ Michael Koppelman
Deputy Director

Filed in the Office of the
Secretary of State 6/14/95

TITLE 12. NATURAL RESOURCES
CH. 5. LAND DEPARTMENT

The undersigned hereby gives notice that pursuant to the statutory authority of A.R.S. §§ 37-213(E), *et seq.*, the following actions are proposed:

Adopt:

- R12-5-2301. Definitions
- R12-5-2302. Contents of a Notice of Appeal
- R12-5-2303. Notice of Hearing
- R12-5-2304. Prehearing Disclosure
- R12-5-2305. Continuances
- R12-5-2306. Computation of Time; Additional Time After Service by Mail
- R12-5-2307. Service of Documents Other than Subpoenas
- R12-5-2308. Subpoenas
- R12-5-2309. Motions
- R12-5-2310. Hearing
- R12-5-2311. Evidence
- R12-5-2312. Objection to Decision by Chairperson
- R12-5-2313. Ex Parte Communications
- R12-5-2314. Decision of the Board
- R12-5-2315. Rehearing or Review of Decision

Amend:

- R12-5-2301. Rehearing or Review of Decision

Renumber:

- R12-5-2301. to R12-5-2315. Rehearing or Review of Decision

Summary

The Department is proposing the above rules to establish the procedures for adjudicating contested matters before the Board of Appeals, pursuant to their statutory duties set forth in A.R.S. § 37-213 *et seq.*

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 June 6, 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 August 7, 1995.

Contact: Rebecca A. Good, Clerk of the Board, 1616 West Adams, Room 305, Phoenix, Arizona 85007 (602) 542-2630.

The Board has not scheduled oral proceedings but will do so if five or more persons file written requests with the agency

Arizona Administrative Register
Notices of Proposed Rulemaking

contact person within 30 days after this Notice is published in
the *Administrative Register*.

Dated: April 24, 1995

/s/ Rebecca A. Good,
Clerk of the Board
Filed in the Office of the
Secretary of State 6/16/95

**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.

NOTICE OF PROPOSED RULEMAKING

TITLE 6. ECONOMIC SECURITY

**CHAPTER 3. DEPARTMENT OF ECONOMIC SECURITY
INCOME MAINTENANCE**

PREAMBLE

1. Sections Affected

Rulemaking Action

Article 4.	Repeal
R6-3-401.	Repeal
R6-3-402.	Repeal
R6-3-403.	Repeal
R6-3-404.	Repeal
R6-3-405.	Repeal
R6-3-406.	Repeal
R6-3-407.	Repeal
R6-3-408.	Repeal
R6-3-409.	Repeal
R6-3-411.	Repeal
R6-3-412.	Repeal
R6-3-413.	Repeal
R6-3-414.	Repeal
R6-3-415.	Repeal
R6-3-418.	Repeal
R6-3-420.	Repeal
R6-3-421.	Repeal
R6-3-422.	Repeal
R6-3-423.	Repeal
R6-3-424.	Repeal
R6-3-425.	Repeal
R6-3-426.	Repeal
R6-3-427.	Repeal
R6-3-428.	Repeal
R6-3-429.	Repeal
R6-3-430.	Repeal
R6-3-431.	Repeal
R6-3-432.	Repeal
R6-3-433.	Repeal
Article 5.	Repeal
R6-3-501.	Repeal
R6-3-502.	Repeal
R6-3-503.	Repeal
R6-3-504.	Repeal
R6-3-505.	Repeal
R6-3-506.	Repeal
R6-3-507.	Repeal
R6-3-508.	Repeal
R6-3-509.	Repeal
R6-3-510.	Repeal
R6-3-511.	Repeal
R6-3-512.	Repeal
R6-3-513.	Repeal

Arizona Administrative Register
Notices of Proposed Rulemaking

R6-3-514.	Repeal
R6-3-515.	Repeal
R6-3-516.	Repeal
R6-3-517.	Repeal
Article 10.	Repeal
R6-3-1001.	Repeal
R6-3-1002.	Repeal
R6-3-1003.	Repeal
R6-3-1004.	Repeal
R6-3-1005.	Repeal
R6-3-1006.	Repeal
R6-3-1007.	Repeal
R6-3-1008.	Repeal
R6-3-1009.	Repeal
R6-3-1010.	Repeal
R6-3-1012.	Repeal
R6-3-1013.	Repeal
R6-3-1014.	Repeal
R6-3-1015.	Repeal

2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

A.R.S. §§ 41-1954(A)(3), 46-134(12), 46-201 *et seq.*, and 46-291 *et seq.*, and Laws 1981, 4th S.S., Ch.1, § 13, and Laws 1983, Ch. 304, § 17.

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

Name: Vista Thompson Brown
Address: 1789 West Jefferson, Site Code 837A
Phoenix, Arizona 85007

or

P.O. Box 6123, Site Code 837A
Phoenix, Arizona 85005

Telephone: (602) 542-6555
Fax: (602) 542-6000

4. **An explanation of the rule, including the agency's reasons for initiating the rule:**

The Department is proposing to repeal all current rules governing the operation of the Aid to Families with Dependent Children (AFDC) Program and adopt new rules which govern all aspects of the program. The proposed AFDC rules implement welfare reform measures adopted by the Arizona Legislature in 1994 and 1995 and replace those existing AFDC rules which are inconsistent with federal law. Additionally, the Department intends to separate the AFDC rules from the state public assistance programs rules by repealing the AFDC rules in Chapter 3 and placing the AFDC rules in a new Chapter 12.

The Department is also proposing to repeal all the Work Incentive (WIN) Program rules. The WIN Program was repealed by P.L. 100-485, § 202(a). Additionally, the Department is proposing to repeal all the Medical Assistance for the Aged (MAA) Program rules. The MAA Program was repealed by Laws 1981, 4th S.S., Ch. 1, § 13, and Laws 1983, Ch. 304, § 17. Repeal of the outdated AFDC rules will benefit the public by eliminating rules which are inconsistent with federal law. Repeal of the WIN program and MAA rules will benefit the public by eliminating obsolete rules which no longer serve any useful purpose.

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:**

Repeal of the outdated AFDC, WIN Program, and MAA rules will not result in any new direct or indirect costs, other than the minor administrative costs associated with the rulemaking process.

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: Vista Thompson Brown
Address: 1789 West Jefferson, Site Code 837A
Phoenix, Arizona 85007

or

P.O. Box 6123, Site Code 837A
Phoenix, Arizona 85005

Telephone: (602) 542-6555
Fax: (602) 542-6000

Arizona Administrative Register
Notices of Proposed Rulemaking

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:

District I
Date: August, 17, 1995
Time: 1:30 p.m.
Location: DES Conference Room
Address: 815 North 18th Street
Phoenix, Arizona

Coordinating Program Manager: Vince Ornelas (255-3722)

District II
Date: August, 17, 1995
Time: 1:30 p.m.
Location: DES Conference Room
Address: 400 West Congress #420
Tucson, Arizona

Coordinating Program Manager: Henry Granillo (628-6810)

District III
Date: August, 17, 1995
Time: 1:30 p.m.
Location: DES Conference Room
Address: 220 North LeRoux
Flagstaff, Arizona

Coordinating Program Manager: Pam Estrella (779-2731, ext. 238)

District IV
Date: August, 17, 1995
Time: 1:30 p.m.
Location: DES Conference Room, Ste. 232
Address: 350 West 16th Street
Yuma, Arizona

Coordinating Program Manager: Tim Acuff (782-4343)

District V
Date: August, 17, 1995
Time: 1:30 p.m.
Location: DES Conference Room
Address: 2510 North Trekeil
Casa Grande, Arizona

Coordinating Program Manager: Clay Ross (836-2351)

District VI
Date: Thursday, August, 17, 1995
Time: 1:30 p.m.
Location: District Conference Room
Address: 209 Bisbee Road
Bisbee, Arizona

Coordinating Program Manager: Marty White (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 an accommodation (including auxiliary aids or services) to participate in the above-scheduled hearings, may contact the coordinating program managers identified 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 audiotape, contact Vista Thompson Brown at (602) 542-6555, P.O. Box 6123, Site Code 837A, Phoenix, Arizona 85005; TDD 1-800-367-8939.

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

Not applicable.

10. Incorporations by reference and their location in the rules:

Not applicable.

11. The full text of the rules follows:

Arizona Administrative Register
Notices of Proposed Rulemaking

TITLE 6. ECONOMIC SECURITY

**CHAPTER 3. DEPARTMENT OF ECONOMIC SECURITY
INCOME MAINTENANCE**

ARTICLE 4. AID TO FAMILIES WITH DEPENDENT CHILDREN

- R6-3-401. Purpose
- R6-3-402. Eligible persons
- R6-3-403. Residence
- R6-3-404. Citizenship
- R6-3-405. Social Security numbers
- R6-3-406. Need and deprivation
- R6-3-407. Relationship
- R6-3-408. Unwed parent under age 18
- R6-3-409. Limitations on value of real and personal property
- R6-3-411. Stepparent cases
- R6-3-412. Application for or receipt of AFDC on the basis of abandonment or desertion
- R6-3-413. Treatment of child support income
- R6-3-414. Non-AFDC IV-D services
- R6-3-415. Common-law families
- R6-3-418. Protective payments for AFDC children who are neglected
- R6-3-420. Submittal and resubmittal of medical/social information
- R6-3-421. Referral for SSI benefits
- R6-3-422. Receipt of other public assistance
- R6-3-423. Public institutional status
- R6-3-424. School attendance
- R6-3-425. Unemployed father (AFDC UF)
- R6-3-426. Foster care (AFDC FC)
- R6-3-427. Vietnamese, Cambodian, and Laotian (Indo-Chinese) refugees (AFDC IC)
- R6-3-428. Computing the AFDC grant
- R6-3-429. Social services
- R6-3-430. CETA
- R6-3-431. Redeterminations
- R6-3-432. Referral to the WIN program
- R6-3-433. Referral to Job Services

ARTICLE 5. WORK INCENTIVE (WIN) PROGRAM

- R6-3-501. Purpose
- R6-3-502. Informing the client
- R6-3-503. WIDP registration as a condition of eligibility
- R6-3-504. Notifying and referring the mandatory WIN registrant to the ES WIN unit
- R6-3-505. ES WIN unit's request that the assistance payment unit reconsider a mandatory registrant's classification
- R6-3-506. WIN volunteers
- R6-3-507. Referral to the Rehabilitation Services Bureau
- R6-3-508. Verification of registration prior to approval of the AFDC grant
- R6-3-509. Failure of mandatory WIN registrant to register
- R6-3-510. Notifying the ES WIN and separate administrative units of approval of the AFDC grant,

~~change in client's status, or change in the assistance grant~~

- R6-3-512. ~~Appearance for appraisal and participation in WIN as conditions for on-going eligibility~~
- R6-3-513. ~~Failure or refusal of mandatory WIN registrant to appear for appraisal when required to do so~~
- R6-3-514. ~~Failure or refusal of mandatory WIN registrant to participate~~
- R6-3-515. ~~Participation~~
- R6-3-516. ~~Notifying the Assistance Payment Unit of a change in a WIN registrant's status~~
- R6-3-517. ~~Redetermination of registration status~~

ARTICLE 10. MEDICAL ASSISTANCE FOR THE AGED (MAA)

- R6-3-1001. Purpose
- R6-3-1002. Age
- R6-3-1003. Citizenship
- R6-3-1004. Residence
- R6-3-1005. Income
- R6-3-1006. Income disregard
- R6-3-1007. Limitation of real and personal property and financial assets
- R6-3-1008. Transfer of property
- R6-3-1009. Receipt of other public assistance
- R6-3-1010. Determination of eligibility and certification of payment
- R6-3-1012. Redetermination of eligibility
- R6-3-1013. Out-of-state coverage
- R6-3-1014. Reporting change of status
- R6-3-1015. Right of appeal

ARTICLE 4. AID TO FAMILIES WITH DEPENDENT CHILDREN

R6-3-401. Purpose
~~The Aid to Families with Dependent Children (AFDC) program provides financial assistance and referral for rehabilitation, training, and job placement for members of eligible needy families.~~

R6-3-402. Eligible persons
~~Assistance will be provided for otherwise eligible persons who are:~~

- ~~1. Dependent children under 18 years of age, or~~
- ~~2. Dependent children between ages 18 and 21 if regularly attending a school, college, university, or course of training which will enable them to become self-supporting.~~
- ~~3. Parents of eligible AFDC children.~~
- ~~4. Non-parent relatives of a specified relationship to eligible AFDC children.~~

R6-3-403. Residence
~~A recipient must be an Arizona resident.~~

R6-3-404. Citizenship
~~A. A recipient must be:~~

Arizona Administrative Register
Notices of Proposed Rulemaking

1. ~~A citizen of the United States, or~~
 2. ~~An alien lawfully admitted to the United States for permanent residence, or~~
 3. ~~An alien lawfully admitted to the United States and residing here under color of law.~~
- B.** ~~An illegal alien may be the ineligible applicant payee for the eligible members of an AFDC assistance unit.~~

R6-3-405. Social Security numbers

~~Every client is required to furnish his Social Security number (SSN).~~

1. ~~If he cannot furnish an SSN, either because it is unknown or has never been issued, he is required to apply for one. The Department shall assist the individual to complete the application for a Social Security Number.~~
2. ~~If a client fails to cooperate in or comply with the enumeration procedure, either by refusal to apply for an SSN for himself or for another member of the assistance unit, or by refusal to show his number, he will be ineligible for assistance for each month of non-compliance.~~

R6-3-406. Need and deprivation

~~Both need and deprivation must exist as a factor of eligibility. A needy child is deprived of support or care by a natural or adoptive parent due to one or more of the following:~~

1. ~~Death. By death of one or both of the natural or adoptive parents.~~
 - a. ~~The client shall obtain documentation to verify a death which occurred out of state, and shall pay any required fees.~~
 - b. ~~If the death occurred in Arizona, the Department may verify the death for the client.~~
2. ~~Incapacity. By physical or mental incapacity of one or both of the natural or adoptive parents. Incapacity must be determined by the Medical Consultant or the Social Security Administration. Additionally, it must substantially eliminate the parent's ability to support or care for the child, and must be expected to last for a period of at least 30 days.~~
 - a. ~~If a parent is an SSI recipient, he will be considered incapacitated, but will be ineligible for inclusion in the AFDC grant.~~
 - b. ~~If a parent is receiving SSA benefits on the basis of disability (not retirement), he will be considered incapacitated and may be included in the AFDC grant if otherwise eligible.~~
 - c. ~~A parent determined to be incapacitated by the medical consultant (i.e. other than SSI or SSA certified) shall be required to accept rehabilitation or medical treatment which may enable him to work or care for the child(ren).~~
3. ~~Continued absence. By continued absence from the home of one or both of the natural or adoptive parents. Deprivation by continued absence exists if:~~
 - a. ~~The child has been deserted or abandoned by a natural or adoptive parent whether or not the paternity of such child has been established, or~~
 - b. ~~The known or indefinite duration of the absence prevents the natural or adoptive~~

~~parent from supporting or caring for the child, and~~

- c. ~~It interrupts or terminates the parent's functioning as a provider of maintenance, physical care, or guidance for the child.~~
4. ~~Unemployment of the father. The unemployed father must be the head of a family determined to be needy and must meet all AFDC UF eligibility requirements.~~

R6-3-407. Relationship

- A.** ~~Specified relative. A dependent child must be living with and under the guidance of at least one of the following specified relatives. The relatives may be included in the AFDC grant if otherwise eligible.~~
1. ~~Natural or adoptive parents. A natural or legally adoptive mother or father.~~
 2. ~~Non parent relatives.~~
 - a. ~~Stepparent. A stepmother or stepfather. Eligibility for stepparents and stepparent families will be treated in accordance with the appropriate rules and instructions of this Article.~~
 - b. ~~Other non parent relatives. A brother, sister, uncle, aunt, first cousin, nephew, niece, grandmother, grandfather, and persons of preceding generations as denoted by prefixes of grand, great, or great great. Eligibility for other non parent relatives will be treated in accordance with appropriate rules and instructions of this Article.~~
 3. ~~Spouse of a specified relative. A spouse of any person named in the above groups, even if the marriage has been determined by death or divorce or annulment.~~
- B.** ~~Foster child. Though not presently living with a specified relative, a child currently in foster care may be eligible for AFDC FC provided the eligibility criteria of that program are met.~~
1. ~~However, if a child is placed in a foster home where any party or institution other than the Department provides payment for 10% of his needs as a condition of placement, the child will not be eligible for AFDC or AFDC FC.~~

R6-3-408. Unwed parent under age 18

- A.** ~~If a needy unwed minor parent and his children reside with a relative specified in R6-3-407 who also has AFDC eligible children, all eligible persons will be included in one AFDC assistance unit and grant. The specified relative must be the applicant payee.~~
- B.** ~~If a needy unwed minor parent and his children reside alone or with persons not responsible for their support (and who are not AFDC eligible relatives), both the minor parent and his children can qualify for AFDC assistance. In such case, the minor parent must be applicant payee.~~
- C.** ~~If the unwed minor parent resides with his own non-needy parents responsible for his support:~~
1. ~~The unwed minor parent is himself ineligible to be included in the grant.~~
 2. ~~The unwed minor parent will be the ineligible applicant payee for his own AFDC eligible children.~~
- D.** ~~The following types of income of an unwed minor parent will be considered available to meet his needs~~

Arizona Administrative Register
Notices of Proposed Rulemaking

alone. All other types of income (unless disregarded by provisions of this manual) will be considered available to the unwed minor parent as well as to his own children:

1. Child support obligated to the unwed minor parent.
2. His own Social Security benefit (SSA) or that portion of an SSA benefit designated to meet his needs.
3. His own SSI benefit.
4. His own Veteran's benefit (VA) or that portion of a VA benefit designated for his needs.

R6-3-409. Limitations on value of real and personal property

Property, assets, and resources are limited to:

1. Household furnishings used by the assistance unit, in its usual place of residence.
2. Wearing apparel, necessary personal effects, wedding and engagement rings, and heirlooms.
3. A home in which the assistance unit resides and land contiguous thereto of which the gross market value does not exceed \$30,000. Or, if the gross market value does exceed \$30,000, the value of equity does not exceed \$5,000.
4. Tools, equipment, and materials used by the members of the assistance unit in their usual trades or occupations.
5. Other property, assets, and resources are limited as follows:
 - a. For a single recipient assistance unit, a gross market value of \$1,200 or less. Or, if the gross market value does exceed \$1,200, then the equity value does not exceed \$200.
 - b. For an assistance unit of two or more recipients, a gross market value of \$1,600 or less. Or, if the gross market value does exceed \$1,600, then the equity value does not exceed \$200.
6. One automobile, or one truck of less than one ton capacity, owned or being purchased by the assistance unit, with a gross market value of \$2,000 or less. Or, if the gross market value does exceed \$2,000 then the equity value does not exceed \$200.

R6-3-411. Stepparent cases

A. If both parents are employable and in the home, neither parent is eligible for AFDC assistance. Only stepchildren can be eligible.

1. To determine the grant amount, only the natural or adoptive parent's own unearned and earned income (less applicable disregards), plus voluntary contributions of the stepparent to the stepchildren, shall be countable.
2. Countable assets include the legally sole and separate assets of the natural or adoptive parent and of the stepchildren, as well as that share of community property which is legally available to the natural or adoptive parent.

B. If a stepparent is unemployable, and both parents are needy, they and all their natural or adoptive dependent children will be included in one AFDC grant. The parents are determined needy if:

1. The communal assets and resources of the parents do not exceed the limitations for a multiple person assistance unit, and

2. The grant amount for the entire assistance unit (which considers all the parents' communal income) is greater than the grant for just stepchildren budgeted independently.

C. When a stepparent is the only caretaker relative in the home for the stepchildren:

1. Only the sole and separate assets, resources, and income of the stepchildren can apply to their eligibility, and not those of the stepparent, unless voluntarily contributed.
2. A needy stepparent will be included in the same AFDC grant with his stepchildren. The stepparent is needy if:
 - a. His own assets and resources do not exceed the limitations for one person, and
 - b. His income would not cause a reduction in the stepchildren's grant if both his needs and his income were included in their budget.
3. If the needy stepparent also has natural or adoptive dependent children of his own, they will be included on the same AFDC grant.

D. In stepparent families, regardless of the family composition, either parent may be applicant payee, and all eligible members are to be included in no more than one assistance unit and grant.

R6-3-412. Application for or receipt of AFDC on the basis of abandonment or desertion

A. As a condition of eligibility each applicant for AFDC is required to report to the local office any child support received directly for any child in the assistance unit.

B. As a condition of eligibility each recipient of AFDC is required both to report and to deliver to the local office any child support received directly for any child in the assistance unit.

C. As a condition of eligibility each applicant for or recipient of AFDC is required to:

1. Assign to the state any rights to child support he may have from any other person.
 - a. The support may be on behalf of any family member for whom he is claiming assistance.
 - b. The assignment also includes any support which has accrued at the time the assignment of rights is executed.
2. Provide verbal or written information known to, possessed by or obtainable by him to assist in:
 - a. Identifying and locating the parent of a child for whom assistance is claimed, and
 - b. Establishing the paternity of a child born out of wedlock for whom assistance is claimed, and
 - c. Obtaining support payments for all children for whom assistance is claimed, and
 - d. Obtaining any other payments or property due all children for whom assistance is claimed.
3. Cooperate with the state in:
 - a. Identifying and locating the parent of a child for whom assistance is claimed, and
 - b. Establishing the paternity of a child born out of wedlock for whom assistance is claimed, and
 - c. Obtaining support payments for all children for whom assistance is claimed, and

Arizona Administrative Register
Notices of Proposed Rulemaking

- d. Obtaining any other payments or property due all children for whom assistance is claimed.
- ~~D. The applicant/recipient will be exempted from compliance with R6-3-412(C)(2) and R6-3-412(C)(3) if good cause for non-compliance can be established.~~
- ~~1. The local office shall notify the client of his rights to claim good cause prior to requiring his compliance.~~
- ~~2. Good cause must be reviewed and redetermined every six months.~~
- ~~E. When a client fails to comply with either R6-3-412(A), R6-3-412(B) or R6-3-412(C) above, he shall be ineligible for each and every month of non-compliance. The client will then become the ineligible payee.~~
- ~~F. The local office shall notify the IV-D Agency of all child support received directly by the client, and shall transmit to the IV-D Agency all child support payments turned in to the local office.~~
- ~~G. The eligibility worker shall provide the IV-D Agency with all relevant information pertaining to any child who has been approved for AFDC on the basis of desertion or abandonment by a parent.~~
- R6-3-413. Treatment of Child Support Income**
- ~~A. When child support is received directly by a client and is not delivered to the local office, then:~~
- ~~1. On pending applications:~~
- ~~a. The applicant will not be sanctioned by removal from the grant.~~
- ~~b. The child support amount will be used in determining eligibility and the grant amount for the assistance unit.~~
- ~~2. On active cases:~~
- ~~a. The caretaker relative will be sanctioned by removing him and his needs from the grant.~~
- ~~b. The child support amount plus all other countable income shall be used in determining eligibility and grant amount for the remaining members of the assistance unit.~~
- ~~i. When those children for whom the support is obligated are the only remaining members of the assistance unit, and they are ineligible, the grant shall be suspended. If the grant continues suspended for three consecutive months, the case shall be closed effective the fourth month.~~
- ~~ii. When those children for whom the support is obligated are not the only remaining members, the client shall have the option of removing them if inclusion of their needs and income causes a reduction in the grant of the other members of the assistance unit.~~
- ~~B. When child support is received directly by the client and is delivered to the local office, then:~~
- ~~1. On pending applications: The local office will not accept the child support.~~
- ~~2. On active cases:~~
- ~~a. The local office shall accept the child support and transmit it to the IV-D Agency.~~
- ~~b. The local office shall not consider the delivered child support in determining eligibility or grant amount for the month in which it is delivered.~~
- ~~c. The IV-D Agency will notify the eligibility worker of the receipt of payment as well as the month for which the support amount is to be considered.~~
- ~~C. When child support is received by the IV-D Agency, then:~~
- ~~1. To determine the eligibility of those children for whom the support is obligated, the support amount reported by the IV-D Agency must be considered.~~
- ~~2. The budget to determine the payable grant amount for those children for whom the support is obligated, shall not include the support amount reported by the IV-D Agency.~~
- ~~a. When those children for whom the support is obligated are the only children in the assistance unit, then:~~
- ~~i. If the support plus all other countable income is less than the adjusted need of the entire assistance unit, they shall be eligible, the support shall not be considered in determining the grant, and the support shall be retained by the state agency.~~
- ~~ii. If the support plus all other countable income equals or is greater than the adjusted need of the entire assistance unit, the assistance unit shall be suspended, and the state agency will pass through the child support to the client in the month of suspension.~~
- ~~b. When those children for whom the support is obligated are not the only children in the assistance unit, then:~~
- ~~i. If inclusion of those children and their income in the grant would cause a reduction in the client's total income, the client will be given the option of removing them.~~
- ~~(1) If the client elects to remove them, the support will be passed through to the client in the month of removal.~~
- ~~(2) If the client elects to include them, the support will be retained by the state agency and not considered in determining payable grant.~~
- ~~ii. If inclusion of those children does not cause a reduction in the client's total income, the children shall remain eligible. The support shall be retained by the state agency and not considered in determining payable grant.~~
- ~~D. When child support is paid in the form of commodity contributions, then:~~
- ~~1. The amount of contribution shall not be considered as income available to meet need, and~~
- ~~2. The amount of contribution shall not be considered as child support which the client must turn over to the local office in accordance with the assignment of rights to support requirement. However,~~

Arizona Administrative Register
Notices of Proposed Rulemaking

3. ~~The IV-D Agency must be notified of the contribution.~~
- E. ~~When child support is received directly during a month in which the child for whom the support is obligated (or the entire assistance unit) is suspended, the client will be given the option to either:~~
1. ~~Retain the child support payment, or~~
 2. ~~Deliver the child support payment to the local office.~~

R6-3-414. Non-AFDC IV-D services

- A. ~~IV-D services shall be made available to persons who are not applicants for or recipients of AFDC. The services offered include:~~
1. ~~Establishment of paternity.~~
 2. ~~Location of and contact with absent parent.~~
 3. ~~Establishment of the child support obligation.~~
 4. ~~Collection of child support.~~
 5. ~~Enforcement of delinquent child support obligations.~~
- B. ~~Each person desiring IV-D services shall make written application for those services.~~

R6-3-415. Common-law families

- A. ~~Establishing the applicant payee. As applicant payee of an AFDC grant, a common-law parent must bear a specified relative relationship (maternity, paternity, or other specified relationship, established and documented) to each and every child included in the grant. Thus:~~
1. ~~If one member of a common-law couple is the natural or adoptive parent of all the AFDC eligible children of the family, it is that parent who must be the applicant payee. (If both members of the couple meet this description, either one may be applicant payee.)~~
 - a. ~~If the common-law spouse of such an applicant payee is eligible for assistance and all his natural or adoptive AFDC eligible children are also the natural or adoptive children of the applicant payee, all AFDC eligible persons are to be included in the same assistance unit and grant.~~
 2. ~~In the following circumstances there must necessarily be two separate assistance units—the father's and the mother's:~~
 - a. ~~One member of the common-law couple is childless.~~
 - b. ~~One member of the common-law couple bears no verifiable relationship to any AFDC eligible child.~~
 - c. ~~Each of the two common-law parents has an AFDC eligible child unrelated to the other parent, or whose relationship to the other parent cannot be established.~~
- B. ~~Assets and income. Assets and income of a common-law spouse are legally available only to himself and to his own natural or adoptive children.~~

R6-3-418. Protective payments for AFDC children who are neglected

An active AFDC case in which the parent or relative neglects the child because he is unable to manage funds to the best interest of the child shall be reported to the Social Services Unit.

1. ~~If specified by the Social Services Unit, protective payments will be made in the full amount of the grant to another individual who is interested in or concerned with the welfare of the household.~~
2. ~~The Department shall select a protective payee with the consent of the recipient to the extent possible.~~
 - a. ~~A protective payee may be certain employees of the Department, a private agency, or other appropriate organizations.~~
 - b. ~~A protective payee shall not be the Director of the Department, an Eligibility Worker, Special Investigations Unit personnel, or persons providing goods or services directly to the recipient.~~
3. ~~The Social Services Unit shall be notified of recipients who have problems, need for services, or care which the protective payee cannot provide.~~
4. ~~The Social Services Unit has the responsibility for undertaking and continuing special efforts to develop the recipient's ability to adequately manage funds.~~
5. ~~The Social Services Unit has the responsibility for reviewing as frequently as necessary, and at least every six months, the need for protective payments and the adequacy with which the protective payee fulfills his responsibilities.~~
6. ~~Protective payments will be terminated when the parent or eligible relative is considered able to manage funds in the best interest of the child and the child is no longer neglected.~~
7. ~~If it appears that the need for protective payments will continue longer than two years because all efforts have not resulted in sufficiently improved use of funds in behalf of the child, the Social Services Bureau will seek judicial appointment of a guardian or placement in foster care.~~
 - a. ~~Protective payments will terminate when the appointment has been made.~~
 - i. ~~If a guardian is appointed, the assistance household shall be re-evaluated and the guardian shall be the payee.~~
 - ii. ~~If foster care is assigned, the needs of the children placed in foster care shall be removed from the AFDC grant and the previous assistance household shall be re-evaluated.~~

R6-3-420. Submittal and resubmittal of medical/social information

- A. ~~The Department will authorize a medical examination by a licensed physician for a person who applies for AFDC on the basis of incapacity.~~
- B. ~~Medical information for Reservation Indians shall be obtained from the U.S. Public Health Service.~~
- C. ~~When the applicant has been known to any agency, institution or physician, medical information will be requested from these sources.~~
- D. ~~All medical information and social information obtained from an interview shall be submitted to the Medical Consultant at the time of application and resubmitted at those times specified by the Consultant or when there is a change in the recipient's medical or~~

social status which may require redetermination of eligibility.

1. Complete medical and social information shall be submitted not less than once each six months, as redetermination is due.

2. The Department will authorize a medical examination by a specialist if required.

~~E. An assistance unit requesting or receiving AFDC assistance on the basis of the medical unemployability of one parent will be ineligible for each month in which the parent's total gross earned income from competitive employment exceeds \$50.~~

~~F. An assistance unit requesting or receiving AFDC assistance on the basis of the medical unemployability of one parent will be ineligible for each month in which that parent receives an unemployment insurance benefit for a claim filed on or after the date of application for AFDC.~~

1. The assistance unit will not be so disqualified by UI benefits received resulting from claims filed prior to the date of application for AFDC.

R6-3-421. Referral for SSI benefits

A. A client shall be referred to the Social Security Administration to apply for SSI benefits:

1. At the time of application for AFDC, if it appears to the Eligibility Worker that the incapacity may be permanent and total.

2. At any time the Medical Consultant determines the incapacity to be permanent and total.

B. If otherwise eligible, the recipient shall continue to be

1. The AFDC grant shall then be determined, excluding the needs as well as the income and resources totally owned by the SSI beneficiary.

a. If real or personal property or financial assets are jointly owned or held, one half the total value shall be counted toward the limitation of assets in determining eligibility for AFDC.

2. If the client receives an AFDC grant the same month he receives an SSI grant, the Department shall attempt to recover, by overpayment procedure, that part of the AFDC grant for which the assistance unit is not eligible.

R6-3-422. Receipt of other public assistance

A. A person shall not be included in an AFDC assistance unit if he is a recipient of SSI.

B. A parent or eligible relative may receive SSI and qualify as the payee of an AFDC grant to an eligible child.

C. An assistance unit may receive assistance on the Aid to Dependent Children program and the Tuberculosis Control program concurrently.

R6-3-423. Public institutional status

A. A person is not eligible to be included in an AFDC assistance grant for each full calendar month he is an inmate of any public institution.

1. However, the client, if otherwise eligible, will be included in the AFDC assistance grant both for the month in which he is admitted and the month in which he is released from the public institution.

B. A person, if otherwise eligible, will be included in the AFDC assistance grant if on conditional release from, or if an out-patient of, a public institution.

C. A person, if otherwise eligible, who is confined to a private institution will be included in the AFDC assistance grant.

R6-3-424. School attendance

A. School attendance is not an eligibility factor for a child under age 18, except for a child age 16-18 residing in a WIN project area.

B. A needy person between ages 18 and 21 will be included in the AFDC grant if he is regularly attending a school, college, university, or course of training designed to enable him to become self-supporting, and meets all other program requirements. He must also be:

1. Enrolled in and attending full time a program of study or training leading to a certificate, diploma, or degree, or

2. Enrolled in and attending at least half time a program of study or training leading to a certificate, diploma, and is employed part time or is available for and actively seeking part time employment, or

3. Enrolled in and attending at least half time a program of study or training leading to a certificate, diploma, or degree, but is prevented from full time attendance or part time employment because of a verified physical handicap. The student shall provide medical verification of his physical handicap.

C. Any child up to age 21 who is attending a school, boarding school, college, university, or training course away from home can be eligible for AFDC, but only if he remains under the care and custody of the applicant or payee caretaker relative, is permitted to return home on weekends and vacations, and meets all other requirements of the AFDC program.

D. If any school, boarding school, or other institution provides 100% of a child's needs, the child is ineligible for AFDC assistance for each month in which his needs are so met.

R6-3-425. Unemployed father (AFDC-UF)

A. The unemployed father must be a legal father and the head of an otherwise eligible family.

1. He must be employed less than 100 hours per month, or

2. If his work is irregular, he must have been employed less than 100 hours per month for the two months prior to the current month and is expected to be employed under 100 hours during the next month.

3. If the father is unemployed as a result of a labor dispute or strike which disqualifies him for state unemployment insurance, he shall be ineligible for AFDC-UF.

4. If the father is unemployed because of conduct which disqualifies him for state unemployment insurance, he shall remain eligible for AFDC-UF.

B. If totally unemployed, the father:

1. Must have been unemployed for at least 30 days prior to the date of application for assistance, and

2. Within 30 days prior to application, he must not have refused a bona fide offer of employment or training for employment without good cause.

a. In cases when the offer was made through a division of the Department, it shall be considered as a bona fide offer.

Arizona Administrative Register
Notices of Proposed Rulemaking

- b. ~~In cases when the offer was made by another agency or private employer, that agency or employer shall determine whether it was a bona fide.~~
 - c. ~~If the father refused a bona fide offer, he will be given an opportunity to explain why the offer was not accepted. The Department shall then decide whether:
 - i. ~~There was a definite offer of employment at wages meeting minimum wage requirements or which are customary for such work in the community, or~~
 - ii. ~~The father was unable to perform such work due to physical reasons, or~~
 - iii. ~~He had no transportation which was required to get to and from such work, or~~
 - iv. ~~There were any hazardous working conditions with lack of workmen's compensation protection.~~~~
 - C. ~~The unemployed father is required to provide documentation to verify that he has either:
 - 1. ~~Six or more quarters of work within any 13 calendar quarter period ending within one year prior to the date of application for AFDC UF, or~~
 - 2. ~~Received unemployment insurance at any time during the one year prior to the date of application for AFDC UF, or~~
 - 3. ~~Been qualified to receive unemployment insurance at any time during the one year prior to the date of application for AFDC UF.~~~~
 - D. ~~The unemployed father shall apply for and accept any unemployment compensation benefits to which he is entitled.
 - 1. ~~When received, the gross amount of unemployment compensation benefits shall be counted as income available to meet need.~~~~
 - E. ~~As a condition of eligibility, the unemployed father shall be evaluated for participation in the WIN program if he is not remote from a WIN project office as provided for in R6-3-503.~~
 - F. ~~As a condition of eligibility, an unemployed father who is remote from a WIN project office shall register for employment with the employment service as provided for in R6-3-433.~~
- R6-3-426. Foster care (AFDC-FC)**
- A. ~~The AFDC-FC program provides foster care payments and services for an otherwise eligible child, including one who lives on an Indian Reservation, who:
 - 1. ~~Was removed from the home of a parent or eligible relative after April 30, 1961, as a result of judicial determination that continuance in the home for any reason would be contrary to his welfare, and who was placed in foster care as a result of that determination; and~~
 - 2. ~~For the month in which court action was initiated, either was included in an AFDC grant or would have been included in an AFDC grant if application had been made; or~~
 - 3. ~~Lived with a parent or eligible relative within six months prior to the month in which the court action was initiated, and who would have received AFDC for the month in which he was removed from the home if application had been made for him, and~~
 - 4. ~~For whom the court order gives the responsibility for AFDC-FC placement and care to the Department or to a public agency with whom the Department has a currently effective agreement.~~~~
 - B. ~~Responsibilities of the Social Services Unit
 - 1. ~~Referrals to the Social Services Unit may originate from the Eligibility Worker, the court, or the community in the form of a request for protective services.~~
 - 2. ~~After referral, the Social Services Unit is responsible to evaluate the home situation as to whether continuing to live with the parent or relative would be contrary to the child's interest.
 - a. ~~If the decision is affirmative, the Social Services Unit will initiate referral of the child to the court for judicial determination.~~~~
 - 3. ~~If the court order delegates the responsibility for placement and care of the child to the Department or a public agency with whom the Department has contracted, the Social Services Unit is responsible to insure that:
 - a. ~~The child will be placed in a licensed private non-profit foster home or private child care institution according to his needs.~~
 - b. ~~The child's continuing need for and the appropriateness of care and services furnished will be reviewed at least every six months.~~
 - c. ~~If foster care is terminated or there is a change in the child's circumstances which affects his AFDC-FC eligibility, the Eligibility Worker will be notified within five working days.~~
 - d. ~~Services will be provided to either improve the conditions in the home from which the child was removed so he may be returned to such home, or to make possible his placement in the home of another relative.~~~~
 - 4. ~~The amount of the foster care payment will be in accordance with regular rates paid by the Department and will exclude overhead costs of institutional care.~~~~
 - C. ~~Responsibilities of the Assistance Payments Unit
 - 1. ~~The Assistance Payments Unit shall determine AFDC-FC initial eligibility and redetermine eligibility every six months thereafter.
 - a. ~~To determine initial eligibility for AFDC-FC, the deprivation factor must be either death, incapacity, or continued absence of one or both parents, but not termination of parental obligation to support by court order.~~
 - b. ~~To redetermine eligibility once initial eligibility has been established, the deprivation factor may be either death, incapacity, or continued absence of one or both parents, or it may also be termination of parental obligation to support by court order.
 - i. ~~If a court order terminates all the rights and obligations of the parents to care for the child, including the obligation of financial support, an otherwise eligible child shall be considered as deprived of parental support and can remain AFDC-FC eligible until adoption of the child is final.~~~~~~~~

Notices of Proposed Rulemaking

- e. If the child was removed from a family receiving AFDC, a redetermination of eligibility will be made for that family.
- d. When the child is placed in foster care, an application for AFDC-FC may be taken and processed.
- e. When the AFDC-FC case is terminated, the eligibility worker will notify the Social Services Unit within five working days.

R6-3-427. Vietnamese, Cambodian, and Laotian (Indo-Chinese) refugees (AFDC-IC)

- A. AFDC-IC shall be provided to eligible Vietnamese, and Cambodian, and Laotian refugees on the basis of need, without regard to family composition or the presence of children.
 - 1. The standard of assistance for one shall be used for a single recipient, and the standard for two shall be used for a husband and wife.
- B. To be AFDC-IC eligible, a person must have either parole status, or voluntary departure status, or conditional entry status, as indicated by immigration and naturalization service form I-94; or have permanent resident status, as indicated by form I-151 or form I-551.
 - 1. The person possessing the form must be an alien refugee and must not be a dependent of a United States citizen. If he entered the United States as a repatriate or a dependent of a U.S. citizen, he shall be denied AFDC-IC and instructed to apply under the Repatriate Program.
 - a. After eligibility for assistance under the Repatriate Program expires (90 days after arrival in the U.S.), an alien who qualifies as a refugee and is a dependent of a United States citizen will be eligible to apply for AFDC-IC.
- C. Every AFDC-IC client who is age 16 or older shall be required to register in the WIN program unless:
 - 1. He is age 16 to 21 and attending school or a training program full time, or
 - 2. He is age 21 or older and a full time student attending a school or training program which will enable him to become self supporting within one year from the date of application for AFDC-IC.
 - 3. He is exempt from WIN registration in accordance with Article 5, WIN program (R6-3-503(B) through (G)).
- D. Full-time attendance in college for a refugee age 21 or older will cause him to be ineligible unless:
 - 1. He will obtain his degree within one year from the date of application for AFDC-IC; or
 - 2. He is a professional whose attendance will enable him to become relicensed in his profession prior to October 1, 1977.
- E. A refugee WIN registrant is not eligible for the \$30 per month WIN incentive payment.
- F. A remote refugee (as defined in R6-3-433(B)(5)) shall be required to register for employment with the employment service unless he is exempt in accordance with this Article (R6-3-433(B) through (F)).
- G. The client shall not be considered unemployable or unsuitable for the WIN program or services by the employment service simply because he is unable to communicate in English.

- H. If an applicant voluntarily terminated employment in order to become eligible for assistance, or refused to apply for or accept a bona fide offer of employment (as defined in R6-3-433(C)), he shall be ineligible to be included in the grant for a period of 30 days. However:
 - 1. The otherwise eligible dependents of the applicant will be eligible, and
 - 2. The sanctioned applicant may be the ineligible payee.
- I. If a recipient voluntarily terminates employment for the purpose of increasing assistance, or refuses to apply for or accept a bona fide offer of employment (as defined in R6-3-433(C)), or employment related training from the WIN program, he and his needs shall be removed from the grant during each and every month of non-compliance.
- J. If a client who is a mandatory registrant in the WIN program or with the employment service refuses to register and participate, or accept employment/training, he shall be given one counseling session by the Department within seven days from the date of his refusal.
 - 1. If the client still refuses, the grant shall be reduced or terminated effective 30 days after the date of his original refusal. The refugee's sponsor (or voluntary resettlement agency) will be notified of the grant reduction or termination.
 - 2. If the client decides to register/participate or accept employment/training at any time during the 30 day period after his original refusal, the grant shall not be reduced or terminated.
- K. If a recipient is employed less than 100 hours per month, the Department may require him to attend part time education in the English language or part time skill training as a condition of continuing eligibility.
- L. Emergency assistance, subject to federal matching, shall be issued if necessary.
 - 1. Emergency assistance shall be deducted from an approved AFDC-IC grant.
- M. Determining eligibility and the amount of the grant
 - 1. Assets and resources which are not available to the refugee (i.e., those remaining in Indo-China) shall not be counted as available to meet need.
 - 2. All assets and resources available to the refugee shall be counted as available to meet need.
 - 3. Income and resources of a refugee's sponsor shall not be considered.
 - 4. The refugee's sponsor (individual, church, public or private organization, etc.) shall be contacted personally, or if this is not possible, by telephone, to:
 - a. Determine the types and amount of assistance he provides to the refugee, and
 - b. Verify that he is not able to meet the refugee's total needs.
 - 5. If there is an emergency need for assistance and it is not possible to contact the sponsor, emergency assistance, subject to federal matching, will be issued.
- N. Referral for SSI benefits
 - 1. A refugee 65 years or older, blind, or disabled, shall be referred to the SSA to apply for SSI benefits.

Arizona Administrative Register
Notices of Proposed Rulemaking

2. An eligible refugee will be granted AFDC-IC until he receives his first SSI benefit.
 3. If the refugee receives an AFDC-IC grant the same month he receives an SSI grant, the Department shall attempt to recover the amount of the AFDC-IC grant.
 4. Refugee SSI recipients may apply for the Supplemental Payments (SP) program, subject to federal matching.
- O.** A person will not be given assistance on the AFDC-IC program if he is eligible to receive assistance on the AFDC program.
1. Any person currently receiving AFDC-IC will be transferred to the AFDC program effective the first month in which he is found to qualify for AFDC.
 2. All new applicants will first be considered for AFDC eligibility; if found AFDC ineligible, they will then be considered for AFDC-IC eligibility.

R6-3-428. Computing the AFDC grant

- A.** The AFDC grant shall be equal to the budgeted need amount multiplied by the current percentage of need factor, less income after disregards.
- B.** The budgeting standard A-1 or A-2 will always correspond to the shelter cost obligation of the eligible members of the assistance unit.
- C.** In a natural or adoptive parent case, the needs of the parent, if he requests assistance for himself, must be considered in determining grant amount and eligibility for the entire assistance unit.
- D.** In a non-parent caretaker relative case, the child(ren) must first be eligible on the basis of their own budgeted needs before the relative can be added to the AFDC grant.
1. The caretaker relative should not be added to the grant if it causes ineligibility or a reduction in the grant for the child(ren).
- E.** In natural parent or non-parent relative cases, the client will have the option of removing a child and his income from the grant to avoid a reduction in the amount of the grant for other children in the assistance unit.
- F.** If a client is at the same time the natural or adoptive parent of AFDC eligible child(ren), and a non-parent relative payee, all AFDC eligible persons are to be included in one AFDC assistance unit and assistance grant.

R6-3-429. Social services

Every applicant shall be informed he may apply for Social Services.

R6-3-430. CETA

AFDC applicants and recipients who meet the eligibility criteria of CETA (Title VI) will be screened and referred in accordance with the appropriate instructions of this Article.

R6-3-431. Redeterminations

Eligibility for all recipients shall be redetermined at least once every six months.

R6-3-432. Referral to the WIN program

Every client who resides in a WIN project area shall be evaluated for participation in the WIN program.

R6-3-433. Referral to Job Services

A. Mandatory registration. As a condition of eligibility, every applicant for or recipient of AFDC who is age 16

or older, and who is exempt from the WIN program, shall be required to register for employment with Job Services (JS), unless:

B. Exemption from registration.

1. School attendance. He is attending, full time, a school, college, training course, or is engaged in a work study program, enabling him to become self-supporting.
2. Full-time employment. He is employed full-time.
3. Incapacity.

- a. Major disability. He is determined by the medical consultant to be physically or mentally ill or incapacitated to the degree that he is prevented from engaging in employment for a period to exceed 30 days.
- i. Referral. A disabled client will be referred to Vocational Rehabilitation (VR) only when the District Medical Consultant so recommends, or when the client requests referral.

- b. Minor disability. He is determined by the eligibility worker, as documented by a licensed physician, psychologist or psychiatrist, as having a temporary illness or injury not expected to last over 30 days.

- i. Redetermination. Exemption for minor disability shall be reviewed by the EW at least every 30 days to determine whether the person is still exempt from mandatory JS registration, or whether the disability is serious or prolonged enough to warrant a reclassification as a major disability.

- ii. Referral. No referral to JS for registration or to VR will be made until it is determined whether the person is once again employable, or whether he is to be reclassified as having a major disability.

4. Old age. He is age 65 or older.

5. Remoteness.

- a. With transportation. He resides so remotely from a JS office that a round trip (exclusive of transporting his children to and from a child care facility) would exceed two hours by reasonably available public transportation or usable private conveyance.

- b. Without transportation. Or, if a person has no available transportation, he resides more than a mile walking distance from a JS office.

6. Caretaker.

- a. Caretaker of an incapacitated person. He is a caretaker whose presence in the home is required on a substantially continuous basis, as documented by a licensed physician, psychologist or psychiatrist, to care for an incapacitated household member, and no other household member is able to give such care.

- b. Caretaker relative of child. He is a parent, or other caretaker relative, of a child under age six.

C. Refusal of employment. As a condition of eligibility, a client must not refuse a bona fide offer of employment or training for employment without good cause. Bona fide

Arizona Administrative Register
Notices of Proposed Rulemaking

offer will be defined by Unemployment Insurance regulations currently in effect.

1. Offer made by the Department. If the offer was made through the Department, it shall be considered a bona fide offer.
 2. Offer by other agency. Where the offer was made by another agency or by a private employer, the Department shall determine whether it was bona fide.
 3. Sanction for refusal. If it can be documented that a bona fide offer was refused, the client will be sanctioned by removal of his needs from the assistance grant corresponding to the one month in which the offer was refused.
 4. Good cause. However, a client may refuse an offer, without sanction, with good cause. Valid reasons for refusal include, but are not limited to:
 - a. The wage did not meet minimum wage requirements or was not customary for such work in the community.
 - b. The client was unable to perform the work due to physical reasons.
 - c. The client had no transportation which was required to get to and from such work.
 - d. Suitable child day care is unavailable.
- D. Refusal of referral.** As a condition of eligibility, a client must not refuse a referral by JS to a prospective employer for a job interview, or fail to appear for an interview.
1. Sanction for refusal. The client will be sanctioned by removal of his needs from the grant corresponding to the one month in which he failed or refused to report to the prospective employer without good cause.
 2. Good cause. A client may refuse a referral, without sanction, if he has good cause. Good cause includes, but is not limited to:
 - a. The client had no transportation to get to and from the job interview.
 - b. Suitable child day care was unavailable.

ARTICLE 5. WORK INCENTIVE (WIN) PROGRAM

R6-3-501. Purpose

The WIN program is designed to provide an opportunity for eligible AFDC recipients to be placed in jobs, trained, and provided necessary services to enable them to become self-supporting.

R6-3-502. Informing the client

Each AFDC client who resides in a WIN project area shall be informed verbally and in writing of the general requirements of the WIN program.

R6-3-503. WIDP registration as a condition of eligibility

- A.** As a condition of eligibility for AFDC, every applicant or recipient who is age 16 or older and lives in a WIDP project area shall be classified as a mandatory WIDP registrant and required to register for WIDP unless:
1. The person is age 16 to 19 and attending school full-time.
 - a. If the student is age 18, the person must be attending full-time and expect to complete the

program before reaching age 19 in order to be exempt from WIDP registration.

- b. School attendance cannot exempt a person age 19 or older.
2. The person is determined to be physically or mentally ill or incapacitated to the degree that the person is prevented from engaging in employment or training.
 - a. Serious injury or illness must be verified by a licensed physician as preventing the person from participating in the WIDP program.
 - b. Minor illness or injury may be determined by the Eligibility Worker as temporarily exempting the person from registration in WIDP.
 - i. Such determinations shall be reviewed at least every 30 days to determine whether the person is still exempt from mandatory registration and whether the ailment may have become serious enough to warrant a medical determination for incapacity.
 3. The person is age 65 or older.
 4. The person resides so remotely from a WIDP office that a round-trip (exclusive of transporting the person's children to and from a child care facility) would exceed two hours by reasonably available public transportation or usable private conveyance.
 5. The person is an eligible person whose presence in the home is required because a member of the household is verified as being ill or incapacitated and no other member in the household is able to give care.
 - a. The ill or incapacitated household member must not be able to care for himself or herself, and
 - b. The period of exemption from registration shall not exceed the period during which care must be furnished.
 6. The person is a parent or eligible relative of a child under age three, who personally provides full-time care of the child with only very brief and infrequent absences, if any, from the child.
 7. The person is a parent or other caretaker of a child who is deprived of parental support or care by reason of death, continued absence from the home, or the physical or mental incapacity of a parent, if another adult relative in the home is registered and has not failed or refused to participate in the program or to accept employment without good cause.
 8. The person is currently employed, in unsubsidized employment, not less than 30 hours per week. Such employment must be expected to last a minimum of 30 days. Any interruptions in such employment must not exceed 10 days.

R6-3-504. Notifying and referring the mandatory WIN registrant to the ES-WIN unit

Upon determination of mandatory registration status, the client shall be informed in writing of his responsibilities and that, should he refuse to register for WIN, he and his needs

Arizona Administrative Register
Notices of Proposed Rulemaking

will not be included in determining or redetermining the amount of the AFDC grant.

1. The client shall be given written notice of the date and place where he must appear for registration in WIN.
2. The client shall be informed that he must contact the Assistance Payment Unit if he is unable to keep the appointment to register.

R6-3-505. ES WIN unit's request that the assistance payment unit reconsider a mandatory registrant's classification

If the Assistance Payment Unit has determined a client to be a mandatory WIN registrant and the ES WIN Unit believes the client should be exempt from WIN registration, it may request the Assistance Payment Unit to reconsider the classification.

1. The ES WIN Unit shall register the client and await response from the Assistance Payment Unit.
2. The Assistance Payment Unit's response should be issued within 30 calendar days, and it shall be accepted as final by the ES WIN Unit.
 - a. The Assistance Payment Unit may request an additional 15 days to make its decision.
 - b. If registration status has not been redetermined within 45 days, the Assistance Payment Unit shall request the ES WIN Unit to maintain the client in a registered status.
3. If the Assistance Payment Unit reverses its determination and reclassifies the client to be exempt from WIN registration, the ES WIN Unit will deregister the client (unless the client volunteers for WIN).
4. If the APU does not reverse its determination, it shall promptly inform the ES WIN Unit that the client remains a mandatory registrant.

R6-3-506. WIN volunteers

- A. A client who has been determined to be exempt from WIN registration shall be informed that he may voluntarily register and participate.
- B. A WIN volunteer may cease to participate at any time without loss of AFDC benefits, providing his status has not changed which would require him to be registered for WIN.

R6-3-507. Referral to the Rehabilitation Services Bureau

Whether or not he volunteers for WIN, a client who has been determined to be exempt from WIN registration due to physical or mental incapacity shall be referred to the Rehabilitation Services Bureau.

1. The Assistance Payment Unit shall maintain contact with the Rehabilitation Services Bureau to ensure the client is referred for registration in WIN as soon as he is ready for training and employment.

R6-3-508. Verification of registration prior to approval of the AFDC grant

Prior to including a mandatory WIN registrant in the AFDC grant, it shall be verified that he is registered in WIN.

1. The ES WIN Unit will notify the Assistance Payment Unit within three working days after registration has been completed.
2. If a mandatory WIN registrant has not registered by the time other AFDC eligibility factors have been

verified, he shall be considered as having failed to register.

R6-3-509. Failure of mandatory WIN registrant to register

Upon inquiry from the Assistance Payment Unit, the ES WIN Unit will provide information as to whether a mandatory registrant failed to register. The needs for that client shall not be included in determining or redetermining the amount of the AFDC grant if he failed to register.

1. The application denial or grant redetermination shall be completed within three days from notification that the client failed to register.
 - a. If such client is the only dependent child, AFDC for the entire assistance unit shall be denied or terminate.
 - b. The sanctioned client may be the payee, ineligible for federal matching, for the AFDC grant for eligible persons in the assistance unit.
2. Client contests mandatory registration on the basis of incapacity or illness.
 - a. If a client contests his classification as a mandatory WIN registrant on the basis of incapacity or illness which is not apparent to the Eligibility Worker, he will be considered as exempt from registration for a period not to exceed 30 calendar days pending receipt of medical verification.
 - i. If medical verification is not received within 30 calendar days, the client shall be required to register in WIN as a condition of eligibility to receive AFDC.
 - ii. If there is a legitimate delay in obtaining a medical appointment, the 30 day limit may be extended to 45 calendar days.
3. Appeals for a hearing.
 - a. If the client requests a hearing on the basis that his WIN registration status was misclassified, he will be considered as exempt from registration until his registration status is decided by the Welfare hearing officer.
 - b. The hearing officer shall not have been involved in the original determination.
 - c. Assistance Payments, Separate Administrative, and ES WIN Unit personnel may be additional parties to the hearing.
 - d. The decision of the Welfare hearing officer shall be final.

R6-3-510. Notifying the ES WIN and separate administrative units of approval of the AFDC grant, change in client's status, or change in the assistance grant

The Assistance Payment Unit will notify the ES WIN and Separate Administrative Units within three working days after approval of the AFDC grant which includes the registered client's needs, and whenever a change occurs in his registration status, non WIN related employment, amount of his AFDC grant, or his eligibility to receive AFDC.

R6-3-512. Appearance for appraisal and participation in WIN as conditions for on-going eligibility

After registrant in WIN, a mandatory WIN registrant may be required to:

1. Appear for appraisal, and

Arizona Administrative Register
Notices of Proposed Rulemaking

2. Participate in the WIN program, as specified by the Department.

R6-3-513. Failure or refusal of mandatory WIN registrant to appear for appraisal when required to do so
The ES WIN Unit will notify the Assistance Payment Unit of every registered recipient who was required to appear for appraisal, but failed or refused to do so. The needs for that client shall be removed from the grant or the grant terminated.

1. The grant redetermination shall be completed within three days from notification by the ES WIN Unit.
 - a. If such client is the only dependent child, AFDC for the entire assistance unit shall be terminated.
 - b. If such client was an otherwise eligible relative, the grant for the remaining members of the assistance unit shall be made in the form of a protective payment.
 - i. The protective payment shall continue as long as the individual does not become a participant in WIN.

2. If the client requests a hearing on the basis that he had a good reason for not appearing for appraisal, he will be considered as exempt from appraisal until the Welfare hearing officer, acting as agent for the ES WIN hearing officer, decides the case.

- a. Assistance Payment, Separate Administrative, or ES WIN Unit personnel may be additional parties to a hearing.

3. If the client requests appellate review of the hearing officer's decision by the Appeals Review Office, it shall not delay removal of his needs or termination of the grant.

- a. If the Appeals Review Office redetermines that the client had good reason for not appearing for appraisal, the Assistance Payment Unit will restore his needs to the grant or make other specified adjustments.

R6-3-514. Failure or refusal of mandatory WIN registrant to participate

The ES WIN Unit will notify the Assistance Payment Unit of every registered, appraised, and certified recipient who has been determined by the ES WIN Unit or hearing officer to have failed or refused without good cause to participate in the WIN program and has begun a maximum period of 60 day counseling.

1. During the counseling period, the needs for such client will not be removed from the AFDC grant.
 - a. If the individual is an eligible relative, assistance shall be provided in the form of a protective payment.
2. If ES WIN notifies the Assistance Payment Unit that the client terminated a counseling period and still refuses to participate in WIN, that client's needs shall be removed from the AFDC grant or the grant terminated.
 - a. The grant redetermination shall be completed within three days from notification by the ES WIN Unit.
 - b. If such client is the only dependent child, AFDC for the entire assistance unit shall be terminated.

- e. If such client is an eligible relative, the grant for the remaining members of the assistance unit shall be made in the form of a protective payment.

- i. The protective payment shall continue as long as the individual does not become a participant in WIN.

3. Appeals for a hearing

- a. If the client requests a hearing to contest the removal of his needs or termination of the grant, the Welfare hearing officer shall deny or dismiss such request on the basis that the action resulted from a previous adverse decision of the ES WIN Unit or hearing officer.

- b. A request for appellate review of the ES WIN hearing officer's decision by the Appeals Review Office shall not delay removal of the client's needs or termination of the grant.

- c. If the Appeals Review Office redetermines that a client had good cause for not participating in WIN, the Assistance Payment Unit will restore his needs to the grant or make other specified payment adjustments.

R6-3-515. Participation

A. Requirement. After a person is appraised, SAU WIN will certify to JS WIN that the person is ready for participation in training and employment. Once certified, a mandatory registrant must continue participation in the WIN.

B. Refusal to participate. The JS WIN unit will inform the AP unit of every certified mandatory registrant who has failed or refused to participate without good cause.

1. A counseling period, not to exceed 60 days, will then begin, during which SAU will try to persuade the person to participate. WIN will inform AP when a person enters counseling.

- a. During the counseling period, JS WIN will not deregister the person, and

- b. The AP unit will not sanction the person by removal of his needs from the grant. But,

- c. The person in counseling cannot be payee of the AFDC case. If the person in counseling is the AFDC case applicant payee, a protective payee must be found.

2. If the person resumes participation, WIN will so notify the AP unit, and the person may again be payee.

3. If, despite counseling, the person still refuses to participate:

- a. WIN will deregister the person, and

- b. Inform AP unit, and

- c. AP unit will take proper sanction action as described below.

C. Sanction action

1. JS WIN will inform the AP unit when a person has been deregistered for refusal to participate without good cause. JS WIN will also indicate the time period for which the person is to be sanctioned with ineligibility.

2. The AP unit will remove the person from AFDC assistance effective the first month possible.

3. A decision letter must be sent, but the 10 days advance notice is not required. Such notice has

Arizona Administrative Register
Notices of Proposed Rulemaking

already been given by JS WIN on its Notice of Intended Deregistration.

4. If the sanctioned person is the applicant payee of the AFDC case, during the sanction period a protective payee must be named. The sanctioned person cannot be the protective payee.
 5. If the sanctioned person is the only otherwise eligible person in the AFDC assistance unit, the case may be suspended (rather than stopped) for the duration of the sanction period. However, if the period of ineligibility exceeds three months the case must then be closed.
 6. With the AP decision letter, or at any time prior to the expiration of the sanction period, the person must be informed that if he wishes to participate and be restored to the AFDC grant he must contact his AP worker so that he can be referred to WIN for reregistration.
 7. If JS WIN notifies the AP worker that the person has been reregistered, and if he is otherwise eligible, his needs will be restored to the AFDC grant effective the first month possible. He may again be the regular payee of the AFDC grant.
 8. If, at the end of the sanction period, the person still has mandatory registration status, is still unwilling to participate, and is not reregistered, he must remain ineligible due to failure to register per R6-3-503 et seq.
 9. If for any reason the AFDC case has been closed during the sanction period, the person must refile an application for assistance before he can be reregistered in WIN and re-approved for AFDC.
- D. Appeal for hearing. If an appellant wishes to file an appeal based on his failure to participate:
1. The appeal must be filed with and heard by JS WIN. R6-3-1208 does not apply.
 2. While the appeal is pending a decision, the appellant will be considered exempt and will not be sanctioned for non-participation.
- E. Review of hearing decision. If the appellant requests review of an original adverse hearing decision by JS WIN:
1. JS WIN will proceed to deregister the person and the AP unit will effect the proper sanction action, but
 2. If the original adverse decision is reversed, JS WIN will reregister the person and the AP unit will restore any lost benefits as directed by the hearing decision.

R6-3-516. Notifying the Assistance Payment Unit of a change in a WIN registrant's status

The ES WIN Unit notifies the Assistance Payment Unit within five days when a WIN registrant obtains employment, enters a salaried WIN component (OJT, PSE, etc.), loses employment, changes employment, or received a change in salary or wages.

1. The Assistance Payment Unit shall redetermine eligibility or the amount of the AFDC grant if necessary.

R6-3-517. Redetermination of registration status

The Assistance Payment Unit shall redetermine a recipient's registration status at least every six months or whenever a change in the client's status occurs.

1. If a recipient's registration status changes, the Assistance Payment Unit will notify the ES WIN Unit within three working days.

ARTICLE 10. MEDICAL ASSISTANCE FOR THE AGED (MAA)

R6-3-1001. Purpose

The Medical Assistance for the Aged program provides payment for medical services and related expenses to eligible persons at least 65 years of age. Coverage is limited to payment of the Medicare Part A hospital inpatient deductible expense which is not paid by other health insurance policies owned by the client.

R6-3-1002. Age

A recipient must be at least 65 years of age.

R6-3-1003. Citizenship

A recipient must meet citizenship requirements.

R6-3-1004. Residence

A person must be an Arizona resident at the time of application.

R6-3-1005. Income

A single person may not have an annual net income over \$2,100. A married person and spouse in the same family unit may not have a total net annual income over \$2,800.

R6-3-1006. Income disregard

A payment made by a client to a medical or health insurance vendor shall be disregarded from income.

R6-3-1007. Limitation of real and personal property and financial assets

A recipient may not have assets and resources in excess of the following:

1. The gross market value of a home in which the recipient resides and the land contiguous thereto shall not exceed \$10,000.
2. Tools of trade having a gross market value not exceeding \$500.
3. An automobile having a gross market value not exceeding \$750.
 - a. The amount of any market value over \$750 shall be considered as other property or assets.
4. Wearing apparel and necessary personal effects.
5. Household furnishings used by the client and his family in his usual place of residence.
6. Other property or assets having a gross market value not exceeding \$800 for a single recipient, or \$1,200 for a recipient and spouse or two or more recipients in a single household.
 - a. A single or family burial plot is wholly exempt.
7. Livestock used primarily for domestic purposes.

R6-3-1008. Transfer of property

A client may not, within five years prior to application or while a recipient, have transferred or assigned real or personal property with the intent of rendering himself eligible for or increasing his need for medical assistance.

R6-3-1009. Receipt of other public assistance

A person shall be ineligible if:

1. He receives benefits from any other public assistance program, or
2. He receives SSI under the Social Security Act.

Arizona Administrative Register
Notices of Proposed Rulemaking

R6-12-401.	New Section
R6-12-402.	New Section
R6-12-403.	New Section
R6-12-404.	New Section
R6-12-405.	New Section
R6-12-406.	New Section
Article 5.	New Article
R6-12-501.	New Section
R6-12-502.	New Section
R6-12-503.	New Section
R6-12-504.	New Section
R6-12-505.	New Section
R6-12-506.	New Section
R6-12-507.	New Section
R6-12-508.	New Section
Article 6.	New Article
R6-12-601.	New Section
R6-12-602.	New Section
R6-12-603.	New Section
R6-12-604.	New Section
R6-12-605.	New Section
R6-12-606.	New Section
R6-12-607.	New Section
R6-12-608.	New Section
R6-12-609.	New Section
R6-12-610.	New Section
R6-12-611.	New Section
R6-12-612.	New Section
R6-12-613.	New Section
R6-12-614.	New Section
R6-12-615.	New Section
R6-12-616.	New Section
R6-12-617.	New Section
Article 7.	New Article
R6-12-701.	New Section
R6-12-702.	New Section
R6-12-703.	New Section
R6-12-704.	New Section
R6-12-705.	New Section
R6-12-706.	New Section
Article 8.	New Article
R6-12-801.	New Section
R6-12-802.	New Section
R6-12-803.	New Section
R6-12-804.	New Section
R6-12-805.	New Section
R6-12-806.	New Section
R6-12-807.	New Section
Article 9.	New Article
R6-12-901.	New Section
R6-12-902.	New Section
R6-12-903.	New Section
R6-12-904.	New Section
R6-12-905.	New Section
R6-12-906.	New Section
R6-12-907.	New Section
R6-12-908.	New Section
Article 10.	New Article
R6-12-1001.	New Section
R6-12-1002.	New Section
R6-12-1003.	New Section
R6-12-1004.	New Section
R6-12-1005.	New Section
R6-12-1006.	New Section
R6-12-1007.	New Section
R6-12-1008.	New Section
R6-12-1009.	New Section
R6-12-1010.	New Section
R6-12-1011.	New Section
R6-12-1012.	New Section

Arizona Administrative Register
Notices of Proposed Rulemaking

R6-12-1013.	New Section
R6-12-1014.	New Section
R6-12-1015.	New Section
Article 11.	New Article
R6-12-1101.	New Section
R6-12-1102.	New Section
R6-12-1103.	New Section
Article 12.	New Article
R6-12-1201.	New Section
R6-12-1202.	New Section
R6-12-1203.	New Section
R6-12-1204.	New Section
R6-12-1205.	New Section
R6-12-1206.	New Section
Article 13.	New Article
R6-12-1301.	New Section
R6-12-1302.	New Section
R6-12-1303.	New Section
R6-12-1304.	New Section
R6-12-1305.	New Section
R6-12-1306.	New Section
R6-12-1307.	New Section

2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
A.R.S. §§ 41-1954(A)(3), 41-1954(F), 41-1954(G), 46-134(12), 46-201 *et seq.*, and 46-291 *et seq.*, and Laws 1994, Ch. 301, §§ 2 to 17 and 19.
3. **The name and address of agency personnel with whom persons may communicate regarding the rule:**
Name: Vista Thompson Brown
Address: 1789 West Jefferson, Site Code 837A
Phoenix, Arizona 85007
or
P.O. Box 6123, Site Code 837A
Phoenix, Arizona 85005
Telephone: (602) 542-6555
Fax: (602) 542-6000
4. **An explanation of the rule, including the agency's reasons for initiating the rule:**
The Department is proposing to repeal all current rules governing the operation of the Aid to Families with Dependent Children (AFDC) Program, and adopt new rules for the program. AFDC is a program authorized pursuant to 42 U.S.C. 601 *et seq.* which provides temporary financial assistance to needy parents or relatives for the care of their dependent children. In 1994, the Arizona Legislature adopted a comprehensive set of welfare reform provisions. The welfare reform measures were further amended by the Arizona Legislature in 1995. Arizona's welfare reform program, entitled EMPOWER, was approved by the U.S. Department of Health and Human Services pursuant to 42 U.S.C. 1315. Under the EMPOWER Program, Arizona has federal approval to deviate from certain provisions of the federal law governing operation of the AFDC, Food Stamp, and JOBS programs. These proposed rules implement the AFDC welfare reform provisions. The Arizona EMPOWER Program contains measures and incentives which are designed to help families achieve and maintain self-sufficiency and independence. Major provisions of the EMPOWER Program include: time-limited assistance, a family benefit cap, unwed minor parent residence restrictions, Individual Development Accounts (IDAs) to accumulate savings for education or training, elimination of the 100-hour rule for two-parent AFDC families, and extension of transitional child care from 12 to 24 months. The EMPOWER program also includes a three-year demonstration project in Pinal County, entitled JOBSTART, which allows AFDC recipients to work for private or public sector employers with the recipient's AFDC and food stamp benefits used to partially reimburse the employer for the wages paid to the AFDC recipient. These proposed rules govern all aspects of the AFDC program, including the recently adopted welfare reform measures. The rules contain a definitions Section and set forth the requirements for the AFDC program including: the application process, non-financial criteria, resources, income, eligibility and benefit determination, payments, appeals, overpayments, and intentional program violations. The proposed rules update AFDC rules which are inconsistent with federal law. Additionally, the rules correct other defects in style, content, and format. The proposed rules create a new Chapter 12 exclusively for the AFDC program. Currently, the AFDC rules are housed in Chapter 3 with the state public assistance program rules. Separation of the AFDC rules from the state public assistance program rules will give the public a clear, meaningful, and comprehensive set of rules exclusively for the operation of the AFDC program.
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.

Arizona Administrative Register
Notices of Proposed Rulemaking

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

I. Estimated Costs and Benefits to the State

A. COSTS: The Department estimates the development costs for implementing the EMPOWER Program at \$2.3 million. The state cost will be \$1.15 million.

B. BENEFITS: The Department estimates the net savings over the seven years of the EMPOWER demonstration will be \$12.7 million. Arizona will save \$4 million in state appropriations for welfare expenditures over the seven-year period.

II. Estimated Costs and Benefits to the Political Subdivisions

A: COSTS: AFDC recipients will have less funds to spend on goods and services in political subdivisions. The loss will be \$55.3 million over the seven-year period.

B: BENEFITS: Political subdivisions will benefit from the lower state expenditures for AFDC costs.

III. Estimated Costs to Private Persons/Consumers

A: COSTS: AFDC recipients will lose \$55.3 million in benefits due to the EMPOWER Program welfare reform provisions. The loss will be as follows:

- ♦ \$20.3 million due to the family benefit cap;
State share = \$6.9 million.
- ♦ \$35 million due to time-limited assistance;
State share = \$11.9 million.

B: BENEFITS: AFDC recipients will receive \$41.8 million in additional benefits during the seven years of EMPOWER. The benefits are as follows:

- ♦ \$13 million due to the 100-hour rule;
State share = \$4.4 million.
- ♦ \$1.2 million due to IDAS;
State share = \$0.4 million.
- ♦ \$8.5 million due to transitional child care extension from 12 to 24 months;
State share = \$2.9 million.
- ♦ \$19.1 million due to transitional medical care extension from 12 to 24 months;
State share = \$6.5 million.

IV. Costs and Benefits to Businesses/Small Businesses

A: COSTS: None

B: BENEFITS: Under JOBSTART, a three-year demonstration project in Pinal County, the AFDC and Food Stamp Program benefits that a recipient is eligible to receive will be used to subsidize employers who are willing to employ and train welfare recipients. The employer may receive a nine-month subsidy with a possible three-month extension. In addition to the AFDC and food stamp subsidy, the state will pay the employer's share of Unemployment Insurance, Workers' Compensation, and Federal Insurance Contributions Act (FICA) medical compensation. The benefits to the employer will be \$3.2 million over a three-year period.

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: Vista Thompson Brown
Address: 1789 West Jefferson, Site Code 837A
Phoenix, Arizona 85007

or

P.O. Box 6123, Site Code 837A
Phoenix, Arizona 85005

Telephone: (602) 542-6555

Fax: (602) 542-6000

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:

District I
Date: August, 17, 1995
Time: 1:30 p.m.
Location: DES Conference Room
Address: 815 North 18th Street
Phoenix, Arizona

Coordinating Program Manager: Vince Ornelas (255-3722)

District II
Date: August, 17, 1995
Time: 1:30 p.m.
Location: DES Conference Room
Address: 400 West Congress #420
Tucson, Arizona

Coordinating Program Manager: Henry Granillo (628-6810)

Arizona Administrative Register
Notices of Proposed Rulemaking

District III
Date: August, 17, 1995
Time: 1:30 p.m.
Location: DES Conference Room
Address: 220 North LeRoux
Flagstaff, Arizona

Coordinating Program Manager: Pam Estrella (779-2731, ext. 238)

District IV
Date: August, 17, 1995
Time: 1:30 p.m.
Location: DES Conference Room, Ste. 232
Address: 350 West 16th Street
Yuma, Arizona

Coordinating Program Manager: Tim Acuff (782-4343)

District V
Date: August, 17, 1995
Time: 1:30 p.m.
Location: DES Conference Room
Address: 2510 North Trell
Casa Grande, Arizona

Coordinating Program Manager: Clay Ross (836-2351)

District VI
Date: August, 17, 1995
Time: 1:30 p.m.
Location: District Conference Room
Address: 209 Bisbee Road
Bisbee, Arizona

Coordinating Program Manager: Marty White (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 the 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 at least 72 hours before the scheduled hearing to request accommodation.

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

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

Not applicable.

10. Incorporations by reference and their location in the rules:

45 CFR 233.20(a)(6)(iii) through (viii)	R6-12-101
45 CFR 206.10(a)(1)(vii)	R6-12-101
29 U.S.C. 142(2)	R6-12-101
45 CFR 233.50	R6-12-305
8 U.S.C. 1255a and 1160	R6-12-502
8 U.S.C. 1255a and 1160	R6-12-605

11. The full text of the rules follows:

TITLE 6. ECONOMIC SECURITY

**CHAPTER 12. DEPARTMENT OF ECONOMIC SECURITY
AID TO FAMILIES WITH DEPENDENT CHILDREN**

ARTICLE 1. GENERAL PROVISIONS

R6-12-101. Definitions
R6-12-102. Confidentiality
R6-12-103. Case Record
R6-12-104. Manuals
R6-12-105. EMPOWER: Random Assignment Evaluation

ARTICLE 2. APPLICATION PROCESS AND PROCEDURES

R6-12-201. Application
R6-12-202. Request for Benefits: Composition of the Assistance Unit
R6-12-203. Initial Eligibility Interview
R6-12-204. Disability Determination

Arizona Administrative Register
Notices of Proposed Rulemaking

- R6-12-205. Verification of Eligibility Information
- R6-12-206. Home Visits
- R6-12-207. Withdrawal of Application
- R6-12-208. Death of an Applicant
- R6-12-209. Processing the Application; Denials; Approval
- R6-12-210. Six-month Review
- R6-12-211. Reinstatement of Benefits

ARTICLE 3. NON-FINANCIAL ELIGIBILITY CRITERIA

- R6-12-301. Non-financial Eligibility Criteria
- R6-12-302. Applicant and Recipient Responsibility
- R6-12-303. Application for Other Potential Benefits
- R6-12-304. Residency
- R6-12-305. Citizenship and Alienage
- R6-12-306. Eligible Persons
- R6-12-307. 18-year-olds; School Attendance
- R6-12-308. Ineligible Children; Family Benefit Cap
- R6-12-309. Relationship
- R6-12-310. Deprivation
- R6-12-311. Assignment of Support Rights; Cooperation
- R6-12-312. Good Cause for Non-cooperation with Child Support Enforcement
- R6-12-313. Participation in JOBS; Good Cause Exceptions
- R6-12-314. Social Security Number
- R6-12-315. Duration of Assistance
- R6-12-316. Extension of the 24-month Limit
- R6-12-317. Extension of the 24-month Limit to Complete Education or Training

ARTICLE 4. FINANCIAL ELIGIBILITY; RESOURCES

- R6-12-401. Treatment of Resources; Limitations
- R6-12-402. Treatment of Resources by Ownership Status; Availability
- R6-12-403. Treatment of Resources; Exclusions
- R6-12-404. Individual Development Accounts
- R6-12-405. Resource Transfers; Limitations
- R6-12-406. Resource Verification

ARTICLE 5. FINANCIAL ELIGIBILITY; INCOME

- R6-12-501. Treatment of Income
- R6-12-502. Income Available to the Assistance Unit
- R6-12-503. Income Exclusions
- R6-12-504. Special Income Provisions; Child Support, Alimony, or Spousal Maintenance
- R6-12-505. Special Income Provisions; Non-recurring Lump-sum Income
- R6-12-506. Determining Monthly Income
- R6-12-507. Methods to Determine Projected Monthly Income
- R6-12-508. Income Verification

ARTICLE 6. SPECIAL AFDC CIRCUMSTANCES

- R6-12-601. Pregnant Women
- R6-12-602. Caretaker Relative of SSI or Foster Care Child
- R6-12-603. Sponsored Aliens
- R6-12-604. Strikers
- R6-12-605. Dependents with Ineligible IRCA Parents
- R6-12-606. Dependents of Foster Children
- R6-12-607. Stepparents

- R6-12-608. Minor Parents
- R6-12-609. Unemployed Parents in a Two-parent Household; (TPEP)
- R6-12-610. TPEP; Education and Employment Requirements; Good Cause for Nonparticipation
- R6-12-611. TPEP; Duration
- R6-12-612. Transitional Child Care
- R6-12-613. Transitional Child Care; Eligible Children
- R6-12-614. Transitional Child Care; Duration
- R6-12-615. Involuntary Termination of Transitional Child Care
- R6-12-616. Guaranteed Child Care Benefits; Options
- R6-12-617. Guaranteed Child Care; Eligible Children

ARTICLE 7. DETERMINING ELIGIBILITY AND BENEFIT AMOUNT

- R6-12-701. Need Standard
- R6-12-702. Determining Eligibility
- R6-12-703. Earned Income Disregards
- R6-12-704. Disqualification from Earnings Disregards; Good Cause
- R6-12-705. Determining Benefit Amount; Proration
- R6-12-706. Notice of Eligibility Determination

ARTICLE 8. PAYMENTS

- R6-12-801. Benefit Payments
- R6-12-802. Mailing of Payments
- R6-12-803. Supplemental Payments
- R6-12-804. Returned Payments
- R6-12-805. Non-receipt of Payments; Replacement
- R6-12-806. Protective Payee
- R6-12-807. Emergency Payee

ARTICLE 9. CHANGES; ADVERSE ACTION

- R6-12-901. Reporting Changes
- R6-12-902. Withdrawing a Member from the Assistance Unit
- R6-12-903. Determining Benefits When Adding or Removing a Member
- R6-12-904. Benefit Reduction or Termination
- R6-12-905. Ineligibility Date for an Assistance Unit
- R6-12-906. Ineligibility Date for an Individual Member of an Assistance Unit
- R6-12-907. Notice of Adverse Action
- R6-12-908. Referral for Investigation

ARTICLE 10. APPEALS

- R6-12-1001. Entitlement to a Hearing
- R6-12-1002. Request for Hearing; Form; Time Limits
- R6-12-1003. Hearing Requests; Preparation and Processing
- R6-12-1004. Stay of Adverse Action Pending Appeal; Exceptions
- R6-12-1005. Hearing Officer; Qualifications; Duties; Subpoenas
- R6-12-1006. Hearings; Location; Notice; Time
- R6-12-1007. Rescheduling the Hearing
- R6-12-1008. Hearings Concerning Disability Determination
- R6-12-1009. Group Hearings
- R6-12-1010. Withdrawal of Appeal; Default
- R6-12-1011. Hearing Proceedings
- R6-12-1012. Hearing Decision; Time Limits; Form; Contents; Finality

Arizona Administrative Register
Notices of Proposed Rulemaking

- R6-12-1013. Implementation of the Decision
R6-12-1014. Further Appeal and Review of Hearing Decisions: Stay of Adverse Action
R6-12-1015. Appeals Board Proceedings and Decision

ARTICLE 11. OVERPAYMENTS

- R6-12-1101. Overpayments: Date of Discovery; Collection: Exceptions
R6-12-1102. Overpayments: Persons Liable
R6-12-1103. Methods of Collection and Recoupment

ARTICLE 12. INTENTIONAL PROGRAM VIOLATION

- R6-12-1201. Intentional Program Violation (IPV): Defined
R6-12-1202. IPV Disqualification Proceedings: Hearing Waiver
R6-12-1203. Disqualification Proceedings: Hearing
R6-12-1204. Disqualification Sanctions: Notice
R6-12-1205. Disqualification Hearings: Appeal
R6-12-1206. Honoring out of State IPV Determinations and Sanctions

ARTICLE 13. JOBSTART

- R6-12-1301. Scope
R6-12-1302. Definitions
R6-12-1303. Referral for Participation
R6-12-1304. Diversion of Benefits to Wage Pool
R6-12-1305. Treatment of Income
R6-12-1306. Supplemental Payments
R6-12-1307. Sanctions

ARTICLE 1. GENERAL PROVISIONS

R6-12-101. Definitions

The following definitions apply to this Chapter:

1. "Adequate notice" means a notice which explains the action the Department intends to take, the reason for the action, the specific authority for the action, the recipient's appeal rights and right to benefits pending appeal, and which is mailed before the effective date of the action.
2. "Adequate and timely notice" means a written notice which contains the information required for an adequate notice and is sent within the time frame provided for a timely notice.
3. "Adverse action" means one of the Department actions described in R6-12-1001(A), including action to terminate or reduce a benefit or assistance grant, or change the manner or form in which benefits are paid.
4. "AFDC" or "Aid to Families with Dependent Children" means a program administered by the Department which provides assistance to needy families with dependent children pursuant to 42 U.S.C. 601 *et seq.*
5. "AHCCCS" or "Arizona Health Care Cost Containment System" means a system established pursuant to A.R.S. § 36-2901 *et seq.* which consists of contracts with providers for the provision of hospitalization and medical care coverage to members.

6. "AHCCCSA" or "The Arizona Health Care Cost Containment System Administration" means the Arizona state government agency which administers the AHCCCS program.
7. "Alien" means a person who is not a United States citizen.
8. "Alien sponsor" or "sponsor" means an organization which, or a person who, has executed an affidavit of support or similar agreement on behalf of an alien who is not the child or spouse of the sponsor, as a condition of the alien's entry into the United States.
9. "Applicant" means a person who has directly, or through an authorized representative or responsible person, filed an application for AFDC with the Department.
10. "Assistance unit" or "unit" means a group of persons whose needs, income, resources, and other circumstances are considered as a whole for the purpose of determining eligibility and benefit amount.
11. "Available income or resources" means income or resources which are actually available for use of the assistance unit, and income or resources in which the applicant or recipient has a legal interest in a liquidated sum and has the legal ability to make such sum available for support and maintenance.
12. "Benefit month" means the calendar month for which benefits are paid based upon the assistance unit's projected income and anticipated circumstances for that same month.
13. "Benefit payment" means a monetary amount which the Department pays to an assistance unit for a particular benefit month.
14. "Bona fide funeral agreement" means a prepaid plan that specifically covers only funeral-related expenses as evidenced by a written contract.
15. "Burial plot" means a space reserved in a cemetery, crypt, vault, or mausoleum for the remains of a deceased person.
16. "Calendar quarter" means one of the four consecutive three-month periods of a calendar year beginning with either January 1, April 1, July 1, or October 1.
17. "Calendar year" means a period of 12 consecutive months beginning with January 1 and ending with December 31.
18. "Caretaker relative" means a parent or relative who maintains a family setting for a dependent child and who exercises responsibility for the day-to-day physical care, guidance, and support of that child.
19. "Child welfare agency" means any agency or institution as defined at A.R.S. § 8-501(A)(1).
20. "Countable income" means the amount of gross income of the assistance unit which the Department considers to determine eligibility and compute a benefit amount.
21. "Day" means a calendar day unless otherwise specified.
22. "Department" means the Arizona Department of Economic Security.
23. "Dependent child" means a child as defined at A.R.S. § 46-101(5).

Arizona Administrative Register
Notices of Proposed Rulemaking

24. "Disregards" means those deductions which the Department applies to the assistance unit's gross countable income to determine eligibility and benefit amount.
25. "District Medical Consultant" means a licensed physician whom the Department employs to review medical records for the purpose of determining physical or mental incapacity.
26. "Earned income" means any gain to the assistance unit as defined in 45 CFR 233.20(a)(6)(iii) through (viii) (October 1994) which is incorporated herein by reference and on file with the Office of the Secretary of State and not including any later amendments or editions.
27. "EMPOWER Program" means the Arizona welfare reform program approved by the U.S. Department of Health and Human Services pursuant to 42 U.S.C. 1315. Under the EMPOWER Program, Arizona has federal approval to deviate from certain provisions of the federal law governing operation of the AFDC, Food Stamp, and JOBS programs.
28. "Encumbrance" means a legal debt.
29. "Equity value" means fair market value minus encumbrances.
30. "FAA" or "Family Assistance Administration" means the administration within the Department's Division of Benefits and Medical Eligibility with responsibility for providing financial and food stamp assistance to eligible persons and determining medical eligibility.
31. "Fair consideration" means an amount which reasonably represents the fair market value of transferred property.
32. "Fair market value" means the value at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts.
33. "Foster care maintenance payment" means a monetary amount which the Department pays to a foster parent for the expenses of a child in foster care.
34. "Foster child" means a child placed in a foster home or a child welfare agency.
35. "Homebound" means a person who is confined to the home because of physical or mental incapacity.
36. "Income" means earned and unearned income combined.
37. "TEVS" or "Income Eligibility and Verification System" means a system through which the Department exchanges income and benefit information with the Internal Revenue Service, Social Security Administration, State Wage and Unemployment Insurance Benefit data files.
38. "JOBS" or "Job Opportunities and Basic Skills Training Program" means the program authorized by 42 U.S.C. 681 - 687 and A.R.S. §§ 41-2026 - 41-2027, which assists AFDC recipients to prepare for, obtain, and retain employment.
39. "Job Corps" means the program authorized by 29 U.S.C. 1691 *et seq.* which provides education, training, intensive counseling, and related assistance to economically disadvantaged young men and women.
40. "JTPA" or "Job Training Partnership Act" means the program authorized by 29 U.S.C. 1501 *et seq.* which prepares youth and unskilled adults for entry into the labor force and affords special job training.
41. "Liquid asset" means cash or another financial instrument which is readily convertible to cash.
42. "Local office" means an FAA office which is designated as the office in which AFDC applications and other documents are filed with the Department and in which eligibility and benefit amounts are determined.
43. "Lump-sum income" means a single payment of earned or unearned income, such as retroactive monthly benefits, non-recurring pay adjustments or bonuses, inheritances, lottery winnings, or personal injury and workers' compensation awards.
44. "Mailing date", when used in reference to a document sent first class, postage prepaid, through the United States mail, means the date:
a. Shown on the postmark;
b. Shown on the postage meter mark of the envelope, if there is no postmark; or
c. Entered on the document as the date of its completion, if there is no legible postmark or postage meter mark.
45. "Mandatory member" or "mandatory member of the assistance unit" means a person who is required to be a member of a particular assistance unit, pursuant to 45 CFR 206.10(a)(1)(vii), (October 1994) which is incorporated herein by reference and on file with the Office of the Secretary of State and not including any later amendments or editions.
46. "Need standard" means the money value the state assigns to the basic and special needs deemed essential for applicants and recipients.
47. "Net income" means the assistance unit's total gross income, less applicable disregards, which is used to compute the benefit amount.
48. "NPCR" or "Non-parent caretaker relative" means a person, other than a parent, who is related by blood or marriage to the dependent child, and who maintains a family setting for the dependent child and exercises responsibility for the day-to-day care of the dependent child.
49. "Notice date" means the date which appears on a document or official written notice the Department sends or gives to an applicant or recipient.
50. "OSI" or "Office of Special Investigations" means the Department office to which FAA refers cases for investigation of certain eligibility information, investigation and preparation of fraud charges, coordination and cooperation with law enforcement agencies, and other similar functions.
51. "Overpayment" means a financial assistance payment received by or for an assistance unit for a benefit month and which exceeds the amount to which the unit was lawfully entitled.

Notices of Proposed Rulemaking

52. "Parent" means the lawful mother or father of a dependent child and includes only a birth or adoptive parent and excludes a stepparent.
 53. "Participating in a strike" means engaging in any activity as defined at 29 U.S.C. 142(2), as amended through June 23, 1947, which is incorporated herein by reference and on file with the Office of the Secretary of State and not including any later amendments or editions.
 54. "Party" means the Department and the applicant or recipient.
 55. "Payment standard" means the amount of money from which net income is subtracted to calculate the monthly benefit amount.
 56. "Physical or mental incapacity" means a physical or mental impairment which substantially precludes a parent from providing for the support or care of the parent's child.
 57. "Projected income" means an estimate of income that an applicant or recipient reasonably expects to receive in a specific month, the actual amount of which is unknown but which is estimated from available and reliable information.
 58. "Prospective eligibility" means an eligibility determination for a benefit month based on income and other circumstances as they actually exist, and are anticipated to exist, in that same month.
 59. "Putative father" means a male person whom a birth mother has named as father of her child but whose paternity has not been established as a matter of law.
 60. "Prospective budgeting" means the computation of a benefit amount for a particular benefit month based on the Department's projected income and circumstances as they actually exist and are anticipated to exist for that same month.
 61. "PWEP" or "Primary wage earning parent" means the parent in a two-parent family who earned the greater amount of income in the 24-month period immediately preceding the month in which an application for benefits is filed.
 62. "Recipient" means a person who is a member of an assistance unit.
 63. "Request for hearing" means a clear written expression by an applicant or recipient, or such person's representative, indicating a desire to present the case or issue to a higher authority.
 64. "Resident" means a person who meets the definition of A.R.S. § 46-292(1).
 65. "Resources" means the assistance unit's real and personal property.
 66. "Review" means a review of all factors affecting an assistance unit's eligibility and benefit amount.
 67. "Spendthrift restriction" means a legal restriction on the use of a resource, which prevents a payee or beneficiary from alienating the resource.
 68. "Sponsored alien" means an alien whose entry into the United States was sponsored by a person who, or an organization which, executed an affidavit of support or similar agreement on behalf of the alien, who is not a child or spouse of the sponsor.
 69. "Student" means a person who is attending a school, college, or university, or who is enrolled in a course of vocational or technical training designed to prepare the trainee for gainful employment, and includes a participant in Job Corps.
 70. "Suitable work" means work in a recognized occupation for which a person is reasonably fitted.
 71. "Support" means child support, alimony, spousal maintenance, or medical support.
 72. "Timely notice" means a notice which the Department mails at least ten days before the date on which the action described in the notice will occur or take effect, or, in circumstances of probable fraud, at least five calendar days in advance of the date such action is effective.
 73. "Title IV-A of the Social Security Act" means 42 U.S.C. 601 - 617, the statute establishing the AFDC program.
 74. "Title IV-E of the Social Security Act" means 42 U.S.C. 670 - 679, the statute establishing the foster care and adoption assistance programs.
 75. "TPEP" or "Two-parent Employment Program" means the AFDC program which provides assistance for needy dependent children who are deprived of parental support because the primary wage-earning parent is unemployed.
 76. "Underpayment" means a monthly benefit payment which is less than the amount for which the assistance unit is eligible, or the failure to issue a benefit payment when such payment should have been issued.
 77. "Vendor payment" means a payment which a person or organization who is not a member of an assistance unit makes to a third party to cover assistance unit expenses.
 78. "Warrant" means a payment instrument drawn on the Arizona State Treasury authorizing payment of a particular sum of money to an AFDC recipient.
- R6-12-102. Confidentiality**
- A. Personally identifiable information.
 1. All personally identifiable information concerning an applicant or recipient in the possession of the Department is confidential and not subject to public inspection, except as otherwise specified in A.R.S. § 41-1959 and this Section.
 2. Personally identifiable information shall include:
 - a. Name, address, and telephone number;
 - b. Social security number and date of birth;
 - c. Unique identifying numbers such as a driver's license number;
 - d. Photographs;
 - e. Information related to social and economic conditions or circumstances;
 - f. Medical data, including diagnosis and past history of disease or disability; and
 - g. Any other information which is reasonably likely to permit another person to readily identify the subject of the information.
 - B. Release of information to applicants and recipients.
 1. An applicant or recipient may review the contents of his or her own eligibility file at any time during the Department's regular business hours, provided that a Department employee is present during the review.
 2. A dependent child may review a case file in which the child is included as a recipient, only with the

Arizona Administrative Register
Notices of Proposed Rulemaking

- written permission of the child's parent or legal guardian or custodian.
3. The Department may withhold medical information which, if released, may cause physical or mental harm to the person requesting the information, until the Department contacts the person's physician and obtains an opinion that the Department can safely release the information.
- C. Release of information to authorized persons and representatives.
1. An applicant or recipient may permit the release of information from the applicant or recipient's eligibility file to another person or representative by executing a release form containing the following information:
- a. The specific information the Department is authorized to release;
- b. The name of the person to whom the Department may release information;
- c. The duration of the release, if limited; and
- d. Signature and date.
- D. Release to persons and agencies for official purposes.
1. An official purpose is one directly related to the administration of a public assistance program and includes:
- a. Establishing eligibility;
- b. Determining the amount of an assistance grant;
- c. Providing services to applicants and recipients, including child support enforcement services;
- d. Investigating or prosecuting civil or criminal proceedings related to an assistance program; and
- e. Evaluating, analyzing, overseeing, and auditing program operations.
2. The Department may release confidential information to the following persons and agencies to the extent required for official purposes:
- a. Department employees;
- b. Employees of the Social Security Administration;
- c. Public assistance agencies of any other state;
- d. Persons connected with the administration of child support enforcement activities;
- e. Arizona Attorney General's Office;
- f. Persons connected with the administration of federal or federally assisted programs which provide assistance, in cash or in-kind, or services directly to individuals on the basis of need;
- g. Government auditors when the audits are conducted in connection with the administration of any assistance program by a governmental entity which is authorized by law to conduct such audits;
- h. AHCCCSA, for eligibility purposes;
- i. Law enforcement officials for an investigation, prosecution, or civil or criminal proceedings conducted by or on behalf of the Department or a federal public assistance agency in connection with the administration of a public assistance program; and

- j. The Internal Revenue Service for the purpose of identifying improperly claimed tax exemptions by the absent parent of a child supported by AFDC.

R6-12-103. Case Record

- A. The Department shall maintain a case record for every applicant for or recipient of assistance.
- B. Except as otherwise provided in subsections (C) and (D) below, the Department shall retain the case record for a period of three years after the last date on which the applicant received an adverse determination of eligibility or the recipient last received a benefit payment.
- C. The Department shall retain a case record which contains an unpaid overpayment until:
1. The overpayment is paid in full; or
2. The assistance unit is no longer obligated to repay the overpayment.
- D. The Department shall retain a case record which includes a person determined to have committed an intentional program violation pursuant to Article 12 until:
1. The overpayment is paid in full; and
2. The disqualification sanction is satisfied.
- E. The case record shall contain all documentation collected or prepared by the Department in evaluating and determining eligibility and benefit amount.

R6-12-104. Manuals

Each FAA office shall maintain and keep available for public inspection, and copying during regular business hours, a copy of the AFDC program manual.

R6-12-105. EMPOWER: Random Assignment Evaluation

- A. The Department shall randomly assign AFDC applicants and recipients who are served by the Glendale, Peoria, 67th Avenue, and Chinle FAA local offices into experimental, non-experimental, and control groups for an evaluation of the EMPOWER Program modifications approved by the U.S. Department of Health and Human Services pursuant to 42 U.S.C. 1315.
- B. The control group shall consist of at least 1,500 AFDC cases which are active on November 1, 1995, and at least 1,500 new AFDC applicant cases which are approved thereafter.
- C. The experimental and non-experimental groups are subject to the EMPOWER Program provisions. The experimental and control groups will be used to evaluate the EMPOWER Program.
- D. The following provisions of this Chapter shall not apply to an applicant or recipient who is assigned to the control group:
1. R6-12-308,
2. R6-12-315,
3. R6-12-316,
4. R6-12-317, and
5. R6-12-404.

ARTICLE 2. APPLICATION PROCESS AND PROCEDURES

R6-12-201. Application

- A. Any person may apply for AFDC by filing, either in person or by mail, a Department-approved application form with any FAA office.

Arizona Administrative Register
Notices of Proposed Rulemaking

- B.** The application file date is the date any FAA office receives an identifiable application. An identifiable application is one which contains, at a minimum, the following information:
1. The legible name and address of the person requesting assistance; and
 2. The signature, under penalty of perjury, of the applicant or the applicant's authorized representative, or, if the applicant is incompetent or incapacitated, someone legally authorized to act on behalf of the applicant.
- C.** In addition to the identifiable information described in subsection (B), a completed application shall contain:
1. The names of all persons living in the applicant's dwelling and the relationship of such persons to the applicant;
 2. A request to receive cash benefits which complies with the requirements of R6-12-202; and
 3. All other financial and non-financial eligibility information requested on the application form.
- D.** An application for AFDC is automatically treated as an application for AHCCCS medical benefits.

R6-12-202. Request for Benefits; Composition of the Assistance

- A.** An applicant may request assistance for any person living in the applicant's home.
- B.** A request for assistance for a dependent child shall also include a request for benefits for the parents of the dependent child, and any siblings of the dependent child, who reside in the applicant's home.
- C.** An applicant who is the non-parent caretaker relative (NPCR) of a dependent child and who meets the requirements of R6-12-306(A)(4) may also request an award of AFDC benefits.
- D.** When one NPCR cares for step-siblings, or children who lack any sibling relationship, the NPCR and the children shall be included in the same AFDC grant.
- E.** Notwithstanding any other provision of this Chapter, no person shall receive AFDC in more than one assistance unit in Arizona in any calendar month.
- F.** If a person is required to be included in more than one assistance unit, the Department shall consolidate the assistance units.

R6-12-203. Initial Eligibility Interview

- A.** Upon receipt of an identifiable application, the Department shall schedule an initial eligibility interview for the applicant at a location which assures a reasonable amount of privacy. Upon request, the Department shall conduct the interview at the residence of a person who is homebound.
- B.** The applicant shall attend the interview. A person of the applicant's choosing may also attend the interview.
- C.** During the interview, a Department representative shall:
1. Assist the applicant in completing the application form;
 2. Witness the signature of the applicant or the applicant's authorized representative;
 3. Discuss how the applicant and the other assistance unit members previously met their needs, and why they now need financial assistance;
 4. Provide the applicant with written information explaining:

- a. The terms, conditions, and obligations of the AFDC program, including the requirement that the applicant obtain and provide a social security number to the Department;
 - b. Any additional verification information the applicant must provide for the Department to conclude the eligibility evaluation;
 - c. The regular transmittal of eligibility and income information through the Income and Eligibility Verification System (IEVS);
 - d. The coverage and scope of the AFDC program, and related services which may be available to the applicant, including child care benefits;
 - e. The applicant's rights, including the right to appeal adverse action;
 - f. The AHCCCS enrollment process;
 - g. The family planning services available through AHCCCS health plans;
- 5.** Review the penalties for perjury and fraud as printed on the application;
- 6.** Advise the applicant of the persons who shall be included in the applicant's assistance unit, and who may be included, at the applicant's option;
- 7.** Review any verification information already provided;
- 8.** Explain the applicant's duties to:
- a. Cooperate with the Division of Child Support Enforcement (DCSE) in establishing paternity and enforcing support obligations, unless the applicant can show good cause for not doing so;
 - b. Transmit to the Department any support payments the applicant receives after the date the applicant is approved to receive AFDC; and
 - c. Participate in the Job Opportunities and Basic Skills Training (JOBS) program, unless the applicant or recipient is determined to be exempt from such participation;
- 9.** Photograph the applicant for identification purposes;
- 10.** Review all ongoing reporting requirements, and the potential sanctions for failure to make timely reports, including loss of disregards; and
- 11.** Inform the applicant of the opportunity to set aside funds in an individual development account for educational or training purposes.

- D.** When the applicant misses a scheduled appointment for an interview, the Department shall schedule a second interview for later that same day, or for another day, only if the applicant so requests before close of business on the day of the missed appointment.
- E.** The Department shall deny the application, or terminate assistance, when the applicant or recipient fails to request a second appointment as provided in subsection (D), or when the applicant or recipient misses a second scheduled appointment.

R6-12-204. Disability Determination

- A.** When an assistance unit is requesting AFDC due to the mental or physical incapacity of a parent, as provided in

Arizona Administrative Register

Notices of Proposed Rulemaking

- R6-12-310(G), the Department shall verify the existence of the disability.
- B.** The assistance unit shall demonstrate incapacity of a parent by providing a medical statement from a licensed physician. The statement shall include:
1. A diagnosis of the person;
 2. A finding that the person has a physical or mental condition which prevents the person from working; and
 3. An opinion concerning the duration of unemployment, or a date for re-evaluation of unemployment.
- C.** The local FAA office shall find disability, without further medical verification, when the applicant provides evidence that:
1. The Social Security Administration (SSA) has determined that the person is eligible for Retirement, Survivors, Disability Insurance (RSDI) benefits due to blindness or disability;
 2. The SSA has determined that the person is eligible for Supplemental Security Income (SSI) due to blindness or disability;
 3. The Veteran's Administration has determined that the person has at least a 50% disability;
 4. The Department's Rehabilitation Services Administration has found the person eligible for vocational rehabilitation services and the person has an Individual Written Rehabilitation Plan;
 5. The person's physician has released the person from the hospital and imposed work restrictions for a specified recuperation period;
 6. The person's employer or physician has required the person to terminate employment due to the onset of a disability and the physician has specified a recuperation period;
 7. The person's physician has determined that the person is capable of employment only in a sheltered workshop, for a specified period of time, and the person is so employed; or
 8. A prior certification of disability is in the person's case record and is still valid to cover the period in which assistance is requested and will be received.
- D.** The District Medical Consultant shall determine incapacity for all persons not covered under subsections (B) or (C).

R6-12-205. Verification of Eligibility Information

- A.** The Department shall obtain independent verification or corroboration of information provided by the applicant or recipient when required by law or when reasonably deemed appropriate based on the experience of the Department.
- B.** The Department may verify or corroborate information by any reasonable means, including, without limitation:
1. Contacting third parties such as employers.
 2. Making home visits as provided in R6-12-206.
 3. Asking the applicant or recipient to provide written documentation such as billing statements or pay stubs, and
 4. Conducting a computer data match through IEVS.
- C.** The applicant or recipient has the primary responsibility for providing all required verification.

- D.** An applicant or recipient shall provide the Department with all requested verification within ten calendar days from the notice date of a written request for such information. When an applicant does not timely comply with a request for information, the Department shall deny the application as provided in R6-12-209(B).
- E.** The application form shall contain a notice to advise the applicant that the Department may contact third parties for information. The applicant's signature on an application is deemed consent to such contact.

R6-12-206. Home Visits

- A.** The Department shall schedule a home visit:
1. When it reasonably believes that such a visit will avoid an eligibility determination error, or
 2. To conduct an initial interview or an eligibility review when a homebound applicant or recipient so requests.
- B.** The Department shall mail the applicant or recipient written notice of a scheduled home visit at least seven days before the date of the visit.
- C.** The Department may deny or terminate benefits if the applicant or recipient is not home for a scheduled visit and has not timely rescheduled the visit pursuant to R6-12-203(D).
- D.** The Department may conduct unscheduled visits to gather information or to verify information previously provided by an applicant or recipient. The Department shall not deny an application or terminate assistance if the applicant or recipient is not home for an unscheduled visit.

R6-12-207. Withdrawal of Application

- A.** An applicant may withdraw an application at any time prior to its disposition by providing the Department with a written request for withdrawal signed by the applicant.
- B.** If an applicant makes an oral request to withdraw an application:
1. The Department shall accept the oral request, provide the applicant with a written withdrawal form, and request that the applicant complete the form and return it to the Department.
 2. If the applicant fails to return the completed withdrawal form, the Department shall deny the application for failure to provide information unless the applicant rescinds the oral withdrawal request within ten days of the date the Department provides the applicant a withdrawal form.
- C.** A withdrawal shall be effective as of the application file date unless the applicant specifies a different date on the withdrawal form.
- D.** An application that has been withdrawn shall not be reinstated; an applicant who has withdrawn an application shall apply anew.

R6-12-208. Death of an Applicant

- A.** If an applicant dies while the application is pending, the Department shall deny the application and inform the person responsible for the dependent child that a new application may be filed.
- B.** If the new application is filed within 45 days from the date of the original application, and the child is found eligible, the Department shall pay benefits for the child from the date of the original application. If eligible, the

Arizona Administrative Register
Notices of Proposed Rulemaking

new applicant shall receive benefits from the date of the new application.

R6-12-209. Processing the Application; Denials; Approval

- A. The Department shall complete the eligibility determination within 45 calendar days of the application file date, unless:
1. The application is withdrawn;
 2. The application is rendered moot because the applicant has died or cannot be located; or
 3. There is a delay resulting from a Department request for additional verification information as provided in R6-12-205(D).
- B. The Department shall deny an application when the applicant fails to:
1. Complete the application and an eligibility interview, as described in R6-12-203;
 2. Submit all required verification information within ten days of the notice date of a written request for such verification; or
 3. Cooperate during the application process as required by R6-12-302.
- C. When an assistance unit satisfies all eligibility criteria, the Department shall compute a benefit amount, approve the application, and send the applicant an approval notice.
- D. The Department shall process an application for the purpose of determining medical assistance eligibility pursuant to R9-28-101 et seq.

R6-12-210. Six-month Review

- A. The Department shall complete a review of all eligibility factors for each assistance unit at least once every six months, beginning with the sixth month following the first month of AFDC eligibility.
- B. Prior to the six-month review date, the Department shall mail the recipient a notice advising of the need for a review. In response to such notice, the recipient shall file a request for a six-month review and interview.
- C. The Department shall schedule and conduct a review interview in the same manner as an initial interview.
- D. The Department shall verify the assistance unit's resources and income and any eligibility factors which have changed or are subject to change. The Department may verify other factors if Department experience suggests the need for additional verification.

R6-12-211. Reinstatement of Benefits

- A. If the Department has terminated payment of benefits to an assistance unit, the Department shall not reinstate benefits unless the recipient files a new application and has a new interview.
- B. Notwithstanding subsection (A), the Department shall reinstate benefits when:
1. Termination was due to Department error;
 2. The Department receives a court order or administrative hearing decision mandating reinstatement; or
 3. The recipient files a request for fair hearing as provided in R6-12-1002 within ten days of the notice date of the termination notice, unless the request is for continuance of benefits past the

24-month limit set forth at R6-12-315, or the six-month limit set forth at R6-12-612.

- C. When the Department reinstates benefits to a recipient who missed a six-month review due to the termination of benefits, the Department shall conduct the review at the earliest opportunity following reinstatement.

ARTICLE 3. NON-FINANCIAL ELIGIBILITY CRITERIA

R6-12-301. Non-financial Eligibility Criteria

To qualify for AFDC, a person shall satisfy all applicable criteria set forth in this Article.

R6-12-302. Applicant and Recipient Responsibility

- A. An applicant for or recipient of assistance shall cooperate with the Department as a condition of initial and continuing eligibility. The applicant or recipient shall:
1. Give the Department complete and truthful information;
 2. Inform the Department of all changes in income, assets, or other circumstances affecting eligibility or the amount of the assistance payment within ten days from the date the change becomes known; and
 3. Comply with all the Department's procedural requirements.
- B. The Department may deny an application for assistance, reduce or terminate benefits, or change the manner of payment, if the applicant or recipient fails or refuses to cooperate without good cause. However, the Department shall not impose such sanctions for failure to comply with a procedural requirement about which the Department has not advised the applicant or recipient in writing.

R6-12-303. Application for other Potential Benefits

As a condition of eligibility, a person shall apply for all other benefits for which the person may be eligible, except SSI.

R6-12-304. Residency

- A. To qualify for AFDC, a person shall be an Arizona resident.
- B. An Arizona resident is a person who:
1. Voluntarily resides and intends to make a permanent home in Arizona,
 2. Lives in Arizona at the time of making application, and
 3. Is not receiving public assistance from another state.
- C. A person terminates Arizona residency by:
1. Leaving Arizona for more than 30 consecutive days, or
 2. Leaving Arizona with the intent to live elsewhere.
- D. The dependent child of a caretaker relative who is an Arizona resident is deemed an Arizona resident.
- E. The Department shall verify Arizona residency.

R6-12-305. Citizenship and Alienage

- A. To qualify for AFDC, a person shall be a United States citizen or a legal alien who satisfies the requirements of 45 CFR 233.50 (October 1994) which is incorporated herein by reference and on file with the Office of the Secretary of State and not including any later amendments or editions.
- B. The Department shall verify legal alienage by obtaining a person's alien registration documentation, or other

Arizona Administrative Register
Notices of Proposed Rulemaking

proof of immigration registration, from the U.S. Immigration and Naturalization Service (INS), or by submitting a person's alien registration number and other related information to the INS.

- C. An ineligible alien may serve as payee for the eligible members of an assistance unit, but the Department shall exclude the needs of the ineligible alien from the assistance grant.

R6-12-306. Eligible Persons

A. To qualify for AFDC, an otherwise eligible person shall be:

1. A dependent child under 18 years of age;
2. A dependent child age 18 and, as provided in R6-12-307, who is a full time student in a secondary school, or the equivalent level of vocational or technical training school and is reasonably expected to complete such education or training before turning age 19;
3. The parent of an eligible AFDC child; or
4. A non-parent caretaker relative of an eligible AFDC child when:
 - a. The parent of the dependent child
 - i. Does not live in the NPCR's home;
 - ii. Lives with the NPCR, but is also a dependent child; or
 - iii. Lives with the NPCR but cannot function as a parent due to a physical or mental impairment;
 - b. The NPCR provides the dependent child with physical care, support, guidance and control; and
 - c. The dependent child resides with the NPCR.

B. If otherwise eligible, the AFDC assistance unit shall include the following persons who are related to a dependent child for whom the applicant requests assistance:

1. Any natural or adoptive parent; and
2. Any natural or adopted brother or sister.

R6-12-307. 18-year-olds; School Attendance

A. As used in R6-12-306(A)(2), full time school attendance means:

1. For high school, attendance which the school defines as full-time;
2. For a trade or technical school involving shop practice, 30 hours per week; and
3. For a trade or technical school involving no shop practice, 25 hours per week.

B. The Department shall verify school attendance through school records establishing full-time status and expected date of graduation.

R6-12-308. Ineligible Children; Family Benefit Cap

A. Except as provided in subsection (D), a dependent child is not eligible for AFDC benefits if such child is born during a month in which the parent or non-parent caretaker relative of the child is:

1. An eligible member of an AFDC assistance unit;
2. A mandatory member of an AFDC assistance unit who is ineligible for AFDC benefits due to noncompliance with an eligibility requirement or failure to meet an eligibility requirement; or
3. Temporarily a non-recipient of AFDC for less than 60 months due to voluntary withdrawal or ineligibility, after which the parent or non-parent caretaker

er relative reapplies and is determined eligible for AFDC.

B. A child born during any period of time specified in subsection (A) is ineligible for AFDC for the duration of the 60-consecutive-calendar-month period in which the child was born.

1. The 60-month period of ineligibility for the child shall begin with the first calendar month the parent or non-parent caretaker relative is eligible for AFDC after November 1, 1995, and shall continue for 60 consecutive calendar months. A subsequent 60-month period shall begin the first eligible month following expiration of a prior 60-month period.
2. A child born during any period of time specified in subsection (A) may qualify for AFDC upon expiration of the 60-month period in which the child was born, if otherwise eligible.

C. A dependent child who is ineligible pursuant to subsection (A) shall remain ineligible for the duration of the 60-month period prescribed in subsection (B) if the child subsequently lives with another parent or relative.

D. An assistance unit may receive benefits for an additional child that would otherwise be excluded under subsection (A):

1. If the child is born within ten calendar months of an initial eligibility determination made on or after November 1, 1995, or, if the parent or non-parent caretaker relative is an active AFDC participant on November 1, 1995, the child is born within ten months of the first eligibility redetermination thereafter;
2. The child is born:
 - a. After the parent or relative has not received AFDC for at least 12 consecutive months; and
 - b. During the time period beginning with the 22nd month after AFDC termination but not more than 10 months after the parent or relative resumes receiving AFDC after such period of non-receipt;
3. The child is the firstborn, including all children in the case of a multiple birth, of a minor included in an AFDC grant; or
4. The child is born as a result of an act of sexual assault or incest:
 - a. The applicant or recipient shall file a written statement with the Department to certify that a child was conceived as a result of sexual assault or incest and shall provide supporting verification.
 - b. Acceptable verification may include:
 - i. Medical or law enforcement records in cases of sexual assault or incest; and
 - ii. Birth certificate or Bureau of Vital Statistics Records in cases of incest.
 - c. If the applicant or recipient is unable to provide evidence to support the claim of rape or incest, the Department shall accept the written statement of the applicant or recipient as sufficient verification of rape or incest unless evidence to the contrary exists.
 - d. The FAA shall report allegations of sexual assault or incest to the Office of Special

Arizona Administrative Register
Notices of Proposed Rulemaking

Investigations and, if the parent is a minor, to Child Protective Services.

- E. An assistance unit which includes a child who is ineligible due to the provisions of this Section may earn income up to the incremental benefit increase the assistance unit would otherwise receive for the ineligible child without any adverse affect on eligibility or benefit level. The Department shall disregard such income.
1. The disregard shall equal the difference between the benefit amount with the needs of the ineligible child included in the benefit computation and the benefit amount with the needs of the ineligible child excluded from the benefit computation.
 2. The Department shall apply the disregard after all other earned income disregards specified at R6-12-703 are first deducted.
- F. The Department shall include a child who is ineligible for AFDC due to the provisions of this Section in the assistance unit's standard of need and shall count the income and resources of the ineligible child available to the assistance unit.
- G. A child who is ineligible for AFDC due solely to the provisions of this Section may receive the following services, if otherwise eligible:
1. AHCCCS;
 2. JOBS;
 3. Title IV-A child care; and
 4. Any other program or service for which AFDC recipients categorically qualify.
- H. A parent or NPCR may receive AFDC for himself or herself when the only dependent child in the home is ineligible for assistance due to the provisions of this Section.

R6-12-309. Relationship

- A. To qualify for AFDC, a dependent child shall reside with at least one of the following specified relatives:
1. A parent;
 2. A stepmother, stepfather, stepbrother, or stepsister;
 3. A person who is within the fifth degree of kinship to the dependent child, including: grandmother, grandfather, brother, sister, uncle, aunt, first cousin, nephew, niece, persons of preceding generations as denoted by prefixes "grand", "great", or "great-great", great-great-great grandparents, and first cousins once removed; or
 4. A spouse of any person named in the above groups, even if the marriage has been terminated by death or divorce.
- B. The Department shall not determine a child or NPCR ineligible solely for any of the following reasons:
1. The dependent child is under the jurisdiction of a court;
 2. An agency or individual unrelated to the child has legal custody of the child;
 3. The dependent child, or the child's parent or NPCR, is temporarily absent from the child's home because:
 - a. The child is making a court-ordered visit to a non-custodial parent for a period not to exceed three consecutive months;
 - b. The child is visiting a parent who has a legal order awarding joint custody of the child, and

the child resides with the parent who is part of the child's assistance unit for the entire calendar month;

- c. The child is living in a Department-licensed shelter, which does not receive funding under Title IV-A or IV-E of the Social Security Act, and the child is expected to return to the home within 30 days of issuance of the first benefit payment;
 - d. During the month for which benefits are sought, the child is entering or leaving foster care funded by other than Title IV-E of the Social Security Act;
 - e. The child is temporarily hospitalized;
 - f. The child is visiting friends or other relatives for a period not to exceed three consecutive months; or
 - g. The child is attending school but returns home at least once a year.
- C. The Department shall verify the requisite degree of relationship between the child and the child's parent or NPCR.

R6-12-310. Deprivation

- A. No child shall receive AFDC unless the child is deprived of parental support or care due to the continued absence, death, incapacity, or unemployment of the child's parent.
- B. A child suffers deprivation by continued absence when the following three conditions are met:
1. The child's natural or adoptive parent is out of the home for a minimum of 30 continuous days;
 2. The absence interrupts or terminates the parent's ability to provide maintenance, physical care, or guidance to the child; and
 3. The duration of the absence prevents the child from relying on the absent parent for support or care.
- C. When the conditions listed in subsection (B) are met, the situations listed in this subsection may constitute deprivation by continued absence.
1. A parent is absent due to involuntary hospitalization, incarceration, or deportation.
 2. A parent is a convicted offender who is living in the home while serving a sentence of unpaid public or community service; however, such parent shall not be considered part of the assistance unit for computation of the grant.
 3. A single parent has adopted a child.
 4. The child's mother and putative father both dispute paternity, and there is no documentation to substantiate paternity.
 5. The parents have joint legal or physical custody of the child, but the child resides with one parent more than 50% of the time.
- D. When a child satisfies the conditions set forth in subsection (B), the following circumstances shall not automatically preclude a finding of deprivation:
1. A stepparent, substitute parent, parental co-habitant, or person other than the child's parent resides in the child's home;
 2. The child's home is considered unsuitable because of neglect, abuse, or exploitation;

Notices of Proposed Rulemaking

3. The parent or NPCR refuses to cooperate with the Department regarding child support enforcement or collection activities;
 4. The absent parent visits the child; or
 5. The mother and father of the child have some form of ongoing contact or relationship.
- E.** The circumstances listed in this subsection shall not constitute deprivation by continued absence.
1. The parent is voluntarily absent to visit friends or relatives, to seek employment, to maintain a job, to attend school or training, so long as the parent in the home and the absent parent do not regard themselves as separated.
 2. The parent is absent solely to serve active military duty.
 3. The parents maintain separate dwellings but consider themselves part of a single home or family unit.
 4. One parent is deliberately absent from home in order to qualify the remaining family members for benefits.
- F.** A child is deprived if either parent of the child is deceased and the child has not been adopted. The applicant or recipient shall provide the Department with documentation verifying a death.
- G.** A child is deprived if either parent has a physical or mental defect, illness, or impairment that:
1. Substantially decreases or eliminates the parent's ability to support or care for the child; and
 2. Is expected to last for a minimum of 30 continuous days.
- H.** A child is deprived when the primary wage earning parent is unemployed if the assistance unit meets all the requirements set forth in R6-12-609.

R6-12-311. Assignment of Support Rights; Cooperation

- A.** To qualify for AFDC, an applicant shall assign to the Department all rights to a support obligation from any other person the applicant or recipient may have in his own behalf or in behalf of any other family member for whom the applicant or recipient is applying for or receiving AFDC, including any unpaid support obligation or support debt which has accrued at the time the assignment is made.
- B.** A refusal to execute such an assignment is a refusal to complete the application and shall result in denial of the AFDC application.
- C.** An applicant or recipient shall cooperate with the Department to obtain support owing to the applicant or recipient, unless there is good cause for non-cooperation, as described in R6-12-312.
- D.** After being approved for AFDC, the recipient shall transmit all monetary support received to the Department.
- E.** At the time of the initial interview and at all review interviews, the Department shall explain:
1. The applicant's duty of cooperation;
 2. Good cause and how to establish it;
 3. The duty to send the Department any support the assistance unit members receive; and
 4. The consequences for breach of the duties set forth in this Section.
- F.** Cooperation shall include:

1. Identifying and locating the parent of a child for whom aid is claimed;
 2. Establishing the paternity of a child born out-of-wedlock for whom aid is claimed;
 3. Obtaining support payments or other payments or property due the applicant or recipient for the benefit of the child; and
 4. Any of the following actions, when relevant or necessary:
 - a. Appearing at a child support enforcement office to provide oral or written information, or documentary evidence, known to, possessed by, or reasonably obtainable by the applicant or recipient;
 - b. Appearing as a witness at a judicial or administrative hearing or proceeding;
 - c. Providing information, or attesting to the lack of information, under penalty of perjury; and
 - d. Paying to the Department any support payments received from the absent parent after the assignment of rights pursuant to subsection (A) has been made.
- G.** If the applicant or recipient fails to cooperate as required by subsection (F) without good cause, the Department shall:
1. Exclude the parent or NPCR from the assistance grant, and
 2. Appoint a protective payee pursuant to R6-12-806.

R6-12-312. Good Cause for Non-cooperation with Child Support Enforcement

- A.** An applicant or recipient may establish good cause for non-cooperation with the Department. Good cause shall exist when:
1. Cooperation is reasonably likely to result in physical or emotional harm to the dependent child, parent in the home, or the NPCR, based on the factors identified in subsection (B);
 2. Legal proceedings for adoption of the dependent child are pending before a court;
 3. A public or private adoption entity is counseling the applicant regarding release of the dependent child for adoption, and such counseling has occurred for less than three months; or
 4. The dependent child was conceived as a result of incest or rape.
- B.** As used in subsection (A)(1):
1. Physical harm means an impairment of the human body of a serious nature.
 2. Emotional harm means an impairment that substantially affects the individual's ability to function.
- C.** In determining whether emotional harm will result for the purpose of subsection (A)(1), the Department shall consider:
1. The emotional state and psychological history of the person likely to suffer emotional harm;
 2. The degree of cooperation required;
 3. The extent of the individual's involvement in any cooperative efforts; and
 4. The intensity and probable duration of the emotional impairment.
- D.** An applicant or recipient shall provide evidence to verify good cause within 20 days of filing a claim of

Arizona Administrative Register
Notices of Proposed Rulemaking

good cause, or upon approval of the application, whichever last occurs. If the applicant or recipient can establish difficulty in obtaining verification, the Department may extend this time limit for up to 30 days or longer.

- E. Acceptable verification shall be documentation which establishes the claim of good cause with reasonable certainty and may include:
1. Birth certificate or Bureau of Vital Statistics Records in cases of incest;
 2. Medical or law enforcement records in cases of rape or incest;
 3. Court records or other legal documents in cases of pending adoptions;
 4. A written statement from a private or public adoption entity in cases of adoption counseling;
 5. Court, medical, criminal, Child Protective Services, psychological, social services, or law enforcement records, in cases of physical or emotional harm; and
 6. Sworn statements from friends, neighbors, clergy, or other persons with personal knowledge of circumstances that would substantiate a claim of good cause.
- F. The Department shall not deny, delay, or discontinue assistance pending a determination of good cause.
- G. The Department shall determine whether or not good cause exists within 45 days from the date the applicant or recipient makes the good cause claim. The Department may extend this time limit if additional time is required to verify the claim.
- H. If the Department finds that good cause does not exist, the applicant or recipient shall cooperate with the requirements of R6-12-311(F) within ten days following the date the Department notifies the applicant or recipient of the good cause decision.
- I. The Department shall redetermine a claim of good cause:
1. At each six-month review; and
 2. When circumstances change such that good cause no longer exists.

R6-12-313. Participation in JOBS; Exemptions; Good Cause Exceptions

- A. As a condition of eligibility, a recipient of AFDC shall participate in the Job Opportunities and Basic Skills Training Program (JOBS) as prescribed in A.A.C. R6-10-101 through R6-10-121, unless FAA determines that the person is exempt.
- B. The following persons are exempt from participation:
1. A child who is under age 16, except for a custodial parent or pregnant girl age 13 through age 15 who lacks a high school diploma, or its equivalent, and is not enrolled in high school, or an equivalent course of instruction;
 2. Notwithstanding subsection (B)(1) above, a custodial parent or pregnant girl under age 16 who is assigned to the control group as prescribed in R6-12-105 is exempt;
 3. A child who is age 16 or age 17, or age 18 if reasonably expected to complete school before reaching age 19, and a full-time student at an elementary, secondary, vocational, or technical

school, so long as the educational or training program was not assigned as a JOBS activity;

4. A person age 60 or older;
 5. A person who suffers from a physical or mental illness or infirmity which prevents the person from engaging in employment or training;
 6. A person who is needed in the home because a member of the person's household is ill or incapacitated and unable to care for himself, and no one else is available to provide care;
 7. A person who resides so remotely from a JOBS Program office or JOBS Program services that the round trip, exclusive of time required to transport any children to and from a child care provider, exceeds two hours by reasonably available public or private transportation, or, if other transportation is unavailable, by walking;
 8. A person with a child under the age six who is currently employed at least 20 hours per week in unsubsidized employment which pays at least the federal minimum wage and which is expected to last at least 30 days, or a person with a child age six or older who is currently employed at least 30 hours per week in unsubsidized employment which pays at least the federal minimum wage and which is expected to last at least 30 days; any interruption in such employment shall not exceed ten days;
 9. A woman who is at least three months pregnant and who expects to deliver her child in the month in which participation would be required, or within the following six months;
 10. A full-time volunteer serving in the Volunteers In Service To America (VISTA) program;
 11. A Native American tribal member who resides in an area covered by a Tribal JOBS program; and
 12. A parent or eligible caretaker relative who is personally providing care for a child under age 13 when the state cannot guarantee child care for the child.
- C. A parent or eligible caretaker relative of a child under the age of one, who is personally providing full-time care for that child, may also be exempt, subject to the limitations set forth in this subsection.
1. Only one parent or eligible caretaker relative from the assistance unit may qualify for this exemption.
 2. A custodial parent or pregnant girl who is age 13 through age 19 shall have a high school diploma, or its equivalent, or be enrolled in high school or an equivalency program to qualify for this exemption. A parent or pregnant girl who does not so qualify shall participate in JOBS.
- D. A parent or eligible caretaker relative of a child aged one to six who is personally providing care for that child is not required to participate in JOBS for more than 20 hours per week.
1. The parent or caretaker may volunteer to participate additional hours.
 2. This limitation does not apply to a parent who is less than 20 years old.
- E. A person who is suffering from a temporary illness, or who is the only person available to care for a household member suffering from a temporary illness, may be temporarily exempt from participation. The FAA local

Arizona Administrative Register
Notices of Proposed Rulemaking

- office shall verify such illness and shall reevaluate such exemptions at least every 30 days.
- F.** Except as provided in subsection (E), all medical conditions shall be verified by a licensed physician. All psychological conditions shall be verified by a licensed physician or certified psychologist.
- G.** Exempt status shall terminate when the condition giving rise to the exemption terminates.
- H.** A person may establish good cause for a failure or refusal to participate in JOBS as provided in R6-10-119 and R6-10-120. JOBS shall determine if good cause exists.
- I.** If a person fails or refuses to participate in JOBS without good cause the Department shall:
1. Appoint a protective payee pursuant to R6-12-806; and
 2. Exclude the parent or NPCR from the assistance grant for the following periods:
 - a. For the first such failure, until the person agrees to comply or one month, whichever is longer, except if the person is a member of the control group as prescribed in R6-12-105, until the person agrees to comply;
 - b. For the second such failure, until the person agrees to comply or three months, whichever is longer; and
 - c. For any subsequent failure, until the person agrees to comply or six months, whichever is longer.

R6-12-314. Social Security Number

- A.** To qualify for AFDC, a person shall furnish a social security number (SSN). If a member of an assistance unit lacks an SSN, the Department shall assist the person in applying for an SSN through procedures established between the Department and the United States Social Security Administration (SSA).
- B.** The Department shall obtain verification of social security numbers through contact with the SSA.

R6-12-315. Duration of Assistance

- A.** A person may receive AFDC benefits for no more than 24 months within any consecutive 60-month period, except that the 24-month limit shall not apply to a person who:
1. Is under 18 years of age;
 2. Is 62 years of age or older;
 3. Suffers from a physical or mental incapacity which prevents the person from engaging in employment or training as determined by a licensed physician or psychologist;
 4. Is required to remain in the home on a continuous basis to give full-time care to another member of the household who suffers from a physical or mental incapacity as determined by a licensed physician or psychologist, and no other member of the household is available to provide the needed care; or
 5. Works in a JOBSTART-subsidized placement pursuant to Article 13.
- B.** The Department shall remove the ineligible adult from the assistance grant at the end of the 24 eligible months but shall continue to provide benefits for other eligible assistance unit members.

1. The Department shall count the income and resources of the ineligible adult available to the assistance unit.
 2. The ineligible adult may serve as the payee for the assistance unit.
- C.** The Department shall calculate the 24-month and 60-month periods beginning with the calendar month the recipient is first eligible for benefits but shall not include any month prior to November 1, 1995, in the calculation.
- D.** The 24-month and 60-month periods shall not begin until the calendar month following the month the person reaches age 18.
- E.** Once the 60-month time period begins, it shall continue for 60 consecutive months. A subsequent 60-month period shall begin the first eligible month following expiration of a prior 60-month period.
- F.** The following shall not count against the 24-month limit:
1. A month of initial eligibility with a prorated benefit amount;
 2. A month the assistance unit is eligible but receives no payment because the benefit amount is less than \$10;
 3. A retroactive benefit for any eligible month prior to November 1, 1995; or
 4. A month for which a cancelled or expired warrant is not replaced.
- G.** An assistance unit which includes a person who is ineligible for AFDC due to the 24-month limit provisions of this Section may earn up to the incremental benefit amount otherwise payable for the ineligible person without any adverse affect on eligibility or benefit level. The Department shall disregard such income.
1. The disregard shall equal the difference between the benefit amount with the needs of the ineligible adult included in the computation and the benefit amount with the needs of the ineligible adult excluded from the computation.
 2. The Department shall apply the disregard after all other earned income disregards specified at R6-12-703 are first deducted.
- H.** The Department shall conduct regular eligibility reviews as prescribed in R6-12-210 for an assistance unit which includes an ineligible adult due to the provisions of this Section.
- I.** A person who is ineligible for AFDC due to the 24-month limit may receive the following services, if otherwise eligible:
1. AHCCCS.
 2. JOBS.
 3. Title IV-A child care, and
 4. Any other program or service for which an AFDC recipient categorically qualifies.
- J.** The Department shall provide the assistance unit with written notice of the opportunity to apply for an extension prior to removing an ineligible adult from the assistance grant due to the 24-month limit.

R6-12-316. Extension of the 24-month Limit

- A.** A recipient may request an extension of the 24-month limit by filing a written request with the Department within ten calendar days from the notice date of the

- opportunity to apply for an extension provided to the recipient. The Department shall consider the mailing date of the request to apply for an extension as the filing date. The request shall include the reason for an extension.
- B. The Department may grant an extension of the 24-month limit if the recipient demonstrates a good faith effort to find and accept employment with gross monthly earnings which are at least equal to the incremental benefit amount otherwise payable for the ineligible adult.
- C. To qualify for an extension, the recipient shall establish that he or she has followed a course of action throughout the period of AFDC eligibility which is reasonably designed to result in employment and which demonstrates a willingness to work. The Department may consider the following actions by a recipient a good faith effort to secure employment:
1. Complying with the terms of the JOBS employability plan developed for the person;
 2. Making application with employers who may reasonably be expected to have openings suitable for the person;
 3. Responding to newspaper advertisements or other job listings for work which appear suitable for the person;
 4. Applying for employment with former employers when the person terminated the employment in good standing;
 5. Registering for suitable work with the Department's Job Service, a private employment agency, or an employer's placement facility;
 6. Registering with a placement facility of a school, college, or university if one is available to the person in his or her occupation or profession;
 7. Registering and continuing follow-up checking with the person's union hiring or placement facility;
 8. Registering with a placement facility of the person's professional organization;
 9. Making application or taking examination for openings in the civil service of a governmental unit; or
 10. Other similar or comparable action which demonstrates an effective means of seeking work suitable to the person.
- D. The recipient has the burden to prove the inability to earn income at least equal to the amount of the benefit that the recipient became ineligible to receive, despite a good faith effort to do so.
- E. To qualify for an extension, the recipient shall:
1. Make at least three contacts, as prescribed in subsection (C) above, each month throughout the period of AFDC eligibility; and
 2. Provide verification of the efforts taken to secure employment:
 - a. At each six-month eligibility review, and
 - b. When an extension is requested.
- F. In making the determination of a good faith effort to secure employment, the Department shall consider the customary methods of obtaining work in the person's usual occupation, or other work for which the person is reasonably suited, and the current condition of the local labor market.
- G. A person is deemed to have failed to make a good faith effort to seek work if the person has willfully followed a course of action designed to discourage prospective employers from hiring the person for suitable work.
- H. The Department shall not grant an extension to a person who:
1. Cannot demonstrate a good faith effort to find and accept employment;
 2. Refuses, without demonstrating good cause, to accept a bona fide offer of employment which would provide income at least equivalent to the portion of the AFDC grant for which the person is no longer eligible;
 3. Cannot demonstrate or refuses to produce a good cause reason for not accepting an offer of employment that the Department is aware has been made, and which would provide income at least equivalent to the portion of the AFDC grant for which the person is no longer eligible;
 4. Cannot demonstrate or refuses to produce a good cause reason for voluntarily quitting a job;
 5. Is discharged from a job for reasons of misconduct as prescribed in A.A.C. Title 6, Chapter 3, Article 51;
 6. Cannot demonstrate or refuses to produce a good cause reason for voluntarily acting to reduce employment earnings; or
 7. Cannot demonstrate that the person has cooperated with the Department during the extension application process.
- I. For the purpose of this Section, good cause is limited to the following circumstances which prevent the person from accepting or maintaining employment:
1. The person is ill or incapacitated;
 2. The person could not report to the work site due to a lack of public or private transportation;
 3. The person was incarcerated or ordered to make a court appearance, and the total circumstances were beyond the person's control;
 4. The person had an emergency or death in the person's immediate family;
 5. Severe weather conditions prevented the participant and other persons similarly situated from traveling to or participating in the employment activity;
 6. The person has been referred to a job or employment which is the subject of a strike, lockout, work stoppage, or other bona fide labor dispute; or
 7. Other similar circumstances beyond the person's control.
- J. The Department shall grant an extension of eligibility for six months at a time, if the assistance unit continues to meet all AFDC eligibility requirements.
- R6-12-317. Extension of 24-month Limit to Complete Education or Training**
- A. A recipient may receive a maximum of two four-month extensions of the 24-month limit to allow the recipient to complete an education or job training program designed to help the recipient become self-sufficient.
- B. A recipient may request an extension to complete education or training by filing a written request with the Department within ten calendar days from the notice date of the opportunity to apply for an extension

Arizona Administrative Register
Notices of Proposed Rulemaking

provided to the recipient. The Department shall consider the mailing date of the request to apply for an extension as the filing date.

1. The request shall include the reason for an extension.
 2. A separate request is required for each four-month extension.
- C. In order to qualify for an extension to complete education or training:
1. The person shall participate full-time in:
 - a. A postsecondary education program of study offered by a university, college, or community college, which will result in an associate or bachelor degree;
 - b. A program or course of study offered by a vocational, technical, or recognized proprietary school which will result in a diploma or certificate for a job skill directly related to obtaining self-supporting employment in a recognized occupation; or
 - c. A job training or employment activity approved by JOBS which is consistent with the person's employability plan;
 2. The educational or training program must have started before the end of the 24-month period;
 3. The person must be expected to complete the education or training program during the extension periods;
 4. The person shall demonstrate successful progress toward completion of the educational or training program:
 - a. Successful progress toward completion of an educational or training program means that the person is meeting, on a periodically measured basis of less than one year, such as quarterly, a consistent standard of progress based upon a written policy developed by the educational institution or training program in which the person is enrolled.
 - b. Such standard includes both a qualitative measure of a person's progress, such as competency gains, Grade Point Average necessary to obtain a degree or certificate, or proficiency level, and a quantitative measure, such as a reasonable time limit for completion of the educational or training program; and
 5. The assistance unit shall continue to meet all other AFDC eligibility requirements.

ARTICLE 4. FINANCIAL ELIGIBILITY: RESOURCES

R6-12-401. Treatment of Resources; Limitations

- A. In determining eligibility, the Department shall include all resources available to the assistance unit, unless excluded by applicable law.
- B. An assistance unit is ineligible for AFDC for any month in which the unit's resources exceed \$1,000, after application of all available exclusions.

R6-12-402 Treatment of Resources by Ownership Status;

- A. The Department shall consider the resources belonging to the persons listed in this subsection available to the assistance unit.

1. An assistance unit member;
 2. A mandatory member of the assistance unit who is ineligible for AFDC for failure to comply with an eligibility requirement;
 3. A mandatory member of the assistance unit who is ineligible due to disqualification for Intentional Program Violation, as provided in Article 12;
 4. A stepparent who makes resources available to the assistance unit;
 5. The sponsor of an alien, as provided in R6-12-603.
- B. The Department shall consider the resources of the persons listed in this Section unavailable to the assistance unit.
1. A non-parent relative who is not included in the assistance unit;
 2. An SSI recipient, as to resources held as sole and separate property, or counted in the determination of SSI eligibility;
 3. A dependent child for whom deprivation does not exist;
 4. An ineligible alien sibling of a dependent child in the assistance unit;
 5. An ineligible alien parent;
 6. A dependent child who is not included in the assistance unit due to receipt of adoption assistance or foster care payments under Title IV-E of the Social Security Act.
- C. The Department shall consider ownership in determining availability of the resources to the assistance unit.
1. The sole and separate property of one spouse is deemed unavailable to the other spouse, unless the owner spouse makes the property available to the other spouse.
 2. Jointly owned resources with ownership records containing the words "and" or "and/or" between the owners' names, are deemed available when all owners can be located and consent to disposal of the resource, except that such consent is not required if all owners are members of the assistance unit.
 3. Jointly owned resources, with ownership records containing the word "or" between the owners' names, are deemed available in full to each owner. When more than one owner is a member of an assistance unit, the equity value of the resource is counted only once.

D. The Department shall consider the following resources unavailable to the assistance unit:

1. Property subject to a spendthrift restriction. Such property may include:
 - a. Irrevocable trust funds;
 - b. Accounts established by the Social Security Administration, Veteran's Administration, or some other entity, which mandate that the funds in the account be used for the benefit of a person not residing with the assistance unit.
2. Resources being disputed in divorce proceedings or in probate matters.
3. Real property situated on a Native American reservation.

R6-12-403. Treatment of Resources; Exclusions

- A. The Department shall exclude the equity value of the resources listed below, as provided in this Section:

Notices of Proposed Rulemaking

1. The usual residence of the assistance unit members;
2. One burial plot for each member of the assistance unit;
3. Household furnishings used by the assistance unit members in their usual place of residence, and personal effects essential to day-to-day living;
4. Up to \$1500 of the value of one bona fide funeral agreement, for each member of the assistance unit;
5. The value of one motor vehicle regularly used for transportation. If the unit owns more than one vehicle, the exclusion is applied to the vehicle with the highest equity value, and the equity value of all remaining vehicles is counted, subject to the limitations described in this Section;
6. In addition to the exclusion described in subsection (A)(5), the Department shall exclude the value of the following vehicles:
 - a. A vehicle used to produce income; and
 - b. When the household has a member who is an SSI recipient:
 - i. The value of any vehicle in which the SSI recipient has an ownership interest; and
 - ii. The value of any vehicle used for medical treatment, employment, or transportation of a disabled child, and which is excluded by SSI for that reason;
7. When the assistance unit owns real property and is making a good faith effort to dispose of it, the equity value shall be excluded for six months, subject to the conditions listed in this paragraph:
 - a. The applicant shall sign an agreement to:
 - i. Dispose of the property; and
 - ii. Repay the Department, from the net proceeds of disposal, the amount of any assistance the unit receives during the period of time the unit would otherwise have been ineligible because the property value exceeded resource limitations;
 - b. The amount repaid shall not exceed the net proceeds of disposal;
 - c. If the assistance unit does not dispose of the property within six months, the Department shall write an overpayment and the assistance unit shall repay any assistance received during that period;
8. Any other resource specifically excluded by law.
2. A person found to have committed an intentional program violation or fraud related to the AFDC, food stamp, or AHCCCS programs shall not hold an IDA.
3. A dependent child shall not hold an IDA.
- D. An assistance unit member who establishes an IDA shall sign a document authorizing the financial institution to release account information to the Department.
- E. The following persons can make deposits into an IDA:
 1. The account holder;
 2. A member of the account holder's assistance unit;
 3. A person who is not a member of the account holder's assistance unit; or
 4. A non-profit organization with a recognized tax exempt status under 26 U.S.C. 501(c)(3) or A.R.S. § 43-1201. A non-profit organization making deposits into an IDA:
 - a. Shall designate that such funds are intended solely for educational or training purposes, and
 - b. May set other terms and conditions regarding the withdrawal or use of the funds.
- F. An applicant for assistance shall not place countable income or resources into an IDA for the purpose of qualifying for AFDC or Food Stamp Program benefits. Any money so deposited counts as a resource.
- G. The Department shall exclude from the resource limitation set forth at R6-12-401(B) the balance held in an IDA which at any one time is less than \$9,000, except that any cumulative deposits over the life of an IDA which exceed \$12,000 shall count against the resource limitation.
- H. The Department shall disregard as countable income:
 1. 50% of any earned income of the assistance unit which is deposited into an IDA, except that the Department shall not disregard more than \$100 per month of earned income; and
 2. All interest earned on an IDA.
- I. An assistance unit which holds an IDA shall:
 1. Report to the Department all income which is deposited into an IDA or withdrawn from an IDA; and
 2. Submit account statements to the Department at each eligibility redetermination.
- J. A recipient of both AFDC and food stamp benefits may withdraw funds from an IDA for:
 1. Educational costs at an accredited institution of higher education; or
 2. Training costs for an accredited, licensed, or certified training program.
- K. As used in subsection (J), above:
 1. Educational and training costs are limited to:
 - a. Tuition and other mandatory fees charged to all students, or to all students within a certain curriculum,
 - b. Books,
 - c. Transportation, and
 - d. Miscellaneous personal expenses necessary to pursue education or training.
 2. An institution of higher education means a public or private educational institution defined at A.R.S. § 23-618.02.

R6-12-404. Individual Development Accounts

- A. An individual development account (IDA) is a special savings account which allows a recipient of both AFDC and Food Stamp Program benefits to accumulate funds to achieve educational or training goals.
- B. Financial institutions licensed by the Arizona State Banking Department shall administer IDAs.
 1. IDAs shall earn the same interest rate as is offered to other bank customers for like accounts.
 2. A financial institution may prescribe such terms and conditions relating to IDAs as are permissible under the laws of this state and federal banking law.
- C. A member of an assistance unit that receives both AFDC and food stamp benefits may establish an IDA.
 1. No assistance unit shall hold more than one IDA.

Arizona Administrative Register
Notices of Proposed Rulemaking

3. A training program means a course of study offered by a vocational, technical, or recognized proprietary school which will result in a diploma or certificate for a job skill which is directly related to obtaining useful employment in a recognized occupation.
- L. Withdrawals from an IDA for purposes other than those described in subsection (K) shall count as income to the assistance unit in the month of withdrawal, unless the money was previously counted as income to the assistance unit at the time of receipt.
- M. If there is a break in AFDC or food stamp benefits of at least one full month, upon reapplication, the Department shall consider any remaining monies in an IDA as countable resources, and shall not disregard any future deposits into an IDA.
- N. The Department's Office of Special Investigations shall investigate allegations of fraud or abuse involving IDAs, including situations where there is evidence or reason to believe that a deposit to an IDA was made from:
 1. Income which was available to the assistance unit but was not reported to the Department.
 2. Individual contributions which should have been counted as income or child support, or
 3. Proceeds from illegal activities.
- O. The Department shall not disregard as income or resources any deposit made into an IDA from income sources described in subsection (N), or any deposit which is otherwise contrary to the provisions of this Section. The Department shall establish any resulting overpayment.

R6-12-405. Resource Transfers; Limitations

- A. An applicant or recipient shall not transfer a resource with the intent to qualify or attempt to qualify for AFDC within one year prior to application or while receiving assistance, unless fair consideration was received.
- B. Except as otherwise provided in this Section, when a applicant or recipient does not receive fair consideration for a transferred resource ("an improper transfer"), the assistance unit shall be ineligible for AFDC.
 1. The period of ineligibility shall begin in the month in which the transaction occurred.
 2. The Department shall compute the duration of ineligibility by subtracting the consideration actually received from the equity value of the transferred resource and dividing that sum by the monthly need standard for the assistance unit. The resulting number shall be the number of months the unit is ineligible.
- C. An improper transfer shall not affect eligibility when the equity value of the transferred resource, plus the value of the unit's other available resources, does not exceed the resource limitation.
- D. The improper transfer of real property covered by a homestead exemption shall not affect eligibility if the property was transferred because the person cannot continue residing in the home for health reasons, as determined by a competent medical authority.
- E. If an applicant or recipient disposes of homestead property, the Department shall count, as a resource, all proceeds of the sale not reinvested in homestead property, when the applicant or recipient:

1. Invests the proceeds in a resource other than homestead property.
2. Advises the Department that such proceeds will not be reinvested in other homestead property, or
3. Fails to purchase new homestead property within 90 days of the date of sale.

R6-12-406. Resource Verification

The Department shall verify all resources before determining income eligibility and benefit amount.

ARTICLE 5. FINANCIAL ELIGIBILITY: INCOME

R6-12-501. Treatment of Income; In General

- A. In determining eligibility and benefit amount, the Department shall treat all income of the assistance unit in accordance with the provisions of this Article.
- B. As used in this Section, the term "income" shall include the following, when actually received by the assistance unit:
 1. Gross earned income from public or private employment, including in-kind income, before any deductions;
 2. For self-employed persons, the sum of gross business receipts minus business expenses; and
 3. Unearned income, such as benefits or assistance grants, minus any deductions to repay prior overpayments or attorneys' fees.
- C. The Department shall consider all gross income available to the assistance unit in determining eligibility and benefit amount except for those types of income excluded under R6-12-503.

R6-12-502. Income Available to the Assistance Unit

- A. The Department shall consider the income of the persons listed in this subsection, available to the assistance unit:
 1. An assistance unit member;
 2. A mandatory member of the assistance unit who is ineligible for AFDC for failure to comply with an eligibility requirement;
 3. A mandatory member of the assistance unit who is ineligible due to disqualification for Intentional Program Violation, as provided in Article 12;
 4. A dependent child's parent who is excluded from the assistance unit for failure to meet an eligibility requirement;
 5. The spouse of an NPCR if the NPCR is included in the assistance unit.
- B. The Department shall deem the income of the persons listed in this subsection available to meet the needs of the assistance unit, pursuant to the applicable deeming procedures set forth in R6-12-603, R6-12-605, R6-12-607, and R6-12-608:
 1. The sponsor of an alien;
 2. A dependent child's parent who is an alien admitted to the United States pursuant to 8 U.S.C. 1255a or 1160, as amended through October 25, 1994, which is incorporated herein by reference and on file with the Office of the Secretary of State and not including any later amendments or editions, unless such parent is eligible for inclusion in the assistance unit pursuant to R6-12-305(A);
 3. A stepparent who lives in the household with a dependent child but who is not included in the assistance unit;

Arizona Administrative Register
Notices of Proposed Rulemaking

4. A parent of a minor parent who lives in the household with the minor parent and the dependent child.

R6-12-503. Income Exclusions

The Department shall not count the types of income listed in this Section when determining the income of an assistance unit:

1. Loans;
2. Educational grants or scholarships;
3. Income tax refunds, including any earned income tax credit;
4. Non-recurring cash gifts which do not exceed \$30.00, per person in any calendar quarter;
5. Cash contributions from other agencies or organizations so long as the contributions are not intended to cover items which AFDC is intended to cover, specifically:
 - a. Food;
 - b. Shelter, including only rent or mortgage payments;
 - c. Utilities;
 - d. Household supplies, including bedding, towels, laundry, cleaning, and paper supplies;
 - e. Public transportation fares for personal use;
 - f. Basic clothing or diapers; or
 - g. Personal care and hygiene items, such as soap, toothpaste, shaving cream, and deodorant;
6. The face value of food stamp coupons;
7. The value of governmental rent and housing subsidies;
8. The value of energy assistance which is provided:
 - a. Either in cash or in kind by a government agency or municipal utility, or
 - b. In kind by a private non-profit organization;
9. Vendor payments;
10. Vocational rehabilitation program payments made as reimbursements for training-related expenses, subsistence and maintenance allowances, and incentive payments which are not intended as wages;
11. Earnings from high school on-the-job training programs;
12. Reimbursements for JOBS Program training related expenses;
13. Agent orange payments;
14. Burial benefits which are dispersed solely for burial expenses;
15. Disaster assistance provided by the Federal Disaster Relief Act, or comparable assistance provided by state or local governments, or disaster assistance organizations;
16. Foster care payments;
17. Radiation exposure compensation payments;
18. Income received from VISTA which does not exceed the state or federal minimum wage;
19. Benefits from the Special Supplemental Food Program for Women, Infants, and Children (WIC);
20. Reimbursements for work-related expenses which do not exceed the actual expense amount;
21. Any other income specifically excluded by applicable state or federal law.

R6-12-504. Special Income Provisions: Child Support, Alimony, or Spousal Maintenance

- A. The Department shall count child support, alimony, or spousal maintenance, received by a member of the assistance unit before the eligibility determination date, in excess of \$50 per month, as income in the month received.
- B. After the eligibility approval date, the Department shall count current child support, alimony, or spousal maintenance received by the Department's Division of Child Support Enforcement (DCSE), on behalf of an assistance unit member, in excess of \$50 per month, as income in the month received for the purpose of determining continued eligibility.
 1. Such income is attributed to the assistance unit and added to the unit's other income to determine if the assistance unit meets the financial eligibility criteria.
 2. If the unit continues to satisfy the financial eligibility criteria, the Department shall compute the assistance unit's benefit amount without regard to the support DCSE has collected, except that any collected funds which DCSE passes on to the assistance unit shall be treated as unearned income in the month received.
- C. After the eligibility approval date, if an assistance unit member receives child support, alimony, spousal maintenance, or medical support after assigning to the Department the right to such support, and the member fails to turn over the support to the Department, the Department shall:
 1. Count the support received directly by an assistance unit member, as provided above in subsection (A); and
 2. Sanction the caretaker relative as provided in R6-3-12-311(G) by excluding that member's needs from the computation of the assistance grant, and appointing a protective payee.

R6-12-505. Special Income Provisions: Nonrecurring Lump Sum Income

- A. When an assistance unit receives nonrecurring income, in a lump sum, the Department shall determine eligibility and benefit amount as described below.
 1. The Department shall take the lump sum income and apply any applicable disregards pursuant to R6-12-703.
 2. If the remaining amount of the lump-sum exceeds the need standard for an assistance unit of that size, the unit shall be ineligible for benefits for a period of months.
 3. The Department shall compute the period of ineligibility by:
 - a. Adding the amount from subsection (A)(2) to the assistance unit's other income for each corresponding budget month, and
 - b. Dividing the amount from subsection (A)(3)(a) by the need standard applicable to the assistance unit.
 4. The resulting number shall be the number of months the assistance unit is ineligible. Any remaining amount (that cannot be evenly divided)

Arizona Administrative Register
Notices of Proposed Rulemaking

shall be treated as unearned income in the first month following the period of ineligibility.

5. The ineligibility period shall begin in the month in which the assistance unit received the lump-sum income.
- B. The Department shall recalculate the period of ineligibility as provided in subsection (C) below when:
 1. The need standard changes for all assistance units;
or
 2. The lump sum income becomes unavailable to the assistance unit for reasons beyond the control of the unit members; such reasons include, but are not limited to:
 - a. Involuntary removal of the lump -sum income;
 - b. During the period of ineligibility, an assistance unit member incurs and pays for medical services provided or authorized by a licensed or certified health care practitioner or organization, which services are not covered by insurance or other third-party benefits.
- C. To recalculate the ineligibility period as provided in subsection (B), the Department shall subtract the unavailable portion of the income from the remaining portion and then divide the remainder by the need standard applicable to the assistance unit.

R6-12-506. Determining Monthly Income

- A. For each assistance unit, the Department shall calculate monthly income using the methods described in R6-12-507.
- B. The projected income shall include income which the assistance unit has received and reasonably expects to receive in a benefit month and shall be based on the Department's reasonable expectation and knowledge of the assistance unit's current, past, and future circumstances.
- C. The Department shall include in its calculation all gross income from every source available to the assistance unit unless specifically excluded in this Article or by the federal Social Security Act.
- D. The Department shall convert income received more frequently than monthly into a monthly amount as follows:
 1. Multiply weekly amounts by 4.3.
 2. Multiply bi-weekly amounts by 2.15.
 3. Multiply semi-monthly amounts by 2.
- E. The Department shall determine a new calculation of projected income:
 1. At each review, and
 2. When there is a change in countable income.

R6-12-507. Methods to Determine Projected Monthly Income

- A. The Department shall determine projected monthly income for an assistance unit by the methods described in this Section.
- B. Averaging income.
 1. When using this method, the Department shall add together income from a representative number of weeks or months and then divide the resulting sum by the same number of weeks or months.
 2. The Department shall average income for an assistance unit which receives income:
 - a. Irregularly; or

b. Regularly, but from sources or in amounts which vary.

C. Prorating income.

1. When using this method, the Department shall average income over the period of time the income is intended to cover.
2. The Department shall prorate income for an assistance unit which receives income which is intended to cover a fixed period of time. When a person receives income pursuant to a fixed-term employment contract:
 - a. Income shall be counted in the month received, if received monthly or more often, throughout all months of the contract;
 - b. Income shall be prorated over the number of months in the contract if payment is received before or during the time work is performed, but not as specified in subsection (C)(2)(a) above;
 - c. Income shall be prorated over the number of months in the contract if payment is received upon completion of the work;
 - d. For AFDC cases which fall within subsection (C)(2)(c) above, applicable earned income disregards shall apply as if the prorated amounts were received in each month of the contract. The resulting amounts for each month shall then be totaled and counted in the month received as a lump sum pursuant to R6-12-504(C).

D. Actual income.

1. When using this method, the Department shall use the actual amount of income received in a month and shall not convert the income to a monthly amount pursuant to R6-12-506(D).
2. The Department shall use actual income for an assistance unit which:
 - a. Receives or reasonably expects to receive less than a full month's income from a new source.
 - b. Has lost a source of income, or
 - c. Is paid daily.

R6-12-508. Income Verification

The Department shall verify all income before determining eligibility and benefit amount.

ARTICLE 6. SPECIAL AFDC CIRCUMSTANCES

R6-12-601. Pregnant Women

- A. Upon compliance with all other eligibility criteria and procedures, a pregnant woman with no other dependent children may be eligible for AFDC as though the child was already born.
- B. Only the pregnant woman may qualify for benefits under this Section.
- C. Eligibility shall begin no earlier than three months before the predicted month of delivery and shall end no later than two months after the pregnancy terminates, and following written notice of adverse action.
- D. If the child is miscarried, stillborn, or born prematurely, and the woman reports such event to the Department within ten calendar days of the occurrence.
 1. The occurrence shall not effect the woman's original eligibility, and
 2. No overpayment shall result.

Arizona Administrative Register
Notices of Proposed Rulemaking

E. Following birth of the child, the mother may apply for benefits on behalf of the child as provided in this chapter.

R6-12-602. Caretaker Relative of SSI or Foster Care Child

- A. A parent or NPCR with only an SSI recipient child, or a child who is receiving federal, state, or local foster care maintenance payments, may be eligible for AFDC upon meeting the eligibility criteria specified in this Chapter, except as otherwise provided in this Section.
- B. The Department shall consider the SSI recipient child, or foster care recipient child, as an assistance unit member for purposes of qualifying the unit for AFDC based on need.
- C. If the assistance unit qualifies for AFDC pursuant to subsection (B), the Department shall not count the needs, resources, and income of the SSI recipient child, or foster care recipient child, when determining the benefit amount.
- D. Notwithstanding the provisions of R6-12-311, the parent or NPCR of an SSI recipient child, or a foster care recipient child, need not assign to the Department any rights to child support but shall assign any right to receive alimony or spousal maintenance.

R6-12-603. Sponsored Aliens

- A. An alien who is sponsored by a public or private agency or organization shall not qualify for AFDC for three years following the date of the alien's entry for permanent residence into the United States unless:
1. The agency or organization no longer exists, or
 2. The alien's three-year sponsorship agreement with the agency or organization has expired.
- B. An alien sponsored by an individual who seeks benefits shall obtain the cooperation of the sponsor as necessary to satisfy the eligibility criteria described in this Chapter.
- C. The Department shall deem income and resources of an alien sponsor available to the sponsored alien for three years from the date of the alien's entry into the United States for permanent residence, according to the provisions of this Section.
- D. Subject to the provisions of Article 4 concerning treatment of resources, the Department shall deem the total equity value of resources belonging to the sponsor and the sponsor's spouse, less \$1,500, as available to the sponsored alien.
- E. The Department shall deem income of the alien sponsor and the sponsor's spouse available to the alien pursuant to the formula described in this subsection. The Department shall:
1. Determine the total earned income which is normally countable for AFDC;
 2. Disregard the lesser of 20% of the total from paragraph one, or \$175;
 3. Determine and add in the total unearned income which is normally countable for AFDC;
 4. Subtract the following disregards:
 - a. An amount equal to the need standard for the sponsor and persons in the sponsor's family who could be claimed as tax dependents for federal income tax purposes; and
 - b. Actual payments for spousal maintenance, child support, or support of dependents who reside outside the home but who can be

claimed as dependents for federal income tax purposes; and

5. Count the resulting figure as unearned income available to the alien.
- F. When a person sponsors two or more aliens, the Department shall prorate income and expenses deemed available among the sponsored aliens.
- G. When an assistance unit includes both a sponsored alien and other members, and the deeming provisions of this Section would render the assistance unit ineligible, the Department shall determine eligibility of the other members without considering the sponsored alien or the sponsor's income or resources.
- H. The sponsored alien and the sponsor are jointly liable for any overpayment resulting from the sponsor's provision of incorrect or incomplete information, unless the sponsor had good cause, so as to make the alien solely liable. Good cause shall include:
1. The Department failed to inform the alien or the sponsor that the information was necessary, or
 2. Extenuating personal circumstances prevented the sponsor from providing necessary information.

R6-12-604. Strikers

A parent on strike, the parent's spouse, and the dependent children of the parent on strike are ineligible for the month in which the parent is participating in a strike on the last day of the month.

R6-12-605. Dependents with Ineligible Irca Parents

The income of an ineligible alien parent who is an alien admitted to the United States pursuant to 8 U.S.C. 1255a or 1160, as amended through October 25, 1994, which is incorporated herein by reference and on file with the Office of the Secretary of State and not including any later amendments or editions, unless such parent is eligible for assistance pursuant to R6-12-305(A), is deemed available to meet the needs of the alien parent's dependent child after application of the following disregards:

1. The first \$90.00 of the alien parent's gross earned income;
2. An amount equal to the AFDC need standard for the number of persons whom the alien parent could claim as dependents, including the alien parent, but excluding:
 - a. Persons receiving AFDC, and
 - b. Persons who would be receiving AFDC but for a sanction due to failure to cooperate;
3. Actual amounts paid to persons not living in the home who could be claimed as dependents for federal income tax purposes; and
4. Actual payments of spousal maintenance or child support to persons not living in the alien parent's home.

R6-12-606. Dependents of Foster Children

- A. The dependent child of an ineligible foster child may be eligible for AFDC.
- B. To determine eligibility and benefit amount, the Department shall count all income and resources of the foster child and the dependent child, other than the foster care payment, as otherwise provided in this Chapter.

R6-12-607. Stepparents

The income of a stepparent who does not receive AFDC or SSI is deemed available to meet the needs of a dependent

Arizona Administrative Register
Notices of Proposed Rulemaking

child who resides with the stepparent, after application of the following disregards:

1. The first \$90.00 of the stepparent's gross earned income;
2. An amount equal to the AFDC need standard for the number of persons whom the stepparent could claim as dependents, including the stepparent, but excluding:
 - a. Persons receiving AFDC, and
 - b. Persons who would be receiving AFDC but for a sanction due to failure to cooperate;
3. Actual amounts paid to persons not living in the home whom the stepparent could claim as dependents for federal income tax purposes; and
4. Actual payments of spousal maintenance or child support the stepparent makes to persons not living in the stepparent's home.

R6-12-608. Minor Parents

A. A minor parent means a person who:

1. Is less than 18 years of age,
2. Has never married, and
3. Is either the natural parent of a dependent child living in the same household or is pregnant and eligible for assistance under R6-12-601.

B. An assistance unit headed by a minor parent is not eligible for AFDC, except as provided in subsection (C) below.

C. A minor parent may receive assistance when:

1. The minor parent has no living or locatable:
 - a. Parent,
 - b. Legal custodian who is related to the minor parent to the degree specified at R6-12-309(A); or
 - c. Legal guardian.
2. The minor parent is legally emancipated:
 - a. A minor parent is emancipated if the minor parent's parent, adult specified relative as defined at R6-12-309(A), or legal guardian has relinquished all control and authority over the minor parent, and no longer provides financial support to the minor parent;
 - b. A minor parent shall qualify as an emancipated person if the minor parent:
 - i. Has lived apart from the parent, adult specified relative, or legal guardian for at least one year before the application for AFDC;
 - ii. Has demonstrated financial independence from the parent, adult specified relative, or legal guardian for at least one year before the application for AFDC; and
 - iii. Has not received AFDC or Food Stamp Program benefits for each of the twelve consecutive months immediately preceding the month the minor parent applies for AFDC.
 - c. The minor parent shall provide evidence to establish emancipation. Acceptable verification may include:
 - i. Rent receipts or other living arrangement statements which establish inde-

pendent living apart from the parent, adult specified relative, or legal guardian;

- ii. Income statements or income tax records which establish financial independence from the parent, adult specified relative, or legal guardian; or
 - iii. Written statements from a parent, relative, or guardian which establish the independent status of the minor parent.
3. The physical or emotional health or safety of the minor parent, or the minor parent's child, would be at risk if the minor parent and the minor parent's child resided in the home of the minor parent's parent, legal custodian who is related to the minor parent to the degree specified at R6-12-309(A), or legal guardian.
 - a. The minor parent shall file a written statement of abuse or neglect with the Department.
 - i. Abuse means any behavior defined at A.R.S. § 8-546(A)(2).
 - ii. Neglect means any behavior defined at A.R.S. § 8-546(A)(6).
 - b. The written statement shall include the following information regarding the allegations of abuse or neglect:
 - i. The name of the victim,
 - ii. The name of the perpetrator,
 - iii. The dates of the alleged abuse or neglect,
 - iv. The nature of the alleged abuse or neglect, and
 - v. Whether or not other children living in the home are subject to the abuse or neglect.
 - c. The FAA shall report all allegations of abuse or neglect to Child Protective Services.
 - d. The FAA shall accept the minor parent's written statement of abuse or neglect as sufficient evidence that the health or safety of the minor parent, or minor parent's child, would be at risk pending the outcome of a Child Protective Services assessment, unless evidence to the contrary exists.
 - e. If Child Protective Services determines the allegation of abuse or neglect is valid, the minor parent and the minor parent's child may receive AFDC if otherwise eligible under this Chapter.
 - f. If Child Protective Services is unable to confirm or refute the allegation of abuse or neglect, the minor parent shall remain eligible based on the minor parent's written statement.
 - g. If Child Protective Services determines the allegation of abuse or neglect is invalid:
 - i. The Department shall inform the minor parent of the determination, and allow the minor parent 60 days to return to the home of the parent, custodian, or legal guardian;
 - ii. The Department shall terminate AFDC effective the first month following expiration of the 60-day period; and

Arizona Administrative Register
Notices of Proposed Rulemaking

- iii. No overpayment shall result for assistance paid based on the minor parent's written statement of alleged abuse or neglect.
- 4. The minor parent lives with the minor parent's parent, adult specified relative as defined at R6-12-309(A), or legal guardian who either:
 - a. Is determined needy according to the income calculation procedures set forth at subsection (D) below; or
 - b. Has AFDC eligible children. If so, the Department shall combine all eligible children into one assistance unit. The parent, adult specified relative, or legal guardian shall serve as the payee.
- D. For the purpose of determining if a minor parent may receive assistance pursuant to subsection (C)(4)(a) above:
 - 1. The Department shall count all income received by the minor parent's parent, adult relative, or legal guardian, except for AFDC, SSI, and other sources of income excluded under R6-12-503, and shall apply the following disregards, if appropriate:
 - a. The first \$90 of the gross earned income of each employed parent, adult relative, or legal guardian;
 - b. An amount equal to the AFDC need standard for the number of persons living in the home who could be claimed as dependents for federal income tax purposes, including the minor parent's parent, adult relative, or legal guardian, but excluding:
 - i. The minor parent and the minor parent's child, and
 - ii. Persons who would be receiving AFDC but for a sanction due to failure to cooperate;
 - c. Actual amounts paid by the minor parent's parent, adult relative, or legal guardian to persons not living in the home who could be claimed as dependents for federal income tax purposes; and
 - d. Actual payments of spousal maintenance or child support to persons not living in the home of the minor parent's parent, adult relative, or legal guardian.
 - 2. The amount remaining is subtracted from the AFDC payment standard for an assistance unit comprised of the minor parent and the minor parent's child. If the resulting figure is at least one cent, the minor parent may receive assistance.
 - a. If the minor parent lives with a parent, the Department shall count the income available to the assistance unit when determining the benefit level.
 - b. If the minor parent lives with a non-parental specified relative or legal guardian, the Department shall not count the income available to the assistance unit when determining the benefit level.
- E. A minor parent, and the minor parent's child, who are ineligible for AFDC solely due to the provisions of this

Section, may receive the following services, if otherwise eligible:

- 1. AHCCCS,
- 2. JOBS,
- 3. Title IV-A child care, and
- 4. Any other program or service for which AFDC recipients categorically qualify.
- F. The provisions of this Section shall not apply to a parent who is under 18 years of age ("an underage parent") and who is married or has been married except, if the underage parent resides with his or her own parent, the income of the parents of the underage parent is deemed available to the underage parent pursuant to the procedures set forth in subsection (D) above.
- G. The provisions of this Section shall not apply to an applicant or recipient who is assigned to the control group as prescribed in R6-12-105, except that the income of the parents of a minor parent is deemed available to the minor parent pursuant to the procedures set forth in subsection (D) above.

R6-12-609. Unemployed Parents in a Two-parent Household; (TPEP)

- A. An assistance unit with a needy child deprived of parental support because the primary wage-earning parent ("PWEP") is unemployed shall receive AFDC through the Two-parent Employment Program (TPEP) if the assistance unit meets the eligibility criteria listed in R6-12-609, R6-12-610, R6-12-611, and all other applicable AFDC eligibility criteria.
- B. The child's mother and father shall both reside with the child.
- C. Neither parent shall have a physical or mental defect, illness, or impairment that:
 - 1. Substantially decreases or eliminates the parent's ability to support or care for the child, and
 - 2. Is expected to last for a minimum of 30 continuous days.
- D. The PWEP shall not refuse a bona fide offer of employment or training for employment without good cause, within 30 days prior to application. Good cause for refusal is limited to the following circumstances:
 - 1. The offered wage was less than minimum wage;
 - 2. The parent lacked the physical or mental ability to do the work;
 - 3. The parent's lack of public or private transportation prevented the parent from reporting to the job;
 - 4. The parent lacked suitable day care;
 - 5. The parent was personally providing care for a child under the age of two at the time of the refusal;
 - 6. The working conditions would involve undue risk to the parent's health or safety;
 - 7. The work lacked workers' compensation protection;
 - 8. The commuting time to and from work would normally exceed two hours, round trip;
 - 9. The parent could not accept the job due to illness of the parent or another family member;
 - 10. The offered position was vacant due to a labor strike or lockout;
 - 11. The parent was incarcerated or making a required court appearance;

Notices of Proposed Rulemaking

12. Inclement weather prevented the parent from accepting the job or reporting for work; or

13. The parent was laid off but is expected to return to the prior place of employment within 30 days of the date of the job offer;

E. The PWEP shall have:

1. Worked six or more quarters during the 13-calendar-quarter period ending within one year prior to the date of application for TPEP benefits; or

2. Received, or been eligible to receive, unemployment compensation at any time during the one-year period prior to the date of application for TPEP benefits.

F. An applicant or recipient who is assigned to the control group as prescribed in R6-12-105 shall not qualify for TPEP unless the PWEP is unemployed for at least 30 days prior to the month of receipt of benefits. As used in this subsection, "unemployed" shall mean:

1. A lack of work for compensation or remuneration;

2. Regular employment of less than 100 hours in a calendar month; or

3. Employment of less than 100 hours in each month of the two months prior to the current month, and anticipated to be less than 100 hours during the following month.

R6-12-610. TPEP: Education and Employment Requirements; Good Cause for Nonparticipation

A. Each TPEP parent shall participate in an education, training, or employment activity unless:

1. Such parent is exempt because the parent:

a. Is 60 years of age or older;

b. Is at least three months pregnant and expects to deliver her child in the month in which participation would be required, or within the following six months;

c. Is incapacitated for a period of more than three days and which is not expected to last for more than 30 days;

d. Resides so remotely from the work program provider that a round trip (exclusive of time for transporting children to and from child care) would exceed two hours by reasonably available public transportation, usable private conveyance, or, if other transportation is unavailable, by walking;

e. Has a bona fide offer of full-time employment to begin within 30 days;

f. Is personally providing care for a child under age one, or for an incapacitated family member; however, only one of the two parents in the assistance unit may be exempt for this reason; or

g. Is personally providing care for a child age one through five; however, only one of the two parents in the assistance unit may be exempt for this reason, and the exemption shall not cover the first 20 hours of participation; or

2. Such parent has a good cause reason for non-participation pursuant to R6-10-119.

R6-12-611. TPEP: Duration

No assistance unit may receive TPEP benefits for longer than six months in a 12-month period.

R6-12-612. Transitional Child Care

A. In accordance with the provisions of this Section, the Department, through its Child Care Administration (CCA), may provide transitional child care benefits for assistance unit members, including members excluded from the assistance grant for:

1. Non-compliance with JOBS;

2. Failure to provide an SSN; or

3. Ineligibility due to the provisions of R6-12-308, R6-12-315, or R6-12-608.

B. To qualify for transitional child care the assistance unit shall:

1. Become ineligible for AFDC because of:

a. Increased hours of employment,

b. Increased earnings from employment, or

c. Expiration of the \$30 plus one-third or \$30 earned income disregards described in R6-12-703;

2. Have received AFDC or TPEP in at least three of the six months immediately preceding the first month of AFDC ineligibility;

3. Cooperate in establishing paternity and enforcing support obligations as provided in R6-12-311;

4. Apply to CCA and provide information as requested by CCA in accordance with R6-5-5103;

5. Need such care due to employment in accordance with R6-5-5104(D)(1)(a);

6. Pay any required co-payment; and

7. Meet CCA's income eligibility requirements, Countable and excluded income criteria, and computation of income criteria as prescribed in R6-5-5104(E)(2), R6-5-5104(E)(3), and R6-5-5104(E)(4) shall apply.

C. The notification requirements prescribed in R6-5-5102 shall apply.

R6-12-613. Transitional Child Care: Eligible Children

A. Care is available for a child who was included in the assistance unit and is:

1. Under age 13;

2. Age 13 through 17 and physically or mentally incapable of caring for himself or herself, as verified by a licensed physician or psychologist;

3. Age 13 through 17 and the subject of a court order which mandates that the child receive adult supervision;

4. Receiving SSI and would otherwise be a dependent child; or

5. Receiving Title IV-E foster care.

B. A child born or entering the household after the assistance unit begins receiving child care benefits is eligible for child care if:

1. Such child is deprived of parental support pursuant to R6-12-310; and

2. Such child would otherwise have been included in the AFDC or TPEP assistance unit at the time such benefits terminated.

C. A child becomes ineligible if the child's non-disabled absent parent returns to the household.

R6-12-614. Transitional Child Care: Duration

A. Except as provided in subsection (B), the assistance unit may receive transitional child care benefits during the 24 consecutive months immediately following the last

Notices of Proposed Rulemaking

month for which the assistance unit received AFDC or TPEP.

1. Benefits may begin in any month during the 24-month period.
 2. If the assistance unit reestablishes eligibility for AFDC or TPEP during the initial 24-month period, and subsequently loses eligibility, the assistance unit:
 - a. May qualify for a new 24-month child care eligibility period if it satisfies all eligibility criteria.
 - b. May qualify for child care for any months remaining in the initial 24-month period if it does not satisfy all eligibility criteria.
- B. An assistance unit that is assigned to the control group as prescribed in R6-12-105 may receive transitional child care for no more than 12 consecutive months immediately following the last month for which the assistance unit received AFDC or TPEP.

R6-12-615. Involuntary Termination of Transitional Child Care

- A. Child care benefits shall terminate if:
1. The caretaker relative fails to cooperate in establishing paternity or enforcing support obligations as provided in R6-12-311, or
 2. The employed person terminates employment without good cause.
- B. In this Section, good cause shall exist when:
1. The employed person needs care for a child or an incapacitated household member; such care is unavailable; and the Department fails to provide such care;
 2. The employer discriminates against the employed person on the basis of race, age, sex, race, creed, color, or national origin;
 3. The work site conditions violate applicable health and safety standards;
 4. The regular work site is located more than two hours away, round trip, by reasonably available public transportation, usable private conveyance, or, if other transportation is unavailable, by walking;
 5. The employed person cannot reach the work site due to an unavoidable breakdown in transportation arrangements, and no other transportation is readily available;
 6. The employed person is incarcerated or required to make a court appearance which precludes him from reporting for work;
 7. The employed person lacks the physical or mental ability to perform the work;
 8. The employment is unavailable due to a strike or lockout;
 9. Inclement weather prevents the employed person from traveling to and from the work site;
 10. The employed person quits to accept a job with equal or better compensation; or
 11. Other similar circumstances.

R6-12-616. Guaranteed Child Care Benefits: Options

- A. The Department shall provide child care benefits to an assistance unit member who requires such care to:
1. Accept employment,
 2. Continue employment, or

3. Participate in JOBS.

- B. Guaranteed child care benefits are available to the assistance unit for the duration of time that the assistance unit member:
1. Remains employed or continues to be a JOBS participant, and
 2. Continues to provide information as requested by CCA to determine the need for services in accordance with R6-5-5103(A)(3).
- C. The notification requirements prescribed in R6-5-5102 shall apply.
- D. Except as otherwise provided in this Section, the household may choose from the following benefit options:
1. CCA shall directly pay the child care provider;
 2. The Department shall apply a child care disregard in accordance with R6-12-703(1); or
 3. A combination of direct payment and disregard when the assistance unit:
 - a. Chooses direct payments, and incurs dependent care costs which are not covered by the direct payment, and
 - b. Paid for dependent care prior to applying for child care under this Section.
- E. The total benefit shall not exceed \$613.80 per child per month.

R6-12-617. Guaranteed Child Care: Eligible Children

Guaranteed child care benefits are available for a dependent child in the assistance unit, including a child who is ineligible for AFDC due to the provisions of R6-12-308, R6-12-315, or R6-12-608, who is:

1. Under age 13,
2. Age 13 through 17 and physically or mentally incapable of caring for himself or herself, as verified by a licensed physician or psychologist,
3. Age 13 through 17 and the subject of a court order which mandates that the child receive adult supervision,
4. Not a member of the assistance unit due solely to the child's receipt of SSI, or
5. Not a member of the assistance unit due solely to the child's receipt of Title IV-E foster care funds.

ARTICLE 7. DETERMINING ELIGIBILITY AND BENEFIT AMOUNT

R6-12-701. Need Standard

- A. The AFDC need standard is 100% of the 1992 federal poverty level, adjusted for a shelter cost factor as prescribed in subsections (B) and (C), and the number of persons in the assistance unit.
- B. To determine eligibility, as described in R6-12-702, the Department shall use 100% of the need standard appropriate to the size of the assistance unit when:
1. The assistance unit pays, or is obligated to pay, all or part of the shelter costs for the place in which assistance unit members reside; shelter costs include rent, mortgage, or taxes;
 2. The assistance unit members reside in subsidized public housing;
 3. A member of the assistance unit works in exchange for rent; or
 4. A non-parent relative who is excluded from the assistance grant;

Arizona Administrative Register
Notices of Proposed Rulemaking

- a. Charges the dependent child rent; or
- b. Uses a portion of the dependent child's assistance grant to pay household expenses.
- C. For all circumstances not covered under subsection (B), including those when shelter costs are paid for three consecutive months or longer by a person who is not a member of the assistance unit, the Department shall use 63% of the need standard appropriate for the size of the assistance unit.

R6-12-702. Determining Eligibility

- A. The Department shall determine eligibility for a specific benefit month based on its best estimate of all non-financial, resource, and financial criteria that exist, and are expected to exist, for that month.
- B. An assistance unit is eligible for AFDC when the Department finds that the unit:
 - 1. Satisfies the nonfinancial eligibility criteria described in this Chapter;
 - 2. Does not exceed the resource limits described in Article 4 of this Chapter; and
 - 3. Satisfies the following income eligibility requirements:
 - a. The unit is not rendered ineligible under R6-12-505 by a lump sum income distribution;
 - b. The unit's gross income, after application of the income disregards described in subsection (C) does not equal or exceed 185% of the applicable need standard (the 185% test); and
 - c. The unit's gross income, less applicable disregards as described R6-12-703, is at least one cent less than the applicable need standard.
- C. For the 185% test, the Department shall disregard the following income of dependent children who are members of the unit:
 - 1. All earned income of full-time students, for up to six months per calendar year;
 - 2. All income derived from participation in the Job Training Partnership Act (JTPA), for up to six months per calendar year; and
 - 3. All unearned income derived from participation in JTPA.

R6-12-703. Earned Income Disregards

For the purpose of determining income eligibility as provided in R6-12-702(B)(3)(c), the Department shall disregard the following income:

- 1. Income of dependent children, as described below:
 - a. All earned income of full-time students,
 - b. All earned income of part-time students who also work part-time,
 - c. All earned income derived from JTPA participation, for up to six months per calendar year,
 - d. All unearned income derived from JTPA participation, and
 - e. All income derived from the Summer Youth Employment and Training Program (SYETP);
- 2. A \$90 work expense allowance for each employed person whose needs are included in the assistance unit's budget;

- 3. For each wage earning member of the unit, \$30, plus 1/3 of any earned income not already disregarded, but only for a period of four consecutive months; provided however, that after this disregard has been applied for four consecutive months, the Department shall not apply it again until the wage earner has not been a recipient of AFDC for 12 consecutive months; and
- 4. For each wage earning member of the unit, \$30 for each of the eight calendar months immediately following the four-month period described in subsection (3).
- 5. An amount for the care of each dependent child or incapacitated adult member of the unit who is receiving AFDC, determined as follows:
 - a. If the wage earner works full-time, the actual cost of care, up to \$175, or, if the child requiring care is less than age 2, up to \$200; or
 - b. If the wage earner works part-time, the actual cost of care, up to \$88, or, if the child requiring care is less than age 2, up to \$100;
- 6. For an assistance unit with an adult who is ineligible pursuant to R6-12-315, an amount equal to the difference between the benefit amount with the needs of the ineligible adult included in the computation and the benefit amount with the needs of the ineligible adult excluded from the computation.
- 7. For an assistance unit with a child who is excluded from the assistance unit pursuant to R6-12-308, an amount equal to the difference between the benefit amount with the needs of the ineligible child included in the computation and the benefit amount with the needs of the ineligible child excluded from the computation.

R6-12-704. Disqualification from Earnings Disregards; Good Cause

- A. The Department shall not apply the earned income disregards set forth at R6-12-703(2) through (5) to the earned income of an assistance unit member for a particular benefit month when the assistance unit member, without good cause:
 - 1. Terminates employment or reduces the hours of employment within the 30 days preceding the benefit month;
 - 2. Refuses to accept a bona fide offer of employment offered through JOBS, or by any other employer, within the 30 days preceding the benefit month; or
 - 3. Fails to make a timely report of income pursuant to R6-12-901.
- B. Good cause.
 - 1. For circumstances applicable to subsection (A)(1) or (2), good cause is limited to:
 - a. The circumstances described at R6-10-119(B); or
 - b. The circumstances described at R6-10-120(A) and (C), if the person is a TPEP parent.
 - 2. For circumstances applicable to subsection (A)(3), good cause is limited to the following:
 - a. The assistance unit reports and verifies that sickness, accident, or other family hardship prevented the unit from reporting timely; or

Arizona Administrative Register
Notices of Proposed Rulemaking

- b. The mailing date of the change report is timely as prescribed in R6-12-901.

R6-12-705. Determining Benefit Amount; Prorating

- A. The Department shall determine the amount of the assistance grant by subtracting all non-exempt income, following application of all appropriate income disregards, from 36% of the need standard for the number of persons in the assistance unit, and rounding down the resulting figure to the next whole dollar.
- B. If the benefit amount is less than \$10.00, the Department shall not pay benefits; the assistance unit remains eligible for AFDC for all other purposes.
- C. The Department shall pay benefits for the month of application only from the filing date of the application. The benefit amount is prorated based on the number of days remaining in the month after the date of application.

R6-12-706. Notice of Eligibility Determination

- A. If the Department finds that the unit satisfies all eligibility criteria as specified in this Chapter, the Department shall approve the assistance grant and send notice of approval to the applicant.
- B. If the Department finds that the unit does not satisfy one or more of the eligibility criteria specified in this Chapter, the Department shall send a denial notice to the applicant's last known address. The notice shall describe the action taken, the specific authority for the action, and the individual's right to request a hearing to challenge the action.

ARTICLE 8. PAYMENTS

R6-12-801. Benefit Payments

- A. The Department shall pay benefits to an eligible assistance unit only during a month for which the unit is eligible for a payment.
- B. The Department shall make benefit payments in the form of a state warrant, payable directly to the eligible recipient or to a protective payee, emergency payee, legal guardian, or vendor.
- C. The warrant shall bear a statement which shall require the payee to confirm continuing eligibility for benefits when endorsing the warrant for payment.

R6-12-802. Mailing of Payments

- A. The Department shall mail the payment warrant to the assistance unit's residential address of record, and not to a separate mailing address, unless the assistance unit so requests and provides a valid reason for doing so. Valid reasons include, but are not limited to:
1. A rural address,
 2. Lack of a mail receptacle, or
 3. Residence in a housing area with a high rate of mail theft.
- B. The Department may mail the warrant to an address outside the state of Arizona for the lesser of:
1. One benefit month, or
 2. Until the assistance unit meets the eligibility requirements for assistance in another state.
- C. The Department shall not mail a warrant outside the United States.

R6-12-803. Supplemental Payments

- A. The Department shall correct underpayments by issuing the assistance unit a supplemental payment, regardless

of whether the individual who was underpaid is eligible on the date the supplemental payment is issued.

- B. The Department shall not count such supplemental payments as a resource or as income.

R6-12-804. Returned Payments

When the U.S. Post Office returns a warrant as undeliverable, the Department shall compare the address to the unit's address of record.

1. If the warrant was incorrectly addressed, the Department shall immediately correct the address and remail the warrant, or give it to the assistance unit.
2. If the warrant was correctly addressed, the Department shall send the unit a notice to contact the Department within ten calendar days.
 - a. If the unit does not respond to the ten-day notice, the Department shall terminate benefits.
 - b. If the unit does not respond to the notice within ten days but does respond by the last day of the benefit month, or by the last day of the following month if the ten-day period expires in the following benefit month, the Department shall make the warrant available to the unit.
 - c. The Department shall cancel any warrant that is not claimed or replaced within the time period specified in subsection (2)(b) above.

R6-12-805. Non-receipt of Payments; Replacement

- A. If a recipient reports nonreceipt of a benefit payment, the Department shall replace the payment within three workdays from the date of the report, when all the following conditions are met:
1. Four postal workdays have elapsed since the mailing date of the warrant;
 2. The recipient has signed an affidavit attesting to nonreceipt, loss, or theft of the warrant and avowing:
 - a. That neither the recipient, nor someone acting on behalf of the recipient, has received or cashed the warrant;
 - b. That the recipient understands the consequences and penalties for fraud;
 - c. That the recipient understands that the unit is liable for an overpayment if the unit cashes both the original and a replacement warrant; and
 - d. That the recipient will return the original warrant to the Department if the unit later finds or receives it; and
 3. The Department requests a stop payment on the original warrant.
- B. If the Department replaces the original warrant, and it is nonetheless cashed, the recipient shall sign a statement avowing that the recipient has reviewed a copy of the endorsement on the original warrant and believes the endorsement was forged.
1. If the recipient refuses to sign the statement and admits cashing the original warrant but has not cashed the replacement warrant, the recipient shall return the replacement warrant to the Department for cancellation.

Arizona Administrative Register
Notices of Proposed Rulemaking

2. If the recipient fails or refuses to sign the statement, or refuses to return the replacement warrant, the Department shall refer the matter to the Department's Office of Special Investigations.

R6-12-806. Protective Payee

- A. The Department shall pay benefits to a protective payee who is not a member of the assistance unit:
1. On behalf of all unit members when a state or tribal protective service agency notifies FAA that the recipient is mismanaging or misappropriating benefits; or
 2. On behalf of all unit members other than the designated recipient when:
 - a. The recipient fails, without good cause, to cooperate in obtaining child support as required by R6-12-311(C); or
 - b. The recipient, without good cause, fails to participate in JOBS, terminates employment, refuses a bona fide offer of employment, or reduces earnings.
- B. The Department, with the assistance of the recipient, shall select a protective payee, who may be any adult other than the following:
1. The Department's director,
 2. A Department eligibility interviewer,
 3. An employee in the Department's Office of Special Investigations,
 4. A Department employee who handles fiscal processes related to the AFDC program, and
 5. A vendor of goods or services who deals directly with the recipient.
- C. Except in cases of mismanagement, the Department shall continue paying benefits to the recipient if the Department cannot locate a suitable payee, after exhausting reasonable efforts to do so.
- D. Protective payments shall terminate:
1. In cases of mismanagement, upon a determination by the protective services agency that such payments are no longer required to avoid further mismanagement; and
 2. In all other cases, when the recipient cooperates with the requirement that caused the onset of protective payments.

R6-12-807. Emergency Payee

- A. The Department may pay benefits to a person acting as representative for, or on behalf of a caretaker relative who was receiving benefits for a dependent child, when the relative:
1. Dies,
 2. Abandons or deserts the child,
 3. Is incarcerated, or
 4. Is committed to a hospital for the mentally ill.
- B. The Department can make payments to the emergency payee for 90 days, or until a case plan is developed for the dependent child, whichever first occurs.

ARTICLE 9. CHANGES; ADVERSE ACTION

R6-12-901. Reporting Changes

- A. As a condition of eligibility, the assistance unit shall advise the Department of all changes in income, resources, or other circumstances which may affect

eligibility or benefit amount, within ten days from the date the change becomes known.

- B. A change report is considered timely if the mailing date is the tenth day from the date the change becomes known.

R6-12-902. Withdrawing a Member from the Assistance Unit

- A. A caretaker relative may request that an assistance unit member be removed from the unit by filing, with the Department, a written request which shall identify the member to be withdrawn, the reason for the request, and the date the request is effective.
- B. The Department shall acknowledge receipt of a withdrawal request and advise the unit of the effect of the request, as specified below.
- C. If the request does not identify a specific member, the Department shall apply the request to the entire assistance unit and terminate benefits.
- D. If the person being withdrawn is a mandatory member of the assistance unit, the Department shall deem the entire assistance unit ineligible and terminate benefits.
- E. If the person being withdrawn is not a mandatory member of the assistance unit, the Department shall redetermine eligibility and benefits in accordance with the provisions of this Chapter.
- F. If the request does not specify an effective date, the Department shall take appropriate action effective the first month after the month in which the Department receives the request.
- G. Department action taken in response to a request for withdrawal of a member does not require a notice of adverse action but does require adequate notice and is appealable.

R6-12-903. Determining Benefits when Adding or Removing a Member

- A. When the Department receives a request to add a member to the assistance unit, or is required to add a mandatory member, the assistance unit shall file an application.
- B. Upon receipt of an application, the Department shall redetermine eligibility for the unit, including the new member.
1. If the new member renders the unit ineligible, and is not a mandatory member, the Department shall advise the unit of the consequences and permit the unit to withdraw its request to include the new member.
 2. If the new member renders the unit ineligible, and is a mandatory member, the unit is ineligible.
 3. If the unit remains eligible, the Department shall add the new member, effective the month the application is filed, and include the new member's income in the budget.
- C. In the month a new member is added, the assistance unit may be eligible for an additional benefit amount or liable for an overpayment. To determine the unit's entitlement or liability, the Department shall:
1. Recalculate the unit's benefit amount with the new member, as provided in R6-12-704;
 2. Subtract the current benefit amount (without the new member) from the new benefit amount; and
 3. Take the resulting amount;

Arizona Administrative Register
Notices of Proposed Rulemaking

- a. If above zero, prorate it as provided in R6-12-704(C), to determine the benefit amount due the unit;
- b. If zero, pay no benefit; or
- c. If below zero:
 - i. Write an overpayment for the month of application, if the member is mandatory; or
 - ii. If the member is not mandatory, allow the unit to add the member the following month, so as to avoid an overpayment for the current month.

R6-12-904. Benefit Reduction or Termination

- A. Any change in any factor which the Department considers when determining eligibility or benefit amount may result in reduction or termination of benefits, consistent with the provisions of this Chapter.
- B. The Department shall terminate benefits if the assistance unit fails to complete the six-month review required by R6-12-210.

R6-12-905. Ineligibility Date for an Assistance Unit

An assistance unit shall become ineligible:

1. In the same month in which a change occurs when the unit is rendered ineligible for:
 - a. Acquisition of resources in excess of the resource limitations specified in Article 4,
 - b. Violation of the labor strike restrictions specified in R6-12-604,
 - c. Receipt of lump sum income as set forth in R6-12-505,
 - d. Receipt of income in excess of the 185% income maximum as specified in R6-12-702,
or
 - e. The addition of a mandatory assistance unit member.
2. In the first month benefits can be terminated following timely notice of adverse action for failure to comply with a six-month eligibility review.
3. In the first month in which the assistance unit is not eligible on the date AFDC benefits are paid when the unit is rendered ineligible for reasons not specified in subsections (1) or (2) above.

R6-12-906. Ineligibility Date for an Individual Member of an Assistance Unit

An individual member of an assistance unit shall become ineligible:

1. In the first month the member can be removed after timely notice of adverse action, but no later than the second month following noncompliance with the following requirements:
 - a. Participation in JOBS pursuant to R6-12-313,
or
 - b. Cooperation with child support enforcement efforts pursuant to R6-12-311;
2. In the first month in which the member is not eligible on the date AFDC benefits are paid when the member is rendered ineligible for reasons not specified in subsection (1) above.

R6-12-907. Notice of Adverse Action

- A. When the Department plans to take adverse action against an assistance unit, the Department shall provide the unit with adequate and timely notice, except as provided in subsection (C) below.
- B. The Department shall mail such notice, first class, postage prepaid, to the last known residential address for the unit, or other designated address for the unit as allowed pursuant to R6-12-802(A).
- C. In addition to the information listed in R6-12-101(1), the notice shall contain the following information:
 1. The month the adverse action is effective;
 2. The names of the eligible and ineligible persons in the unit, if changed by the intended action; and
 3. Any effect the intended action may have on the unit members' AHCCCS medical eligibility.
- D. The Department may dispense with timely notice but shall provide adequate notice of adverse action when:
 1. A recipient or payee dies and no emergency payee is available;
 2. A recipient makes a written request for termination;
 3. A recipient is ineligible due to incarceration, hospitalization, or institutionalization in a skilled nursing care or intermediate care facility;
 4. The recipient's address is unknown;
 5. The Department has verified that the recipient has been accepted for assistance in another state;
 6. An AFDC child is legally removed from home, or voluntarily placed in foster care by the child's parent or legal guardian; or
 7. The recipient furnishes information which results in reduction or termination of assistance and indicates in writing an understanding of the consequences that may result from furnishing such information.

R6-12-908. Referral for Investigation

FAA shall refer a case to OSI for investigation when:

1. An applicant or recipient refuses to cooperate as required pursuant to R6-12-302;
2. An applicant or recipient refuses to sign a statement attesting to forgery of a signature on a cashed warrant;
3. Any act is committed or may have been committed for the purpose of deception, misrepresentation, or concealment of information relevant to a determination of eligibility or the form or amount of a benefit payment; or
4. The FAA suspects the commission of theft or fraud related to AFDC, or any conduct listed in A.R.S. § 46-215.

ARTICLE 10. APPEALS

R6-12-1001. Entitlement to a Hearing

- A. An applicant for or recipient of AFDC is entitled to a hearing to contest the following Department actions:
 1. Denial of the right to apply for assistance;
 2. Complete or partial denial of an application for assistance or for supplemental benefits;
 3. Failure to make an eligibility determination on an application within 45 days of the application date;

Notices of Proposed Rulemaking

4. Suspension, termination, reduction, or withholding of benefits except as provided in subsection (B).
 5. The existence or amount of an overpayment attributed to the unit, or the terms of a plan to repay the overpayment;
 6. Changing the manner or form of payment including naming a protective payee to receive the benefit payment; or
 7. Denial or termination of child care benefits.
- B. Applicants and recipients are not entitled to a hearing to challenge benefit adjustments made automatically as a result of changes in federal or state law, unless the Department has incorrectly applied such law to the individual seeking the hearing.

R6-12-1002. Request for Hearing; Form; Time Limits

- A. A person who wishes to appeal an adverse action shall file a written request for a fair hearing with a local FAA office, within 20 days of the adverse action notice date.
- B. A request for a hearing is deemed filed:
1. On the date it is mailed, if transmittal via the United States Postal Service or its successor. The mailing date is as follows:
 - a. As shown by the postmark;
 - b. As shown by the postage meter mark of the envelope in which it is received, if there is no postmark; or
 - c. The date entered on the document as the date of its completion, if there is no postmark, or no postage meter mark, or if the mark is illegible.
 2. On the date actually received by the Department, if not sent through the mail as provided in subsection (B)(1).
- C. The submission of any document shall be considered timely if the appellant proves that delay in submission was due to Department error or misinformation, or to delay caused by the U.S. Postal Service or its successor.
- D. Any document mailed by the Department shall be considered as having been given to the addressee on the date it is mailed to his last known address. The date mailed shall be presumed to be the date shown on the document, unless otherwise indicated by the facts. Computation of time shall be made in accordance with Rule 6(a) of the Rules of Civil Procedure, volume 16 of the Arizona Revised Statutes as published by the West Publishing Company.
- E. The Office of Appeals shall deny any request that was not timely filed.

R6-12-1003. Hearing Requests; Preparation and Processing

- A. The Department shall advise the appellant of any free legal services available to assist the appellant in completing the request for appeal. If the appellant so requests, the Department shall assist the appellant in preparing the request.
- B. Within two working days of receiving a request for appeal, the local FAA office shall notify the Office of Appeals of the hearing request.
- C. Within ten days of receiving a request for appeal, the local FAA office shall prepare, and forward to the Office of Appeals, a prehearing summary which shall include:

1. The appellant's name (and case name, if different);
 2. The appellant's SSN (or case number, if different);
 3. The local office responsible for the appellant's case;
 4. A brief summary of the facts surrounding, and the grounds supporting, the adverse action;
 5. Citations to the specific provisions of the Department's AFDC manual which support the Department's action; and
 6. The decision notice and any other documents relating to the appeal.
- D. The local office shall mail the appellant a copy of the summary.
- E. Upon receipt of a hearing request, the Office of Appeals shall schedule the hearing.

R6-12-1004. Stay of Adverse Action Pending Appeal; Exceptions

- A. If an appellant files a request for appeal within ten calendar days of the adverse action notice date, the Department shall stay imposition of the adverse action and continue benefits at the current level unless:
1. The appellant specifically waives continuation of current benefits.
 2. The appeal results from a change in federal or state law which mandates an automatic grant adjustment for all classes of recipients, and does not involve a misapplication of the law.
 3. The appellant is requesting continuation of TPEP benefits for longer than six months within a 12-month period, or
 4. The appellant is requesting continuation of benefits for longer than 24 months within any consecutive 60-month period.
- B. The adverse action shall be stayed until receipt of an official written decision in favor of the Department, except in the following circumstances:
1. At the hearing and on the record, the hearing officer finds that: the sole issue involves application of law, and the Department properly applied the law and computed the benefits due the appellant;
 2. A change in eligibility or benefit amount occurs for reasons other than those being appealed, and the assistance unit receives and fails to timely appeal a notice of adverse action concerning such change;
 3. Federal or state law mandates an automatic grant adjustment for classes of recipients;
 4. The appellant withdraws the request for hearing; or
 5. The appellant fails to appear for a scheduled hearing without prior notice to the Office of Appeals, and the hearing officer does not rule in favor of the appellant based upon the record.
- C. Upon receipt of decision in favor of the Department, the Department shall write an overpayment for the amount of any benefits the unit received in excess of the correct benefit amount, while the stay was in effect.
- D. If the appellant files a request for appeal more than ten days after, but within 20 days of, the adverse action notice date, the Department may take the adverse action while the appeal is pending. If the Office of Appeals then rules in favor of the appellant, the Department shall

Arizona Administrative Register
Notices of Proposed Rulemaking

issue a supplemental payment to the appellant to cure any underpayment.

R6-12-1005. Hearing Officer; Qualifications; Duties; Subpoenas

A. An impartial hearing officer in the Department's Office of Appeals shall conduct all hearings.

B. The hearing officer shall:

1. Administer oaths and affirmations;
2. Regulate and conduct the hearing in an orderly and dignified manner, which avoids undue repetition and affords due process to all participants;
3. Ensure that all relevant issues are considered;
4. Exclude irrelevant evidence from the record;
5. Request, receive, and incorporate into the record all relevant evidence;
6. Order, when relevant and useful to a resolution of the issue in a case, an independent medical assessment or professional evaluation from a source mutually satisfactory to the appellant and the Department;
7. Upon compliance with the requirements of subsection (C), subpoena witnesses or documents needed for the hearing;
8. Open, conduct, and close the hearing;
9. Rule on the admissibility of evidence at a hearing;
10. Direct the order of proof at the hearing;
11. For good cause shown, and upon the request of an interested party, or on the hearing officer's own motion, take such action as the hearing officer deems necessary to the proper disposition of an appeal, including, without limitation, the following:
 - a. Recuse or disqualify himself from the case;
 - b. Continue the hearing to a future time or date;
 - c. Prior to entry of a final decision, reopen the hearing to take additional evidence;
 - d. Deny or dismiss the appeal or request for hearing in accordance with the provisions of this Article;
 - e. Exclude non-party witnesses from the hearing room; and
12. Issue a written decision deciding the appeal.

C. Subpoenas.

1. A party who wishes to subpoena a witness, document, or other physical evidence shall make a written request which shall describe:
 - a. The case name and number;
 - b. The party requesting the subpoena;
 - c. The name and address of any person to be subpoenaed, with a detailed description of the subject matter of the witness's anticipated testimony; and
 - d. A detailed description of any documents or physical evidence to be subpoenaed, and the name and address of the custodian of the document or physical evidence.
2. The party requesting the subpoena shall make the request at least five work days before the scheduled hearing date.
3. The hearing officer shall deny the request if the witness's proposed testimony is not relevant to the issues in the hearing.

4. The Office of Appeals shall prepare all subpoenas and serve them by certified mail, return receipt requested.

R6-12-1006. Hearings; Location; Notice; Time

A. The Office of Appeals shall schedule the hearing at the office location most convenient to the interested parties.

B. The Office of Appeals shall schedule the hearing at least ten days, and no more than 45 days, from the date the appellant files the request for hearing with the local office.

C. The Office of Appeals shall issue all interested parties a notice of the first hearing at least ten calendar days before the hearing. The appellant may waive the ten-day notice period or request a continuance.

D. The notice of hearing shall be in writing and shall include the following information:

1. The date, time, and place of the hearing;
2. The name of the hearing officer;
3. The issues involved in the case;
4. A statement listing the appellant's rights, as follows:
 - a. To appear in person or by telephone;
 - b. To have a representative present the case;
 - c. To copy, at a reasonable time prior to the hearing, or during the hearing, any documents in the appellant's case file which are relevant to the issues being heard, and all documents the Department may use at the hearing;
 - d. To obtain assistance from the local FAA office to prepare for the hearing; and
 - e. To obtain, from the local FAA office, information on available community legal resources who may be able to represent the appellant.

R6-12-1007. Rescheduling the Hearing

A. An appellant may request a continuance of the hearing, by calling or writing the Office of Appeals and providing good cause as to why the hearing should be postponed.

B. The Office of Appeals must receive the request at least five work days before the scheduled hearing date and may deny an untimely request or a request which fails to establish good cause.

C. When a hearing is rescheduled, the Office of Appeals shall provide appropriate notice to all interested parties.

R6-12-1008. Hearings Concerning Disability Determinations

A. A person who appeals an adverse determination of disability may ask to receive another medical examination before the hearing.

B. Upon receipt of such a request, the FAA local office shall schedule the examination with a licensed physician, psychologist, or psychiatrist. If the appellant does not designate a particular examiner, the Department may choose.

C. At any time prior to issuing a decision, the hearing officer may ask the District Medical Consultant to schedule the appellant for a special diagnostic evaluation by a specialist.

D. Upon receipt of a report on the special evaluation, the hearing officer may, but is not required to have the District Medical Consultant evaluate the report and

Arizona Administrative Register
Notices of Proposed Rulemaking

render an opinion on the appellant's disability and employability.

E. The hearing officer may consider, but is not bound by the Medical Consultant's opinion, which shall qualify as an expert medical opinion.

F. In deciding the appeal of a disability determination, the hearing officer shall consider:

1. All medical, social, and vocational reports which are relevant to the issue of disability; and
2. The appellant's testimony as to the appellant's physical and medical condition or symptomatology.

R6-12-1009. Group Hearings

The Department may conduct a single group hearing on individual requests for a hearing, under the following circumstances:

1. The sole issue in each case is interpretation of the same question of federal or state law or policy;
2. Each appellant may present or have an authorized representative present his or her own case;
3. Any appellant may withdraw from the group hearing and obtain an individual hearing.

R6-12-1010. Withdrawal of Appeal; Default

A. An appellant may voluntarily withdraw an appeal at any time prior to the scheduled hearing, by signing a written statement expressing the intent to withdraw. The Department shall make a withdrawal form available for this purpose.

B. An appellant may involuntarily withdraw an appeal by failing to appear at the scheduled hearing.

1. Except as provided in subsection (C), the hearing officer may enter a default decision dismissing the appeal if the appellant fails to appear at a scheduled hearing.
2. When the appellee fails to appear at the hearing, the hearing officer may rule summarily on the available record or may adjourn the hearing to a later date and time.
3. If, within ten days of the scheduled hearing date at which the appellant failed to appear, the appellant files a written request to reopen the proceedings and establishes good cause for non-appearance, the hearing officer shall reopen the proceedings and reschedule the hearing with appropriate notice to all interested parties.
4. Good cause, for the purpose of reopening a hearing, is established if the failure to appear at the hearing and the failure to timely notify the hearing officer were beyond the reasonable control of the nonappearing party.

C. The hearing officer shall not enter a default if the appellant gives notice, prior to the scheduled time of hearing, that the appellant is unable to attend the hearing, due to good cause, and still wishes the hearing or to have the matter considered on the available record.

R6-12-1011. Hearing Proceedings

A. Standard of review and burden of proof.

1. The hearing is a de novo proceeding. To prevail on appeal, the appellant must prove eligibility or entitlement to benefits by a preponderance of the evidence.

2. The Department has the initial burden of going forward with presentation of the evidence.

B. Appearance by parties and representatives.

1. An appellant may appear by telephone or submit a written statement under oath, instead of appearing personally at the hearing. The appellant shall file the personal statement with all other witness statements and documents the appellant wishes to offer in evidence, with the Office of Appeals before the time of the hearing.
2. The FAA worker, FAA supervisor, or FAA hearing specialist, or another appropriate person may testify for the Department at the hearing.

C. Evidence and argument.

1. The appellant may testify, present evidence, cross-examine witnesses, and present arguments.
2. The hearing officer shall exclude from the record any irrelevant evidence.

D. The record.

1. The hearing officer shall keep a full and complete record of all proceedings in connection with an appeal. The appellant or the appellant's designated representative may inspect the record on appeal at any reasonable time.
2. The Department need not transcribe the record unless it is required for further proceedings.
3. If the record is transcribed, the appellant is entitled to receive a copy at no charge.

R6-12-1012. Hearing Decision; Time Limits; Form; Contents; Finality

A. No later than 90 days after the date the appellant files a request for appeal, the hearing officer shall render a written decision based solely on the evidence and testimony produced at the hearing, and applicable federal and state law. The time limit is extended for any delay caused by the appellant.

B. The decision shall include:

1. Findings of facts pertinent to the issue;
2. Citations to the law and authority applicable to the case;
3. A statement of conclusions derived from the controlling facts and law, and the reasons for the conclusions; and
4. A statement of further appeal rights available to the appellant and the time period for exercising those rights.

C. The Office of Appeals shall mail or deliver a copy of the decision to each interested party or such party's attorney of record.

D. The hearing officer's decision is the final decision of the Department, unless a party files a timely request for reconsideration or further appeal.

R6-12-1013. Implementation of the Decision

A. If the decision requires a local office to take further action, such action shall occur within ten calendar days of the date of the decision.

B. All decisions in favor of the appellant apply retroactively to the date of the action being appealed, or the date stated by the hearing officer in the written decision.

C. If the decision affirms the Department's decision to take adverse action, the Department shall treat any resulting

Arizona Administrative Register
Notices of Proposed Rulemaking

overpayment as a client-caused, non-fraud overpayment.

R6-12-1014. Further Appeal and Review of Hearing Decisions; Stay of Adverse Action

A. A party may appeal an adverse hearing decision to the Department's Appeals Board.

- 1.** The appellant shall file a written petition for review with the Office of Appeals within 15 calendar days of the mailing date of the hearing officer's decision.
- 2.** The petition shall state the grounds for review and be signed and dated.
- 3.** The petition is deemed filed:
 - a.** On the date it is mailed, if transmittal via the United States Postal Service or its successor. The mailing date is as follows:
 - i.** As shown by the postmark;
 - ii.** As shown by the postage meter mark of the envelope in which it is received, if there is no postmark; or
 - iii.** The date entered on the document as the date of its completion, if there is no postmark, or no postage meter mark, or if the mark is illegible.
 - b.** On the date it is hand-delivered to the Office of Appeals.

B. When a party timely appeals a hearing decision, the Department shall stay implementation of the adverse action until the Appeals Board issues a decision and treat any resulting overpayment as a client-caused, non-fraud overpayment.

R6-12-1015. Appeals Board Proceedings and Decision

- A.** Upon receipt of a request for further review, the Office of Appeals shall transcribe the record of hearing and transfer the record to the Appeals Board.
- B.** The Appeals Board may decide the appeal based solely on the record of proceedings before the hearing officer or, if the Board is unable to decide the appeal on the available record, the Board may remand the case for rehearing, specifying the nature of any additional evidence required or any further issues for consideration, or conduct a hearing at the Appeals Board to take additional evidence.
- C.** The Appeals Board shall issue, and mail to all parties, a final written decision affirming, reversing, or modifying the hearing decision and specifying the parties' right to seek further review.

ARTICLE 11. OVERPAYMENTS

R6-12-1101. Overpayments: Date of Discovery; Collection; Exceptions

- A.** Except as provided in subsection (E), the Department shall pursue collection of all overpayments.
- B.** The Department discovers an overpayment on the date the Department determines that an overpayment exists.
- C.** The Department shall write an overpayment report within 90 days of the discovery date.
- D.** If the FAA office suspects that an overpayment was caused by fraudulent activity, it shall refer the overpayment report to the Department's Office of Special Investigations for potential prosecution.
- E.** The Department shall not attempt to recover an overpayment from a person who is not a current recipient when

the overpayment was not the result of an intentional program violation or fraud, and:

- 1.** The total overpayment is less than \$35; or
- 2.** The Department has exhausted reasonable efforts to collect an overpayment of \$35 or more and has determined that it is no longer cost-effective to pursue the claim.

R6-12-1102. Overpayments: Persons Liable

The Department shall pursue collection of an overpayment from:

- 1.** The assistance unit which was overpaid;
- 2.** Any assistance unit of which a member of the overpaid unit has subsequently become a member; or
- 3.** Any individual member of the overpaid assistance unit, even if that member is not currently receiving benefits.

R6-12-1103. Methods of Collection and Recoupment

- A.** When an overpaid assistance unit is currently receiving benefits, the Department shall permit the unit to choose one of the following repayment methods:
 - 1.** Offset against any underpayment due the unit;
 - 2.** Cash payments;
 - 3.** Reduction in current benefits, in an amount not to exceed 10% of the unit's monthly payment, unless the unit desires a larger reduction;
 - 4.** A combination of the above methods.
- B.** If the repayment reduces the unit's benefits to zero, the unit shall remain eligible for AFDC for all other purposes.
- C.** If the assistance unit is not receiving benefits, the Department shall pursue recovery by appropriate action under state law.

ARTICLE 12. INTENTIONAL PROGRAM VIOLATION

R6-12-1201. Intentional Program Violations (IPV): Defined

- A.** An intentional program violation (IPV) is an action by an individual for the purpose of establishing or maintaining the family's eligibility for AFDC or for increasing or preventing a reduction in the amount of the grant, which is intentionally:
 - 1.** A false or misleading statement or misrepresentation, concealment, or withholding of facts; or
 - 2.** Any act intended to mislead, misrepresent, conceal, or withhold facts or propound a falsity.
- B.** A person is considered to have committed an IPV if:
 - 1.** The person signs a waiver of an administrative disqualification hearing;
 - 2.** The person is found to have committed an IPV by an administrative disqualification hearing; or
 - 3.** The person is convicted of IPV or fraud in a court of law.

R6-12-1202. IPV Disqualification Proceedings; Hearing Waiver

- A.** The Department shall initiate an administrative disqualification proceeding, or a referral for prosecution, upon receipt of sufficient documentary evidence substantiating that an assistance unit member has committed an IPV.
- B.** When the Department initiates a disqualification proceeding, the Department shall mail the assistance unit

Notices of Proposed Rulemaking

member suspected of an IPV written notice of the right to waive the disqualification hearing.

C. The waiver notice shall include the following information:

1. The charges against the suspected violator and a description of the evidence supporting the charges;
2. An explanation of the disqualification sanctions the Department shall impose on the suspected violator;
3. A warning that the administrative proceeding does not preclude other civil or criminal court action;
4. The date by which the suspected violator must return the signed waiver notice to the Department;
5. Signature lines for the suspected violator and the suspected violator's current head of household;
6. A statement that the head of household must also sign the waiver if the suspected violator is not the head of household;
7. A statement of the suspected violator's right to remain silent;
8. A warning that any written or oral statements by the suspected violator may be used adversely;
9. A warning that any waiver of the hearing shall result in disqualification and a reduction in benefits for other household members for the period of disqualification;
10. Statements providing the suspected violator an opportunity to admit to the facts supporting disqualification or waive the hearing without admitting to the facts;
11. The name, address, and telephone number of a Department representative whom the suspected violator may contact for further information;
12. A list of persons or organizations which may provide the suspected violator with free legal advice regarding the IPV; and
13. A warning that the Department shall hold any remaining household members responsible for repayment of any overpayment arising from the IPV.

D. A signed waiver notice shall have the same effect as an administrative adjudication that an IPV occurred and shall subject the violator to the same sanctions.

R6-12-1203. Disqualification Proceedings; Hearing

A. If the suspected violator does not sign and return the waiver notice by the return date set in the waiver notice, the Office of Appeals shall send the suspected violator a notice of hearing. The Office of Appeals shall send the notice by certified mail, return receipt requested, no later than 30 days before the scheduled hearing date.

B. The notice of hearing shall include the following information:

1. The date, time, and place of the hearing;
2. The charges against the suspected violator;
3. A summary of the evidence supporting the charges;
4. The location where the suspected violator may examine the supporting evidence before the hearing;
5. A warning that the hearing officer shall render a decision based solely on the evidence which the Department offers if the suspected violator does not appear for the hearing;

6. An explanation of the suspected violator's right to show good cause for a failure to appear at the hearing and the procedure for doing so;

7. An explanation of the sanctions the Department shall impose if the hearing officer finds that the suspected violator committed an IPV; and

8. A listing of the suspected violator's procedural rights.

9. A warning that the pending administrative hearing does not preclude other civil or criminal court action;

10. A statement advising of any free legal advice which may be available;

11. A statement explaining how to obtain a copy of the Department's published hearing procedures; and

12. A statement that the suspected violator may have the hearing postponed by contacting the hearing officer at least ten days before the hearing date and asking for a postponement.

C. The hearing officer shall postpone a hearing for up to 30 days if the suspected violator files a written request for postponement with the hearing official no later than ten days before the scheduled hearing date. Any such postponement days shall increase the time by which the hearing officer shall issue a decision, as provided in subsection (G) below.

D. At the start of the disqualification hearing, the hearing officer shall advise the suspected violator or representative of the right to remain silent during the hearing and the consequences of exercising that right.

E. The hearing officer shall conduct the disqualification hearing pursuant to the procedures set forth in R6-12-1011. However, so long as the Department sent an advance notice of hearing as provided in subsections (A) and (B) above, the hearing officer shall conduct the disqualification hearing even if the suspected violator or representative cannot be located or fails to appear at the hearing without good cause.

F. The Department shall prove by clear and convincing evidence that the household member committed an IPV.

G. No later than 90 days from the date of the notice of hearing, as increased by any postponement days, the hearing officer shall send to the suspected violator a written decision which shall conform to the requirements of R6-12-1012 and shall include the information described at R6-12-1204(C).

R6-12-1204. Disqualification Sanctions; Notice

A. A person found to have committed an IPV is disqualified from program participation for six months for the first violation; 12 months for the second violation; and permanently for the third violation.

B. The Department shall not include the needs of the disqualified person in the assistance unit but shall count the income and resources of the disqualified person available to the unit.

C. Upon a determination of IPV, the Department shall notify the violator of the pending disqualification. The notice shall:

1. Inform the violator of the decision and the reasons for the decision;

Notices of Proposed Rulemaking

2. Provide the beginning date and duration of the disqualification, including an explanation of any deferment of disqualification; and
3. Explain the consequences of the disqualification on household members other than the violator.

R6-12-1205. Disqualification Hearings; Appeal

- A. A person found to have committed an IPV through an administrative disqualification hearing may appeal the decision to the Department's Appeals Board as prescribed in R6-12-1014.
- B. Upon a determination of IPV through a signed waiver of a disqualification hearing, the violator has no right to further administrative appeal.

R6-12-1206. Honoring Out-of-state IPV Determinations and Sanctions

The Department shall honor sanctions imposed against an applicant or recipient by the Title IV-A agency of another state and shall consider prior violations committed in another state when determining the appropriate sanction.

ARTICLE 13. JOBSTART

R6-12-1301. Scope

The Department shall operate the JOBSTART demonstration project in geographic areas served by the Eloy, Casa Grande, and Coolidge FAA local offices under authority granted pursuant to Laws 1994, Ch. 301, §§ 2 to 17 and 19.

R6-12-1302. Definitions

The following definitions apply to this Article unless the context requires otherwise:

1. "Adjusted gross monthly wages" means the gross monthly wages a person receives from a JOBSTART subsidized placement after deductions for federal and state income taxes, and Federal Insurance Contributions Act (FICA) contributions.
2. "Subsidized placement" means a job with a public or private sector employer for which the Department reimburses the employer for the wages paid to the participant with the cash value of the participant's AFDC and Food Stamp Program benefits.
3. "Wage pool" means a pool of diverted AFDC and Food Stamp Program benefits which are used to reimburse an employer for the monthly wages paid to a participant for up to 40 hours per week at the federal minimum wage.

R6-12-1303. Referral for Participation

FAA shall refer AFDC recipients who reside within the JOBSTART project area to JOBS for participation, unless the recipient is exempt from JOBS pursuant to R6-12-313(B).

R6-12-1304. Diversion of Benefits to Wage Pool

- A. When JOBS notifies FAA that JOBS has assigned a recipient to a JOBSTART-subsidized placement, FAA shall redirect the recipient's AFDC and Food Stamp Program benefits to the JOBSTART wage pool to reimburse the participant's employer for wages paid to the participant.
- B. The reimbursement shall equal the combined cash value of the AFDC and Food Stamp Program benefits which the recipient would otherwise be eligible to receive but shall not exceed the recipient's gross monthly earnings from the JOBSTART-subsidized placement, calculated

as total hours worked times the participant's hourly wage rate. The reimbursement shall not exceed 40 hours per week at the federal minimum wage.

- C. The Department shall divert the AFDC and Food Stamp Program benefits to the wage pool beginning with the calendar month following the month the participant first receives wages from the subsidized placement and shall continue diverting the benefits until the participant stops holding a subsidized placement.

R6-12-1305. Treatment of Income

- A. The Department shall exclude as income the participant's adjusted gross monthly wages received from the subsidized job placement, except that JOBSTART wages in excess of 40 hours per week at the federal minimum wage, and income from other sources, shall count pursuant to Article 4.
- B. The Department shall exclude as income any child support collections passed through to the assistance unit.

R6-12-1306. Supplemental payments

- A. The Department shall provide an advance supplemental payment to a JOBSTART participant if the adjusted gross wages the participant is expected to receive in a benefit month are less than the combined cash value of the AFDC and Food Stamp Program benefits which the participant is eligible to receive for that month.
 1. Each month the Department shall determine the need for a supplemental payment, and the amount of the payment, using prospective budgeting based on anticipated family composition and wages of 40 hours per week during the month at the adjusted gross monthly wage the participant is expected to receive.
 2. The supplemental payment shall equal the cash value of the combined AFDC and Food Stamp Program benefits the participant is eligible to receive for the month minus the anticipated adjusted gross monthly wages from the subsidized placement.
- B. The Department shall provide an emergency supplemental payment to a JOBSTART participant if the adjusted gross wages the participant is expected to receive in a benefit month, plus any supplemental payments already made for that month, are less than the cash value of the monthly food stamp allotment for the participant's household. The Department shall provide an emergency payment no later than ten days after the date:
 1. The participant requests an emergency payment, or
 2. The Department receives information from the employer which indicates the need for an emergency payment.
- C. The Department shall provide a supplemental payment to a JOBSTART participant who receives less in adjusted gross wages in a benefit month than the cash value of the combined AFDC and Food Stamp Program benefits which the participant is eligible to receive for that month due to a reduction in available work hours by the employer.
 1. The Department shall issue the supplemental payment no later than the tenth day of the month following the benefit month.

Arizona Administrative Register
Notices of Proposed Rulemaking

2. The supplemental payment, plus the adjusted gross wages and any other supplemental payments already received for the benefit month, shall not exceed the cash value of the combined AFDC and Food Stamp Program benefits the participant was eligible to receive for the benefit month.

R6-12-1307. Sanctions

A. If a recipient fails or refuses to comply with JOBSTART participation requirements without good cause the Department shall:

1. Decrease the AFDC grant by 50% for a minimum of one month, and
2. Bar the recipient from further JOBSTART participation.

B. Good cause is limited to the following circumstances:

1. The participant has been referred to a job or employment which is the subject of a strike, lockout, work stoppage, or other bona fide labor dispute;
2. The job requires the participant to join a company

union or to resign or refrain from joining a bona fide labor organization;

3. The participant was incarcerated or ordered to make a court appearance;

4. Severe weather conditions prevented the participant and other persons similarly situated from traveling to or participating in the employment activity;

5. The participant or the participant's dependent child suffers a debilitating illness or incapacity; or

6. The participant has a family crisis, such as:

a. Catastrophic loss of home to fire, flood, or other natural disaster; or

b. Death of an immediate family member.

C. JOBS shall determine if good cause exists.

D. The Department shall apply the 50% benefit reduction against the monthly AFDC benefit amount the assistance unit is entitled to receive for the month the sanction is applied.

E. The 50% benefit reduction shall continue until the person complies with JOBS requirements, or becomes exempt from JOBS participation.

NOTICE OF PROPOSED RULEMAKING

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

PREAMBLE

1. Sections Affected

R12-4-101
R12-4-103
R12-4-104
R12-4-105
R12-4-108
R12-4-114
R12-4-216
R12-4-217
R12-4-217
R12-4-302
R12-4-307
R12-4-318
R12-4-511

Rulemaking Action

Amend
Amend
Amend
Amend
Amend
Amend
New Section
Repeal
New Section
Amend
Amend
Amend
Amend

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statutes: A.R.S. § 17-231(A)(1) is the Commission's general rulemaking authority under A.R.S. Title 17, the Arizona Game and Fish Laws. A.R.S. § 5-311(A)(1) is the Commission's general rulemaking authority under A.R.S. Title 5, Chapter 3, the Arizona Boating and Watersports Laws.

Implementing statute: A.R.S. § 17-101 for R12-4-101.

A.R.S. § 17-332(C) for R12-4-103.

A.R.S. § 17-231(A)(2), (3), and (8) for R12-4-104.

A.R.S. §§ 17-333(A)(34), 17-334, 17-338, and 17-339 for R12-4-105.

A.R.S. § 17-245 for R12-4-108.

A.R.S. § 17-332 for R12-4-114.

A.R.S. § 17-102 for R12-4-216.

A.R.S. §§ 17-102 and 17-301(B) for R12-4-217 (both repeal and adopt).

A.R.S. §§ 17-102, 17-331, 17-332, and 17-309 for R12-4-302.

A.R.S. § 17-361 for R12-4-307.

A.R.S. §§ 17-102 and 17-231(A)(2) for R12-4-318.

A.R.S. § 5-331 for R12-4-511.

Arizona Administrative Register
Notices of Proposed Rulemaking

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

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

4. An explanation of the rule, including the agency's reasons for initiating the rule:

Amendment of R12-4-101, R12-4-104, and R12-4-114.

R12-4-101 contains definitions. R12-4-114 prescribes the Commission's direction to the Department regarding the procedures for issuing tags which authorize the take of wildlife, and the methods by which certain tags may be obtained. R12-4-104 contains application procedures for tags which may only be obtained through a "drawing" (lottery process). R12-4-302 addresses use of tags in the field.

The majority of the proposed changes to these rules result from the 1994 five-year review of Article 1 and surround a central and common issue, namely the types of "tags" issued by the Department. Even though a person has a hunting license, in Arizona that license does not authorize a hunter to take certain wildlife (generally big game) unless the hunter is also in possession of a tag validating the license for that purpose. Once the animal is taken, the tag must be attached to the animal in order for it to be possessed and transported.

The word "tag" is used throughout A.R.S. Title 17, but it has become necessary for the Department to issue more than one kind of tag; they are all legal and valid for the purposes of Title 17 (in particular see A.R.S. §§ 17-309(A)(18) and 17-332) when all the rule and order requirements are met, but the methods for obtaining the tags and the hunt areas and seasons for which they are valid differ. The current generic definition for "tag", which includes "hunt permit-tag", was written to ensure Title 17 legality but has created unforeseen confusion when a "second deer" bag limit was added to the Commission order for deer.

There are basically two types of tags which a hunter may obtain: the kind obtainable only through the drawing, for seasons when the number of tags issued must be limited; and the kind obtainable "over the counter", for use in seasons when limiting the number of tags issued is not necessary. Although both types of tags may lawfully be obtained, this does not mean both can be used. That is because the Commission sets the "bag limit" for each species, and the bag limit is generally only one.

To further complicate the issue, some seasons for which there are a limited number of tags available may not "fill", meaning there are tags left over after the drawing. And in those cases, the Commission may determine that the bag limit may be extended to two, provided that the second animal is taken under the authority of the limited tags obtained after the date of the first drawing.

Not surprisingly, this is confusing and has resulted in inadvertent violations because the rules were not clear enough to specify what actions are and are not permissible. The main thrust of the proposed rules described herein is to clarify the system and make it more understandable for everyone involved. A description of the individual rules and the changes made therein follows.

R12-4-101. Definitions.

This rule generally defines the terms used in Game and Fish Commission rules and Commission orders establishing hunting and fishing seasons. The terms to be changed/added include:

"**Hunt number**". Amendment removes an undefined term - "permits" - and replaces it with a defined term, "hunt permits". See the definitions following to understand how the terms go together.

"**Hunt permits**". The term "hunt permit" has not been used in the Commission's rules for some time, but "hunt permits" is consistently used in Commission orders which establish a limited number of tags to be made available to the public. These limited tags have traditionally been known as "hunt permit-tags". Therefore a new definition is offered reflecting the most common usage of this term: when used in Commission order, it refers to the number of hunt permit-tags which are to be made available to the public. (There was some discussion about doing away with the term and using only the term "hunt permit-tags". However, the public is used to using this term and understands it in the context of the new definition.)

"**Hunt permit-tag**." This is the type of tag which may be obtained only through "the drawing", as opposed to "over the counter". The Commission determines this by assigning a "hunt number" when it establishes a season for which a limited number of tags (which then become "hunt permit-tags") will be available. Persons wishing to hunt in that season must apply for the drawing (procedures in R12-4-104), and in that application process, use the "hunt number" on their application in order to designate the season for which they are applying. If they are successful and are "drawn", they are issued the "hunt permit-tag" which is valid for that particular season.

"**Nonpermit-tag**". This would be a brand new term. There has never before been a term or definition for the tag which may be obtained over the counter. It's valid only in hunts when NO hunt number has been assigned. Methods for obtaining nonpermit-tags are provided in R12-4-114.

"**Tag**". The generic term is intended to cover all the types of tags which are lawful and, as stated in the definition, required to take wildlife. In these proposals we discuss hunt permit-tags and nonpermit-tags, but there are others: duplicate tags (issued pursuant to R12-4-103), and special license tags (issued pursuant to R12-4-120, they have a completely separate statutory authority and are not familiar to the average hunter but are a lawful tag nevertheless.)

The remaining changes result from the five-year review of this rule but are not related to the "tag" issue.

Arizona Administrative Register
Notices of Proposed Rulemaking

"Wildlife area." The definition is not consistent with the content of the rule on wildlife areas, and, rather than restating the criteria in the rule on wildlife areas, the definition now will refer the reader to that rule, which will give them all related information.

Subsection (B): this is simplified to explain the actual purpose of this subsection: to define terms used in Commission orders. "Mature bull elk" is a term no longer used in Commission orders and is therefore struck.

R12-4-104. Application procedures for issuance of hunt permit-tags by drawing.

This rule prescribes application procedures for the drawing. The title is proposed for amendment to more clearly state its purpose.

R12-4-114 (following) sets the criteria for when a drawing becomes necessary, and how the drawing is conducted; R12-4-104 sets the procedures for application to obtain hunt permit-tags; and R12-4-302 (also following) addresses use of the tags in the field.

The changes to R12-4-104 result from the five-year review of this rule and are generally for the purpose of clarification. The definition of "group" is removed from the first subsection of the rule and is moved to (new) subsection (B)(9). Later, the first line of subsection (E), which also relates to groups, is moved to subsection (B)(9). This puts all of the provisions relating to "group" applications in one subsection.

R12-4-111, now cross-referenced in (new) subsection (B), just became effective 1-1-95 and now contains all of the provisions which are being deleted from this rule.

Subsection (B)(6) is the requirement to use the "hunt number" when completing an application. The application form does contain space to list more than one "hunt number", thus giving the applicant another opportunity to be drawn if their first choice is already filled (all of the hunt permit-tags for that particular hunt have already been issued). If all hunt permit-tags have already been issued for all choices on the application, the applicant is not successful and is not issued a hunt permit-tag. However, the word currently used in the rule is incorrect: it says the application will be "rejected". Actually, an application is "rejected" only if the applicant did not follow the provisions of this rule (see new subsection (C)). That means it is never eligible for the drawing and is therefore never entered. An "unsuccessful" application is entirely different: the application was valid, it is entered in the drawing, but it is not successful because, by the time it is drawn, all of the hunt permit-tags have gone to other applicants. On the surface the word difference appears to be only a technicality, but it is not. Persons who are unsuccessful in any drawing for elk, antelope, buffalo, or bighorn sheep are awarded a "bonus point" (pursuant to R12-4-107) which gives them an extra "entry" in the next drawing. Persons who are rejected because of an invalid application do not get a bonus point. Even though the Department has always recognized the difference and does give bonus points to applicants who fit under this subsection, it is best to correct the wording.

Subsection (B)(7) is ambiguous as written and is therefore corrected. The intent is that, although the applicant can list several hunt numbers (choices) on an application, the application can only be for one genus (deer, elk, etc.) An applicant has to fill out a separate application for each genus. Pursuant to the subsection following, such separate applications cannot be submitted in one envelope but must be placed in separate envelopes. All of this is necessary in order for the Department to properly process the many thousands of applications received; drawings for each genus are run separately, and each application must be manually reviewed. Subsection (B)(10)(b) is completely rewritten to be specific in its intent. There is no change in interpretation or impact.

Provisions related to "group" applications are addressed previously. There are no changes to the way "group" applications are submitted or handled; the provisions are simply being placed together within the rule.

R12-4-114. Issuance of nonpermit-tags and hunt permit-tags.

This is the rule changed the most in the attempt to clearly identify the type and validity of tags. However, other changes are also proposed as a result of the review of this rule in 1994.

In subsection (A), the sentence related to tag design for identification of the month and day of kill is removed. This provision was added to the rule on 3-1-91, with simultaneous amendment to R12-4-302 to require the hunter to punch out the month and day immediately after killing an animal. Review of this provision showed that compliance with the requirement is 50% or less and there is no measurable benefit to field law enforcement effort from the requirement. Complaints of hunters cutting themselves trying to punch out the tag with sharp knives have been received. Department officers have not realized any benefit from the requirement in preventing reuse of the tag. It was already noted that the provision was not necessary for wildlife management purposes; other states with a "punch out" use the date of kill information for biological management purposes as those states require hunters to mail in big game tags. Arizona does not. Rather, a hunter questionnaire postcard gathers the same information. For all of these reasons it is proposed to remove this requirement from this rule and related R12-4-302.

Subsection (B) is completely rewritten to address the newly defined "nonpermit-tags", which were previously referred to by various names such as "big game tags" (although hunt permit-tags are also usually for big game) and "over-the-counter" tags and even just "archery tags" (even though some hunt permit-tags are valid only for archery-only seasons). These tags will now be known as "nonpermit-tags" to designate that they are in fact different than hunt permit-tags, and R12-4-114(B) addresses how they are obtained, when they are available, and when they are and are not valid.

In subsection (C), there is a change made regarding limiting hunt permits "to prevent over-harvest of wildlife". That statement is too inflexible; the number of hunt permits may also be limited for other reasons, for instance to avoid having too many hunters in a small area. Many factors are taken into account by the Commission in determining the need and number of hunt permits to be made available during any season. "Over-harvest" may be one factor but should not be the only factor.

Also in subsection (C), much unnecessary/redundant language has been removed, which clarifies the rule. Subsection (C)(2) clarifies that when hunt permit-tags may be purchased over the counter, they are available only from Department offices. This is not a change from current process.

Arizona Administrative Register

Notices of Proposed Rulemaking

Amendment of R12-4-103 and R12-4-105.

R12-4-103.

The objective of this rule is to prescribe a method to obtain certain duplicate licenses and tags when the original was unused and is lost, destroyed, mutilated or otherwise unusable. This rule is authorized by the specific authority of A.R.S. §17-332.C. The rule does provide a convenience to the public. It requires a simple affidavit in order to replace a hunting or fishing license or a tag. At one time, such duplicates could only be obtained from officers in the field, but this was criticized as too inconvenient and that practice was therefore halted.

As determined in the 1994 five-year review of this rule, it is proposed to amend this rule to require applicants to include their Department Identification number (as prescribed in R12-4-111) when one has been assigned. At present, this rule will apply only to duplicate tags. This will allow the Department to verify that, in fact, a hunt permit-tag was obtained through the "drawing" pursuant to R12-4-104.

Subsection (B) is eliminated from this rule as being inappropriate to its audience (the hunter). Instead, the requirement that the license dealer submit affidavits to the Department is moved to R12-4-105(I).

R12-4-105.

The objective of this rule is to provide a service to the public by authorizing outlets other than Department offices where certain licenses may be purchased, while protecting the Department's license sales revenue; and to prescribe operating requirements to comply with governing statutes A.R.S. §§ 17-334, 17-338, and 17-339.

It is proposed to amend subsection (B)(5)(c) to require the dealer outlet to provide the hours the business is open to the public to sell licenses. It is not essential the Department know the hours of the establishment. Many of these businesses are now open 24 hours a day, but they do not sell licenses 24 hours a day. For example, the "customer service counter" in a larger grocery store that sells Department licenses may only be open for service from at 9 a.m. until 9 p.m. It is critical the Department know the exact time a business will be open to sell licenses so the Department can refer a potential purchaser to the closest open dealer outlet.

It is proposed to amend subsection (D)(3) to require that the business address and business telephone number of the contact person be included in the application for license. It should be tied to the intent of this requirement; the Department has no interest in home addresses or phone numbers and, should the designated contact person no longer be employed at the dealer outlet, the Department will need the number which will allow them to contact his/her replacement.

It is proposed to amend subsection (F) which is entirely too detailed. Any time new licenses become available for sale from the Department, the rule has to be changed. This does not benefit the Department or the license dealer or the public. The intent is that the Department will supply to the license dealer all licenses which may be sold by a licensed dealer and the dealer will then make those licenses available for public purchase.

It is proposed to amend subsection (G) to add language to protect the Department from any requirement to issue inventory to a license dealer who is not in compliance with all applicable statutes and rules. The Department intends that a licensed dealer shall be supplied with AGFD inventory; however, it intends the license dealer shall be in compliance with all applicable statutes and rules or not be further supplied.

It is proposed to amend subsection (H) to reflect the need for including the date of inventory. The intent of this proposed rule change is to obtain the exact date inventory was received by the licensed dealer. By rule, the license dealer shall verify all inventory shipments, sign, and return to the Department within five working days. Without a date, the Department cannot verify compliance.

In a transfer of provisions from R12-4-103, it is proposed to amend subsection (I)(6) to require the license dealer to forward completed affidavit forms for duplicate licenses to the Phoenix office. In fact, the affidavit form validates the duplicate fee paid. The absence of a completed affidavit makes the full fee for the original license as replaced due from the license dealer.

Amendment of R12-4-108.

This rule prescribes boundaries for management units, most familiar to the public as the hunt areas opened for big game seasons. The changes being made to this rule are of a "housekeeping" nature only and do not actually change boundaries.

Amendment of R12-4-302.

Amendments to this rule are consistent with clarification of "tag" requirements, with removal of the requirement to punch out month and day of kill (discussed under R12-4-114), and in subsection (B), relative to new proposed rules to increase hunting opportunity for disabled hunters. New Section R12-4-217 allows a disabled hunter to designate an assistant, and that assistant may tag an animal on behalf of the disabled hunter. (See the statement for R12-4-217, submitted in conjunction with this rule.)

In subsection (F), a change is made to allow the sandhill crane hunter the option to tag the crane around the neck. Because state and federal regulations require that a fully feathered wing or head be left attached to sandhill cranes, it may be more convenient to the hunter if the tag could be affixed around the neck. It may also encourage the hunter to leave the head attached, rather than the wing. Though either is legal, biologists who check sandhill cranes in the field find it easier to determine age and subspecies if the head is left. This is not a major change and simply gives the hunter an option, rather than changing any current requirement.

Amendment of R12-4-307.

This rule is authorized by the Commission's general rulemaking authority contained in A.R.S. §17-231(A)(3) and by the specific authority of A.R.S. § 17-361. It regulates commercial trapping in Arizona.

The proposed rule changes would permit the use of confinement traps under the authority of the trapping license. Confinement traps, often also called "box traps", are designed to capture an animal alive and unharmed. The generic term "confinement trap" is used in the rule as such live traps are not always shaped like a box.

Notices of Proposed Rulemaking

The existing rule prohibits the use of any trap that does not meet requirements as prescribed in subsection (D). Confinement traps do not meet existing prescribed requirements and are therefore illegal devices. The passage of Proposition 201 in November 1994 rendered unlawful the placing of all legal traps, as defined in existing rule, on public land. Proposition 201 did not prohibit the placing of confinement traps on public lands. The proposed rule changes would allow licensed individuals to trap predators and furbearers (as defined in A.R.S. § 17-101) with confinement traps on public and private lands in Arizona.

The proposed rule changes would place limitations on the type of bait which could be used in a confinement trap and require the bait to be wholly contained within the trap. Baiting a confinement trap is necessary to entice wild animals to enter an unnatural situation. Bait must be wholly contained within the trap to avoid accidental capture of carnivorous birds (hawks, owls, ravens, etc.). Live animals may not be used for ethical reasons. The use of game is restricted to be consistent with Title 17, which is protective regarding the use and unlawful waste of game.

R12-4-216 (new rule); R12-4-217 (repeal and new rule); and R12-4-318 (amend).

All of the proposals contained within the rules listed above are intended to accomplish the same goal: to improve hunting opportunity for disabled hunters.

General history. The proposed rules are the continuation of a project which began in 1993. In January of 1993, the Arizona Game and Fish Commission adopted "Five-Year Goals and Objectives" for the Department. Included within those goals and objectives was the goal to develop and implement a plan to improve hunting opportunities for disabled hunters by December 31, 1994.

The Department first conducted a survey of other states (36 participated) to determine various approaches they have taken to achieve the same objective.

While collecting this information, the Department put together a task force of key Department personnel (including an assigned Assistant Attorney General) and hunters who are disabled who volunteered their time and assistance with this project. While this core group was of necessity small, every attempt was made to enlist input from other interested hunters while drafts were under development (explanation follows).

The "Hunting Opportunity Committee" was charged with evaluating the material received from other states and sifting out methods which were and were not workable due to cost, impact on law enforcement or wildlife management, and other factors the committee identified (wildlife resources and laws differ from state to state, sometimes widely.) The committee also reviewed proposals received from hunters made aware of the project through publicity efforts. All of this information was considered while the committee put together concepts which it believed deserved further exploration. It put together a plan for exploration of these concepts. The concepts and the plan were mailed to all interested parties and made available to the media with the announcement that they would be considered by the Arizona Game and Fish Commission in public meeting in December 1994. The Commission approved the proposal as presented, and the Department began implementation of the plan for receiving public input and development of rules. This plan included mailing a copy of the concepts/proposals to the media, to all persons on the Department's regular mailing lists for "public hunt meetings" and those persons who regularly receive Commission meeting agendas, to the Department's own personnel, and to all previously identified interested persons, with encouragement to "spread the word" and make more copies or request more copies as desired (many more were distributed upon request after this initial distribution.) This mailing also included the schedule of dates, times, and places for the Department's public meetings.

Oral comments were received at the Department's public meetings in January and February in Phoenix, Pinetop, Prescott, Kingman, Willcox, Tucson, Yuma, Flagstaff, Page, and Mesa. These meetings are held annually by the Department to take public comment prior to the Commission's April meeting when it traditionally establishes the fall's hunting seasons. By including input on the hunting opportunity proposals during these traditional meetings, it is believed that the Department reached a good representation of its general hunting public which may otherwise have been unaware of these important proposals during this development stage.

The Hunting Opportunity Committee was provided with a summary of comments received during these public hearings, with letters written in response to mailings and public announcements, and responses from Department personnel statewide. Individual committee members also solicited additional input from physicians regarding the criteria for disabilities to be addressed in the proposed rules.

Each issue raised was carefully considered during the drafting of the rules addressed herein. It is fully anticipated that much more comment will be received during the rulemaking process itself, which again includes statewide public hearings as well as the opportunity for written comment. The Hunting Opportunity will continue its work of careful evaluation and recommendation throughout this process, until the Commission decides its final action (targeted for September 15, 1995, in Flagstaff, Arizona.) It is hoped that these rules can become effective January 1, 1996.

Following is a description of the purpose and accomplishments of each of the proposed rules.

R12-4-216 (Crossbow Permit) would be a new rule, separate and aside from any of the other proposals in this package. It addresses only those hunters with a permanent disability creating a minimum 90% impairment of function in one arm.

Possession of this permit would authorize the permittee to use a crossbow during an archery-only season, providing that the legal animal for the archery-only season may otherwise be taken by crossbow pursuant to R12-4-304.

Lawful methods of take for wildlife in "general" seasons are established in R12-4-304. The only big game which may be taken by crossbow pursuant to R12-4-304 are deer, javelina, and turkey.

R12-4-318 establishes special hunt structures, or "seasons", wherein methods of take are more restrictive than allowed in general seasons as set forth in R12-4-304. "Archery-only" seasons (R12-4-318(C)(2)) allow participants to "use and possess only a bow and arrow as prescribed in R12-4-304 and shall not use or possess any other weapon, including a crossbow or any other bow having devices attached to hold the bow in a drawn position." In an amendment corresponding to adoption of R12-4-216, this rule would be amended to add: "...except pursuant to R12-4-216."

Arizona Administrative Register
Notices of Proposed Rulemaking

The sum total of R12-4-216 and the corresponding amendment to R12-4-318 is that a permit for certain disabled hunters would allow them to use a crossbow during archery season for deer, javelina, and turkey. Even though there are archery-only seasons for other wildlife...elk, for instance...the crossbow is not now a lawful method of take for other wildlife. The intent of this proposed rule is to give persons unable to use general archery (bow and arrow) equipment the opportunity to participate in an archery season, NOT to give them privileges unavailable to other hunters.

There has already been some argument raised against this proposed rule because it is currently legal for disabled hunters to use archery equipment specially designed for use by disabled hunters, and because it is currently legal for any hunter to use crossbow in general seasons. The agency nevertheless believes this proposed rule should be considered because: (1) equipment created for use by disabled hunters is generally more expensive than for a crossbow (adapted equipment is always more expensive than general equipment) and (2) many hunters prefer hunting in archery season, which requires that the hunter get closer to the prey; archery seasons also have a different hunter population than a general season.

A representative of the Arizona Bowhunters Association has served on the Hunting Opportunity Committee and supports this proposal only for the purpose as stated.

The rule requires that applicants for this permit submit a statement that they meet the rule's criteria, signed by a licensed physician. The rule requires that this statement be submitted on forms available from the Department, in order to ensure that the information required by the physician is included. (It is necessary to have a clear record of the doctor's name and address for verification purposes.) The rule provides a 30-day turnaround period for verification and processing, which is standard within most of the Department's other licensing rules; it is not anticipated that all applications would take 30 days to process. No renewal requirements are included, as criteria requires that the physician certify that this is a permanent disability. Denial of the permit may be appealed to the Commission pursuant to current rule R12-4-608.

R12-4-217: repeal of "Shooting Privileges for Physically Disabled Persons"; adoption of R12-4-217. "Challenged Hunters Access/Mobility Permit": The five-year review of R12-4-217 (Disabled shooter's permit) found that the rule could be improved to increase hunting opportunity for hunters with disabilities affecting mobility. This current rule requires that the applicant be certified by a physician as being "permanently unable to walk". It then allows the permit holder to discharge a firearm or other legal hunting device from the permit holder's vehicle, provided that the vehicle is parked off the road and the motor is off. It has been helpful to some disabled hunters, but the proposal is to repeal this rule entirely and "start over", since so much will be improved by expansion.

The permit will become the "Challenged Hunter Access/Mobility Permit", to be known as "CHAMP" for the sake of brevity. The primary purpose of the CHAMP is to improve access to hunting for persons who could not normally get to a hunting area because of mobility impairment combined with the type of rugged terrain involved in most hunting areas. However, other challenges face such hunters which were also taken into consideration. For instance: some disabilities which create mobility impairment also create an inability to tolerate extreme weather conditions. Therefore, even when the hunter could await game outside of their vehicle in good weather, this is difficult and even dangerous in some bad weather which other hunters could tolerate. Therefore the disabled hunter must have access to off-road locations where he or she can use the vehicle to wait for game (in effect, the vehicle is used as a "blind" for the hunter). The rule allows this with the warning that such access cannot be in conflict with other law (the Commission's rules cannot, for instance, override rules on U.S. Forest Service land) and that the vehicle cannot be used to chase or pursue game (this is absolutely forbidden to any hunter).

The rule does include provisions for using a watercraft as the "vehicle"; watercraft are included within the term "motor vehicle" in the authorizing statute, A.R.S. § 17-301(B), and at least one disabled hunter has used a watercraft in this manner under the authority of the existing Disabled Shooter's Permit. However, including the permission in the new rule makes the authority absolutely clear and also allows the agency to specify the conditions under which the authority is extended (basically, the watercraft may not be under power). The detailed language on watercraft use is taken from current R12-4-304, which allows general use of a watercraft to take waterfowl under the same conditions.

The other authority which the rule grants, and that which is the most controversial to date, is the designation of an assistant who may track and dispatch and retrieve an animal wounded by the CHAMP permittee.

That the CHAMP permittee may need help retrieving an animal is generally accepted, and related rule R12-4-302 is proposed for amendment in conjunction with this, to ensure the legality of assisted tagging and retrieving is understood. This amendment is to subsection (B) and the pertinent amendment reads as follows:

A person shall not possess, while hunting, a tag issued to another nor shall any person attach his or her tag or allow his or her tag to be attached to an animal he or she did not kill, except as provided by R12-4-217.

A more controversial issue is whether the assistant should be allowed to dispatch a wounded big game animal which would not otherwise be retrievable, considering the hunter's lack of mobility. It would appear that NOT allowing dispatch of a wounded animal is in direct opposition to ethics training provided in the Department's own Hunter Education Course. The rule therefore does allow this, with the purpose that the assistant is authorized to act as a surrogate, to substitute for activities which would normally be conducted by the hunter him/herself, were the hunter physically able to do so. Such activities would be allowable **ONLY WHEN THE DISABLED HUNTER IS IN THE FIELD**. In other words, the holder of the CHAMP permit cannot be in town while the assistant is tracking, dispatching, tagging, and retrieving the animal. A game ranger coming upon an assistant acting in this capacity should be able to ascertain from written documentation (the dispatch permit) that this assistant is certified under the CHAMP permit to act on behalf of a named hunter, and the game ranger should then be able to locate that named hunter in the field awaiting retrieval of the animal.

The criteria for obtaining the permit is stringent, particularly because of the special permissions which the permit grants. The one most questioned during the development phase, however, related to blindness as a criteria. Many people do not recognize that lack of vision is also a mobility issue. Others see a "blind hunter" as an impossibility, or a

Arizona Administrative Register
Notices of Proposed Rulemaking

safety concern, as though the hunter would be shooting indiscriminately, when in fact the same laws prohibiting reckless use of firearms govern us all (see A.R.S. § 17-312).

There are blind hunters who rely on the eyes of another to secure their target. And there are successful blind hunters, for instance Ben Bloomgren, the 13-year old who took his first deer in the "juniors only" hunt in December 1994. The teenager has been blind since birth and his father, Kary, served as his eyes, and both were thrilled with his success. Ben went through the Department's Hunter Education course to become eligible for the hunt; a special Braille version of the Hunter Education Manual was created for him.

The criteria for blind hunters in the proposed rule is also very stringent. An initial criteria of "100% blind" was rejected when an ophthalmologist advised that such a designation is too rare (and usually involves loss of eyes, not just loss of vision) and then provided the standards now provided in the rule. One is simple loss of vision requiring assistance for mobility; the other is just as severe, but relates to peripheral vision; persons meeting the "visual field" criteria have vision equivalent to viewing the world through a small tube.

The rule requires that applicants for this permit submit a statement that they meet the rule's criteria, signed by a licensed physician. The rule requires that this statement be submitted on forms available from the Department, in order to ensure that the information required by the physician is included (it is necessary to have a clear record of the doctor's name and address for verification purposes.) The rule provides a 30-day turnaround period for verification and processing, which is standard within most of the Department's other licensing rules; it is not anticipated that all applications would take 30 days to process. No renewal requirements are included, as criteria requires that the physician certify that this is a permanent disability. Denial of the permit may be appealed to the Commission pursuant to current rule R12-4-608.

R12-4-318. A proposed amendment to R12-4-318 (in addition to that previously discussed in relation to R12-4-216) would put in place the means for the Commission to set seasons closed to any but CHAMP permittees.

Surveys show enjoyment comes from many aspects of the sport and that the bagging of game is much less important than other benefits. *Anticipation* provides excitement for days, weeks, even months before the actual hunt. *The Preparation* - planning and scouting provides mental stimulation much like a chess game requires strategic thinking. *The outdoor experience* - being a part of the natural world of plants and animals can be spiritually rewarding. The sounds, sights, smells, and feel are experienced at the maximum level during the hunt. *Mental rewards* - great benefits come from overcoming obstacles, and the social interaction with peers is educational and promotes a sharing of ideas and solutions to common problems among hunters.

The single biggest disadvantage for the physically disabled hunter is lack of mobility. Being mobility-impaired compromises access into the hunt area, prevents scouting, limits hunt site selection, and hampers visibility by preventing elevated stands.

One of the larger problems faced by disabled hunters is the necessity to compete against all other hunters for "usable space". The general hunting public is simply unaware of the special problems faced by the hunter who must find an accessible area to park and/or a flat area for a wheelchair and then stay in that area and wait for an animal to come within range. Often another hunter will walk past the disabled hunter to shoot the animal the disabled hunter has been waiting for. The time to move and set up again once a hunt area has been "usurped" likely makes the hunt a loss for the disabled hunter, unlike the nondisabled hunter.

Therefore, the agency proposes exploring the institution of special hunts for disabled hunters. Once the hunt structure is in place in R12-4-318 hunts similar to the successful "juniors-only hunts" could be accomplished by Commission order; the only participants would be those with the CHAMP permit. The AGFD increases its presence during these "juniors-only" hunts. Special hunts for holders of the CHAMP permit could possibly even be combined with the youth hunts. This proposal would require a special drawing, but it could be held in an area not typically open, to avoid taking permits away from other hunters, or could be rotated through specific units. The location and dates of such hunts would of course be controlled by annual Commission order, with annual opportunity for public input. Commission orders are exempted from rulemaking pursuant to A.R.S. § 41-1005(A)(2) but are adopted in open meeting with ample advance notice as provided in R12-4-609.

Amendment of R12-4-511. A.R.S. § 5-311(A) states, in part: "All watercraft, except sailboards, shall carry United States Coast Guard approved personal flotation devices of the type and category prescribed by regulations of the commission." The objective of R12-4-511 is to prescribe the type and category of required personal flotation devices (PFD's). The main objective is boater safety.

The U.S. Coast Guard has made a change in 33 CFR 175.15 eliminating the Type IV personal flotation device (PFD) as the primary device on watercraft under 16 feet in length. The change in 33 CFR 175.15 will become effective on May 15, 1995. Without a change in R12-4-511(A), the state law would not be in compliance with federal regulation; consequently federal regulation would take precedence on the state's navigable waters. This would mean different enforcement directives on navigable waters and state waters, possibly causing confusion among the states boating public.

In accordance with the federal law change, this agency is proposing the elimination of Type IV personal flotation devices as the primary life saving device on all vessels under 16 feet in length. This rule change would require vessels under 16 feet in length to carry wearable PFD's of appropriate size for each person on board. This rule change would not affect the more restrictive requirements under A.R.S. § 5-331(C) or 5-350(A).

The proposed rule change is intended to increase the survivability of boaters who, because of capsizing, falls overboard, sinking, flooding or collision have found themselves in the water rather than in their boat. A five-year average of boating accidents shows that approximately 50% of all boating accidents involved boats of less than 16 feet in length. Requiring the carrying of wearable PFD's in these vessels will allow the boater to wear these PFD's, opposed to simply holding the Type IV PFD. This will allow the boater to remain in the water for a longer period of time regardless of consciousness or state of mind, increasing the possibility of rescue.

Arizona Administrative Register
Notices of Proposed Rulemaking

The agency is also proposing to add R12-4-511(C) to follow a new exemption to 33 CFR 175.15 in 33 CFR 175.17. This addition would allow for consideration of the large numbers of vessels and associated PFD's maintained by livery and rental businesses. The rule states that prior to May 1, 1996, a Type IV PFD may be carried in lieu of any PFD required under R12-4-511(A), for each person on board the watercraft provided the watercraft is leased or rented to another for the latter's pleasure as part of a livery or rental business; manually propelled; and under 16 feet. This addition will allow these businesses an additional boating season prior to compliance, to phase-in compliance, and reduce the annual economic impact of the new requirement.

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:

R12-4-101, R12-4-104, R12-4-114, and R12-4-302.

Housekeeping measures create little direct economic impact on this agency or the public. However, clarifying the rules, particularly the difference between hunt permit-tags and nonpermit-tags, will be as beneficial to the Department's law enforcement officers as to the hunting public. It is anticipated that properly specifying the proper tags and when they are valid will reduce inadvertent violations, thus reducing case load, and improving the ability to "make" cases which are not inadvertent. Court and public prosecutors may see a slight reduction in work load. Ambiguous law of any kind creates unnecessary burdens on public prosecutors and the court system. On the other hand, all hunters benefit from rules which are clear and therefore protect wildlife, since hunt permits are allocated based on wildlife populations and harvest success factors, among other things.

Removing the requirement to punch out the month and day of kill will be easier for the hunter. Likewise, allowing sandhill crane to be tagged around the head or leg will give the hunter an option and is more convenient. Neither of these will create additional economic burden on this agency, other entities, or the public.

R12-4-103 and R12-4-105.

The changes being made to these rules should have little impact on the Department, other entities, or the public, or even on license dealers who are directly addressed by these proposals. Formalization of ongoing procedures and removing unnecessary detail from the rule are intended to reduce burden on dealers licensed to sell game and fish licenses and tags to the public.

R12-4-108.

Housekeeping changes to the boundaries of management units will have no economic impact on this agency, other entities, or the public, other than those related to publication of the rule in *Register*. The agency's *Hunt Regulations*, published annually, also contains a reprint of the rule.

R12-4-216, R12-4-217, and R12-4-318.

Preliminary review of economic impact does not indicate that costs to the agency would outweigh the benefits to hunters with disabilities. Disabled hunters would be afforded improved hunting opportunity at no additional cost to them; in the case of the crossbow permit, there would be definite savings over purchase of "special" equipment which could otherwise be used in an archery-only season. Any increase in hunting activities has beneficial impact to businesses dealing in recreational goods and services.

R12-4-307.

There will be little impact on the agency as a result of this rule proposal. Only 76 trappers were licensed by the Department in 1994-95. After the passage of Proposition 201, it is expected there will be less. A few trappers will bear the cost and benefits of this proposed rule change: they will acquire confinement traps and derive revenue from resulting pelt sales. Pelt prices are subject to market change and vary according to species.

R12-4-511.

Changes to improve public safety will be integrated into ongoing law enforcement programs and improve survivability of victims in boating accidents involving watercraft under 16 feet. Liveries and watercraft rental businesses will incur some expense replacing PFD's; marinas, boating equipment shops, and others selling PFD's will realize a short-term increase in revenue. Of the 37,000 registered watercraft that are under 16 feet, it is estimated that only about 10,000 will need to replace Type IV PFD's. This would generate statewide sales of from \$100,000 to \$2,000,000.

Arizona Administrative Register
Notices of Proposed Rulemaking

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 L. Alandar, Administrative Services Manager
Address: Arizona Game and Fish Department DO HQ
2221 West Greenway Road
Phoenix, AZ 85023
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 August 11, 1995. Public hearings to discuss this proposal will be held as follows:

Date: August 9, 1995
Time: 7 p.m.
Location: Arizona Game and Fish Department
9140 East County 10 1/2 Street
Yuma, Arizona

Date: August 9, 1995
Time: 7 p.m.
Location: Wildlife Building
State Fairgrounds
17th Avenue and McDowell
Phoenix, Arizona

Date: August 10, 1995
Time: 7 p.m.
Location: Arizona Game and Fish Department
Highway 260
Pinetop, Arizona

Date: August 10, 1995
Time: 7 p.m.
Location: Arizona Game and Fish Department
5025 North Stockton Hill Road
Kingman, Arizona

Date: August 10, 1995
Time: 7 p.m.
Location: Quality Inn Suites, Buckley Room
475 North Granada
Tucson, Arizona

Date: August 11, 1995
Time: 5 p.m.
Location: Arizona Game and Fish Department
3500 South Lake Mary Road
Flagstaff, Arizona

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

Date: September 15, 1995
Time: 1:30 p.m.
Location: Little America
2515 East Butler Avenue
Flagstaff, Arizona

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

Not applicable.

10. Incorporations by reference and their location in the rules:

Not applicable.

11. The full text of the rules follows:

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS

- R12-4-101. Definitions
- R12-4-103. Duplicate Tags and Licenses
- R12-4-104. Application Procedures for selection of hunters Issuance of Hunt Permit-tags by Drawing
- R12-4-105. License Dealer's License
- R12-4-108. Management Unit Boundaries
- R12-4-114. Issuance of big game Nonpermit-tags and Hunt Permit-tags

ARTICLE 2. MISCELLANEOUS LICENSE AND PERMIT REGULATIONS

- R12-4-216. Crossbow Permit
- R12-4-217. Disabled Shooter's Permit
- R12-4-217. Challenged Hunters Access\Mobility Permit

ARTICLE 3. TAKING AND HANDLING OF WILDLIFE

- R12-4-302. Use of big game tags and hunt permit-tags tags
- R12-4-307. Trapping Regulations: Licensing; Methods; Tagging of Bobcat Pelts
- R12-4-318. Seasons

ARTICLE 5. BOATING AND WATERSPORTS

- R12-4-511. Personal Flotation Devices

ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS

R12-4-101. Definitions

- A. In addition to the definitions provided in A.R.S. § 17-101 and A.A.C. R12-4-401 and R12-4-501, the following definitions apply to this Chapter, unless the context otherwise requires:
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
 - 5. No change
 - 6. "Hunt number" means the number assigned by Commission order to any hunt area where a limited number of hunt permits is available.
 - 7. "Hunt permits" means a special permit which may be required by the Commission to take wildlife in any hunt area --when this term is used in a Commission order, it refers to the number of hunt permit-tags which are to be made available to the public.
 - 8. "Hunt permit-tag" means both the hunt permit and the tag required by statute or rule to take and possess wildlife. A hunt permit tag is issued under the provisions of R12-4-104 is a specific type of tag issued for hunts for which a Commission order has assigned a hunt number.
 - 9. No change
 - 10. No change

- 11. No change
- 12. No change
- 13. No change
- 14. No change
- 15. No change
- 16. "Nonpermit-tag" is a specific type of tag issued for hunts for which a hunt number has not been assigned in a Commission order.

- 1617. No change
- 1718. No change
- 1819. "Tag" means any tag, including a hunt permit tag, which validates a Class F or G license for taking of big game issued by the Department which is required to take wildlife.

- 1920. No change
- 2021. "Wildlife area" means an area established by the Commission for special wildlife research or management practices pursuant to R12-4-109.

- B. When, by Commission order, the open season for a big game animal is restricted to certain sex, age, or size classes, the following definitions apply the following terms are used in Commission order. these definitions apply:

- 1. No change
- 2. No change
- 3. No change
- 4. No change
- 5. "Mature bull elk" means an antlered elk with a least 4 points on one antler.

- 65. "Ram" means any male bighorn sheep, excluding male lambs.

- C. This rule is effective January 1, 1995.

R12-4-103. Duplicate Tags and Licenses

- A. Pursuant to A.R.S. § 17-332(C), the Department and its license dealers may issue a duplicate license or tag provided the applicant signs an affidavit affirming:

- 1. The applicant's name and Department identification number when the applicant has been assigned a number pursuant to R12-4-111;

- 12. No change
- 23. No change
- 34. No change
- 45. No change
- 56. That the original of any big game tag for which a duplicate is being purchased was unused and is lost, destroyed, mutilated, or otherwise unusable.

- B. The license dealer issuing a duplicate license or tag must retain the completed affidavit form and forward it to the Phoenix office with the report of sale of the duplicate license or tag.

R12-4-104. Application Procedures for Selection of Hunters Issuance of Hunt Permit-tags by Drawing

- A. For the purpose of this Section,

- 1. "Group" means all applications contained in a single envelope which is provided as a part of Form 624. No more than four persons may apply as a group except that no more than two applicants may apply as a group for bighorn sheep. Nonresidents, see R12-4-114(D).

Arizona Administrative Register
Notices of Proposed Rulemaking

~~B.A.~~ No change

~~C.B.~~ Each applicant, ~~or including each member of a group as addressed in subsection(B)(9) following~~, shall sign the application Form 624 and provide the following information: name, address, whether resident or non-resident, and date of birth. In addition:

1. Each applicant shall include his or her Department identification number, ~~either: pursuant to R12-4-111:~~
 - a. ~~Social security number, or~~
 - b. ~~An identification number previously assigned by the Department. The identification number may be obtained by providing the Department with the applicant's full name and any aliases, date of birth, and mailing address.~~
2. No change
 - a. Applicants not licensed for the year in which the hunt will take place shall submit the following information required on Form 390; License Application, available from Department offices and license dealers: name, Department identification number, address, class of license applied for, residency status, length of Arizona residency (if applicable), date of birth, sex, weight, height, color of hair and eyes;
 - b. No change
3. No change
 - a. No change
 - b. No change
 - c. No change
4. No change
5. No change
6. Each applicant shall apply by current hunt number. If all hunts selected are already filled at the time of receipt, the application shall be rejected unsuccessful.
7. Selection of additional hunt choices is optional, but if selected, they shall be for the same genus of wildlife as the first choice. All hunt choices within the same application shall be for the same genus.
8. No change
9. No more than four persons may apply as a group except that no more than two applicants may apply as a group for bighorn sheep. "Group" means all applications contained in a single envelope which is provided as a part of Form 624. Nonresidents, see R12-4-114(D). All applicants in a group shall apply for the same hunt number and in the same order of preference. No hunt permit-tag shall be issued to anyone in a group if there are not sufficient hunt permit-tags available for all applicants in that group. If any applicant in a group is rejected for any reason, all other applicants in that group shall also be rejected.
10. No person may submit more than one valid application per genus of wildlife in for any calendar year, except:
 - a. No change
 - b. Unsuccessful spring hunters may apply in a fall drawing. Turkey hunters with a hunt permit-tag for the spring hunt who were unsuccessful in the hunt may apply for a fall turkey drawing.

c. No change

11. No change

12. No change

~~D.C.~~ No change

~~E.D.~~ If any applicant in a group is rejected for any reason, all other applicants in that group shall also be rejected. Any hunt permit-tag issued for an application that is subsequently found not to be in accordance with this rule is invalid.

~~F.E.~~ No change

~~G.F.~~ No change

~~H.~~ This rule is effective March 1, 1991.

R12-4-105. License Dealer's License

A. No change

B. The Department shall issue a license dealer's license only when the following criteria are met:

1. No change
2. No change
3. No change
4. No change
5. The Department shall assess the need for each dealer outlet not meeting the criteria at subsection (B)(4) to determine if it is necessary to provide service to the public. The Department's determination shall be based on:
 - a. No change
 - b. No change
 - c. The days and hours the dealer outlet is open for business to sell hunting and fishing licenses, tags and stamps.

C. No change

D. Application for a license dealer's license shall be made on forms provided by the Department. The Department shall issue the license or deny the application within 30 calendar days of receiving the application. The applicant shall provide the following:

1. No change
2. No change
3. Name, business address, and business phone number of the person designated by the licensed dealer as responsible for compliance with this rule;
4. No change
5. No change
6. No change
7. No change
8. No change

E. No change

F. The Department shall provide all appropriate licenses which the dealer will then make available to the public for sale. ~~the following licenses to each dealer outlet, which the dealer outlet shall make available to the public for sale: Class A, B, C, D, E, F, G, and H hunting and fishing licenses; big game tags other than hunt permit tags; urban fishing licenses; duplicate licenses, and trout stamps.~~ In addition, if the Department determines that the dealer outlet's location is in proximity to any area where the public will have need of special use permits and stamps for fishing on waters with shared jurisdiction, these shall be provided to the dealer outlet and the dealer outlet shall make them available to the public for sale.

G. Each dealer outlet shall maintain an inventory of licenses available for sale to the public pursuant to

Arizona Administrative Register
Notices of Proposed Rulemaking

subsection (F). The Department shall provide any licenses requested by a dealer outlet within ten calendar days of receipt of the request, unless any licenses previously provided to the dealer outlet have not been acknowledged pursuant to subsection (H) or the dealer outlet is not in compliance with all applicable statutes and rules.

- H. Upon receipt of licenses issued by the Department, the dealer outlet shall verify the licenses received against a shipment inventory which shall be provided by the Department with each license shipment. The person performing the inventory shall clearly designate any discrepancies on the shipment inventory. The shipment inventory shall be signed and dated by the person who performed the inventory, and returned to the Department within five working days. The Department shall verify any discrepancies and credit or debit the dealer outlet's inventory accordingly.
- I. Monthly reports made pursuant to A.R.S. §17-338 shall be made on forms provided by the Department by each licensed dealer and are required whether or not there were sales during the reporting period. The report shall include the following for each dealer outlet:
1. No change
 2. No change
 3. No change
 4. No change
 5. No change
 6. Any duplicate affidavit forms issued pursuant to R12-4-103. Failure to submit an affidavit shall result in the face value of the original license replaced by the duplicate being due to the Department;
 - 6-7. No change
 - 7-8. No change
- J. No change
K. No change
L. No change

R12-4-108. Management Unit Boundaries

- A. No change
B. No change
C. Management unit descriptions are as follows:
- Unit 1 No change
 - Unit 2A No change
 - Unit 2B No change
 - Unit 2C No change
 - Unit 3A No change
 - Unit 3B No change
 - Unit 3C No change
 - Unit 4A No change
 - Unit 4B No change
 - Unit 5A No change
 - Unit 5B No change
 - Unit 6A No change
 - Unit 6B No change
 - Unit 7 No change
 - Unit 8 No change

Unit 9 -- Beginning at the junction of Havasu Creek and the Colorado River; easterly along the Colorado River to Shinumo Wash; southeasterly along Shinumo Wash to the Navajo Indian Reservation boundary; southerly along the reservation boundary to the Four Croners Gas Line; southwesterly along the Four Corners Gas Line to U.S. Hwy 180; westerly on the Flagstaff-Valle-Cataract Creek road to Cataract Creek at Island Tank; northwesterly along Cataract Creek to Havasu Creek; northwesterly along Havasu Creek to the Colorado River.

Unit 10 -- Beginning at the junction of AZ Hwy 64 and I-40; westerly on I-40 to Crookton Road (AZ Hwy 66, Exit 139); westerly on AZ Hwy 66 to the Hualapai Indian Reservation boundary; northeasterly along the reservation boundary to the Colorado River; easterly along the Colorado River to Havasu Creek in Cataract Canyon; southeasterly along Havasu Creek to and Cataract Creek; ~~southeasterly along Cataract Creek to the Valle Flagstaff-Cataract Creek road; easterly on the Valle Flagstaff-Cataract Creek in Cataract Canyon to Island Tank; easterly on the Island Tank-Valle road~~ to AZ Hwy 64; south on AZ Hwy 64 to I-40.

Unit 11 No change

Unit 12A No change

Unit 12B No change

Unit 13A No change

Unit 13B No change

Unit 14 No change

Unit 15A No change

Unit 15B No change

Unit 15C No change

Unit 15D No change

Unit 16A No change

Unit 16B No change

Unit 17A No change

Unit 17B No change

Unit 18A No change

Unit 18B No change

Unit 19A No change

Unit 19B No change

Unit 20A No change

Unit 20B No change

Unit 20C No change

Unit 21 No change

Unit 22 No change

Unit 23 No change

Unit 24A No change

Unit 24B - Beginning on U.S. Hwy 60 in Superior; northeasterly on U.S. Hwy 60 to AZ Hwy 88; northerly on AZ Hwys 88 and 288 to the Salt River;

Arizona Administrative Register
Notices of Proposed Rulemaking

westerly along the Salt River to Bush Hwy at the Blue Point Bridge; westerly on Bush Hwy to the Usery Pass road (Ellsworth Road); southerly on the Usery Pass road to U.S. Hwy 60 (U.S. Hwy 89); easterly on U.S. Hwy 60 (U.S. Hwy 89) to Superior.

Unit 25 No change

Unit 26 No change

Unit 27 - Beginning at the New Mexico state line and AZ Hwy 78; southwest on AZ Hwy 78 to U.S. Hwy 191; north on U.S. Hwy 191 to the San Carlos-Morenci-Clifton road; west on the San Carlos-Morenci-Clifton road to Eagle Creek; north along Eagle Creek to the San Carlos Apache Indian Reservation boundary; north along the San Carlos Apache Indian Reservation boundary to Black River; northeast along Black River to the East Fork of Black River; ~~northeast~~ northwest along the East Fork of Black River to the Three Forks-Williams Valley-Alpine road (FR 249) easterly westerly along the Three Forks-Williams Valley-Alpine road to U.S. Hwy 180; southeast on U.S. Hwy 180 to the New Mexico state line; south along the New Mexico state line to AZ Hwy 78.

Unit 28 No change

Unit 30A No change

Unit 30B No change

Unit 31 No change

Unit 32 No change

Unit 33 - Beginning at Tangerine road and ~~AZ U.S. Hwy 77 89~~; north and northeast on ~~U.S. Hwy 89 to AZ Hwy 77~~; northeast on AZ Hwy 77 to the San Pedro River; southerly southeast along the San Pedro River to I-10 at Benson; westerly on I-10 to Marsh Station road (Exit 289); westerly northwest on the Marsh Station road to the Agua Verde road; north on the Agua Verde road to its terminus; then north one-half mile to the Coronado National Forest boundary; north and west along the National Forest boundary; then west, north, and east along the Saguaro National Park boundary; continuing north and west along the Coronado National Forest boundary to the southern boundary of Catalina State Park; west along the southern boundary of Catalina State Park to AZ Hwy 77; north on AZ Hwy 77 to Tangerine road, junction of I-10 and AZ Hwy 83 Exit 281; westerly along the northern frontage road to the Vail/Colossal Cave road; northeasterly on Vail/Colossal Cave road to Old Spanish Trail; northwesterly on Old Spanish Trail to Houghton road; north on Houghton road to the Catalina Hwy; southwest on Catalina Hwy to Tanque Verde road; westerly on Tanque Verde road to Sabino Canyon road; northerly on Sabino Canyon road to Skyline drive; westerly on Skyline drive to Ina road; west on Ina road to U.S. Hwy 89; north on U.S. Hwy 89 to Tangerine road.

Unit 34A - Beginning at U.S. Hwy 89 at the U.S.-Mexico border; north on U.S. Hwy 89 I-19 and Grand Avenue in Nogales; northeast on Grand Avenue

(U.S. Hwy 89) to AZ Hwy 82; northeasterly on AZ Hwy 82 to AZ Hwy 83; northerly on AZ Hwy 83 to the Sahuarita road; west along the Sahuarita road alignment to I-19 Exit 75; south on I-19 to Grand Avenue (U.S. Hwy 89). ~~U.S. Hwy 89 at the U.S.-Mexico border.~~

Unit 34B No change

Unit 35A No change

Unit 35B - Beginning at Grand Avenue and (U.S. Hwy 89) at the U.S.-Mexico border in Nogales; east along the U.S.-Mexico border to the Lochiel-Canelo Pass-Elgin road; north on this road to AZ Hwy 82; southwest on AZ Hwy 82 to ~~U.S. Hwy 89~~ Grand Avenue; southwest on ~~U.S. Hwy 89~~ Grand Avenue to the U.S.-Mexico border.

Unit 36A No change

Unit 36B - Beginning at I-19 and Grand Avenue (U.S. Hwy 89) at the U.S.-Mexico border; northwesterly along the U.S.-Mexico border to AZ Hwy 286; in Nogales; southwest on Grand Avenue to the U.S.-Mexico border; west along the U.S.-Mexico border to AZ Hwy 286; north on AZ Hwy 286 to the Arivaca road; easterly on the Arivaca road to I-19; southerly on I-19 to Grand Avenue (U.S. Hwy 89), at the U.S.-Mexico border.

Unit 36C No change

Unit 37A - Beginning at the junction of I-10 Exit 240 and Tangerine road (Exit 240); southerly southeast on I-10 to Avra Valley road (Exit 242); westerly on Avra Valley road to Sandario road; southerly on Sandario road to AZ Hwy 86; westerly southwest on AZ Hwy 86 to the Tohono O'odham (Papago) Indian Reservation boundary; ~~northerly on north, east, and west~~ along the reservation boundary to Battaglia road; east on Battaglia road to I-10 (Exit 203); southeast on I-10 to AZ Hwy 87 (Exit 211); north on AZ Hwy 87 to AZ Hwy 287 north of Coolidge; east and north on AZ Hwy 287 to ~~U.S. AZ Hwy 89~~; southerly ~~79~~ at Florence; southeast on ~~U.S. AZ Hwy 89 79~~ to Tangerine road; westerly its junction with AZ Hwy 77; south on AZ Hwy 77 to Tangerine road; west on Tangerine road to I-10 Exit 240.

Unit 37B - Beginning at the junction of U.S. ~~AZ Hwy 89 79~~ and AZ Hwy 77; ~~northerly northwest~~ on U.S. ~~AZ Hwy 89 79~~ to U.S. Hwy 60; easterly on U.S. Hwy 60 to AZ Hwy 177; southeasterly on AZ Hwy 177 to AZ Hwy 77; southerly southeast and southwest on AZ Hwy 77 to U.S. ~~AZ Hwy 89 79~~.

Unit 37M - Beginning at the junction of I-10 Exit 240 and Tangerine road (Exit 240); southerly southeast on I-10 to Avra Valley road (Exit 242); westerly on Avra Valley road to Sandario road; southerly along on Sandario road to the San Xavier Indian Reservation boundary; southerly and easterly along the reservation boundary of the reservation to I-19; southerly along on I-19 to Sahuarita road (Exit 75); easterly on the Sahuarita road alignment to AZ Hwy 83; northerly on AZ Hwy 83 to I-10 (Exit 281); easterly on I-10 to M.A.R.S.h Station road (Exit 289); westerly northwest on

Arizona Administrative Register
Notices of Proposed Rulemaking

MA.R.S.h Station road to the Agua Verde road; north on the Agua Verde road to its terminus then north one half mile to the Coronado National Forest boundary; north and west along the national Forest boundary, then west, north, and east along the Saguaro National Park boundary; continuing north and west along the Coronado National Forest boundary to the southern boundary of Catalina State Park; west along the southern boundary of Catalina State Park to AZ Hwy 77; north on AZ Hwy 77 to Tangerine road; west on Tangerine Road to I-10, northern frontage road at Exit 281; westerly along the northern frontage road to the Vail/Colossal Cave road; northeasterly on that road to Old Spanish Trail; northwesterly on Old Spanish Trail to Houghton road; north on Houghton road to Catalina Hwy; southwestly on the Catalina Hwy to Tanque Verde road; westerly on Tanque Verde road to Sabino Canyon road; northerly on Sabino Canyon road to Skyline drive; westerly on Skyline drive to Ina road; west on Ina road to U.S. Hwy 89; north on U.S. Hwy 89 to Tangerine road; west on Tangerine road to I-10 Exit 240.

Unit 38 No change

Unit 39 No change

Unit 39M - Beginning at I-10 and the Salt River; westerly along the Salt River to the Gila River; westerly along the Gila River to the western boundary of the Gila Indian Reservation; southeasterly along the reservation boundary to Maricopa road; south on Maricopa road to AZ Hwy 84; east on AZ Hwy 84 to Stanfield; south on the Stanfield-Cocklebur road to the Tohono O'odham (Papago) Indian Reservation; easterly along the reservation boundary to Battaglia road; east on this road to I-10 (Exit 203); southeasterly on I-10 to AZ Hwy 87 (Exit 211); north on AZ Hwy 87 to AZ Hwy 287 north of Coolidge; east on AZ Hwy 287 to U.S. Hwy 89 AZ Hwy 79; north on U.S. Hwy 89 AZ Hwy 79 to U.S. Hwy 60; westerly on U.S. Hwy 60-89 to Power road in Mesa; south on Power road to AZ Hwy 360; west on AZ Hwy 360 to I-10; westerly on I-10 to the Salt River.

Unit 40A No change

Unit 40B No change

Unit 41 No change

Unit 42 No change

Unit 42M - Beginning at the junction of I-17 and the Carefree Hwy (Exit 223); west on the Carefree Hwy to the Lake Pleasant Road; southerly on the Lake Pleasant Road to the Central Arizona Project (CAP) Canal; westerly on the CAP Canal to the Beardsley Canal; southwestly along the Beardsley Canal to Indian School road; west on Indian School road to Jackrabbit Trail; south on Jackrabbit Trail to I-10 (Exit 121); west on I-10 to Oglesby Road (Exit 112); south on Oglesby road to AZ Hwy 85; south on AZ Hwy 85 to the Gila River; east along the Gila River to the Salt River; east along the

Salt River to I-10; easterly on I-10 to AZ Hwy 360; east on AZ Hwy 360 to Power road; north on Power road to U.S. Hwy 60-89; east on U.S. Hwy 60-89 to the Usery Pass road (Ellsworth Road); north on the Usery Pass road to Bush Hwy; easterly on Bush Hwy to the Salt River at the Blue Point Bridge; westerly along the Salt River to the Verde River; northerly along the Verde River to the Tonto National Forest boundary; northwesterly along this boundary to Cave Creek Road; southwestly on Cave Creek Road to the Carefree Hwy; west on the Carefree Hwy to I-17 (Exit 223).

Unit 43A No change

Unit 43B No change

Unit 44A No change

Unit 44B No change

Unit 45A - No change

Unit 45B - Beginning at O-O Junction; north from O-O Junction on the Kofa Mine road to the Evening Star Mine; north on a line over Polaris Mountain to Midwell; north on the Midwell-Alamo Spring-Kofa Cabin road to the El Paso Natural Gas Pipeline Road; north on a line from the junction to the north Kofa National Wildlife Refuge boundary; east to the east refuge boundary; south and west along the Kofa National Wildlife Refuge boundary to the Stone Cabin-King Valley road; north and west on this road to O-O Junction.

Unit 45C No change

Unit 46A No change

Unit 46B - No change

R12-4-114. Issuance of Big Game Nonpermit-tags and Hunt Permit-tags

- A. The Department shall annually provide numbered tags which shall include a transportation and shipping permit. The tag shall be made of tear-resistant material with an adhesive back covered with a detachable paper backing. The tag shall contain a space to identify the month and day of kill. The animal for which the tag is valid shall be appropriately identified on the tag at the time of sale or issuance.
- B. ~~Big game tags may be purchased directly from Department offices or through license dealers when no hunt number has been assigned within a Commission order for a hunt area. No more than one original of each shall be obtained in a license year, unless the bag limit for that genus exceeds one. No person shall obtain big game tags in excess of the bag limit prescribed by the Commission order establishing any hunt for which a big game tag is valid. Nonpermit-tags shall be issued for sale through license dealers and Department offices when the Commission establishes a season for which no hunt number is assigned and no limited number of hunt permits is set.~~
1. No drawing is required to obtain a nonpermit-tag. Requirement for issuance is only the hunter's name and address and Department identification number pursuant to R12-4-111.

Arizona Administrative Register
Notices of Proposed Rulemaking

2. A nonpermit-tag shall not be valid in unfilled hunt areas for which leftover hunt permit-tags are required.
 3. No person shall apply for or obtain nonpermit-tags in excess of the bag limit prescribed by the Commission order establishing any season for which a nonpermit-tag is valid.
 4. When a person is lawfully in possession of both a nonpermit-tag and a hunt permit-tag, this shall not authorize that person to exceed the bag limit.
- C. When the number of hunt permits for a species in a particular area must be limited to prevent over-harvest of wildlife, the Commission order governing seasons for that species shall assign a hunt number to that area, and a hunt permit-tag shall be required to take that species in that area. No person shall apply for or obtain hunt permit-tags in excess of the bag limit prescribed by the Commission order establishing any season for which a hunt permit-tag is valid. Hunt permit-tags may be obtained only pursuant to R12-4-104 and shall be issued by drawing through the following procedure: Each drawing consists of three stages as prescribed in Paragraphs 1, 2, and 3. "Spring drawings" shall be conducted for hunts to take place between January 1 and June 30 of the same calendar year. "Fall drawings" shall be conducted for hunts to take place between July 1 and December 31 of the same calendar year.
1. No change
 2. Hunt permit tags remaining after the first drawing may be issued by second drawing or on a first-come, first-served basis by mail or over the counter as specified in the hunt permit-tag application schedule published annually by and available from the Department.
 - 3-2. When the bag limit established by Commission order for any big-game genus is more than one per calendar year, or when there are hunt permit-tags remaining after the first drawing, remaining hunt permit-tags in unfilled hunt areas may be issued on a first-come, first-served basis by mail or over the counter from Department offices as specified in the hunt permit-tag application schedule published annually by and available from the Department.
- D. No change
E. No change
F. ~~This rule is effective January 1, 1993.~~

ARTICLE 2. MISCELLANEOUS LICENSE AND PERMIT REGULATIONS

R12-4-216. Crossbow Permit

- A. A crossbow permit authorizes the licensed hunter to whom the permit is issued to use a crossbow during archery-only season, when the legal animal for the archery-only season may otherwise be taken by crossbow pursuant to R12-4-304. Possession of the permit does not waive any other requirement of law for method of take or any requirement for licensing.
- B. Applicants shall provide the following to the Department on forms available from the Department:

1. Applicant's name, Department identification number pursuant to R12-4-111, mailing address, and telephone number.
 2. A statement completed with legible name and business address of a licensed medical or osteopathic physician, and signed by the physician, attesting that the applicant has a minimum 90% impairment of function in one arm, and that this disability is permanent.
- C. All documentation provided is subject to verification by the Department. The Department shall issue the permit or deny the application within 30 calendar days of receipt, except that the Department may return without denial or approval any application lacking information or certification required by this rule. Each returned application shall be accompanied by a letter explaining the information or certification needed. When missing information can be provided verbally, the Department may add the information to the application, noting where such changes have been made, and the date and source thereof. The approval or denial period shall be restarted at day one on receipt of the completed application.
- D. Any person who is denied issuance of a crossbow permit may appeal to the Commission within 30 calendar days pursuant to R12-4-608.
- E. Any person acting under the authority of the crossbow permit shall have the permit on his or her person and shall exhibit it upon request to any peace officer. The crossbow permit is not transferrable and the Commission may revoke or suspend the crossbow permit of any person who allows another to use his or her permit. Otherwise the permit remains valid as long as the criteria for issuing the permit are met.
- F. This rule is effective January 1, 1996.

R12-4-217. Shooting Privileges For Physically Disabled Persons

- A. ~~A physically disabled person, as defined in Subsection C, may obtain a permit allowing that individual to discharge a firearm or other legal hunting device from a motor vehicle when, under existing conditions, such discharge is otherwise lawful, and provided:~~
1. ~~The vehicle is motionless, is not standing or parked on any road as defined by A.R.S. § 17-101, and its engine has been turned off; and~~
 2. ~~The vehicle has displayed upon it a current handicapped license plate or disabled shooter's permit.~~
- B. ~~Wildlife may be shot during open season from a motor vehicle by a properly licensed disabled hunter under the conditions described in paragraph A. However, no vehicle may be used at any time to hunt or pursue wildlife.~~
- C. ~~The Department's Phoenix office shall issue a disabled shooter's permit without cost to any licensed hunter furnishing a statement from a doctor of medicine or osteopathy certifying the existence of a physically disabling condition rendering the applicant permanently unable to walk. All permits shall expire December 31. The Department may waive the medical certificate requirement for renewal applications.~~

Arizona Administrative Register
Notices of Proposed Rulemaking

D. Upon conviction of violating any law regulating the use of firearms or the taking of wildlife in this state, the Commission may suspend a disabled shooter's permit.

R12-4-217. Challenged Hunter Access\Mobility Permit

A. A Challenged Hunter Access\Mobility Permit, also known as CHAMP, allows the following activities by the licensed hunter to whom the CHAMP is issued:

1. Discharge of a firearm or other legal hunting device from a motor vehicle when, under existing conditions, such discharge is otherwise lawful, and provided that the vehicle is motionless, is not standing or parked on any road as defined by A.R.S. § 17-101, and its engine has been turned off.
2. Discharge of a firearm or other legal hunting device from a watercraft (except a sinkbox), including those propelled by a motor, sail, and wind, or both, when the motor has been completely shut off and/or the sail furled, and progress therefrom has ceased. The watercraft may be drifting as a result of current or wind action, beached, moored, resting at anchor, or may be propelled by paddle, oars, or pole. A watercraft under power may be used to retrieve dead or wounded wildlife but no shooting is permitted while the watercraft is underway.
3. Access to off-road locations in a motor vehicle, when such access is not in conflict with other law, and for the purpose of using the vehicle as a place to wait for game, not to chase or to pursue game.
4. Designation of an assistant to track and dispatch a wounded animal, and to retrieve, in accordance with the requirements of this rule.

B. Possession of the CHAMP does not waive any requirement of law governing method of take or any requirement for licensing.

C. Applicants shall submit the following to the Department's Phoenix office on forms available from the Department:

1. Applicant's name, Department identification number as prescribed in R12-4-111, mailing address, and telephone number.
2. A statement completed with the legible name and address of a licensed medical or osteopathic physician, and signed by the physician, attesting that the applicant has a permanent disability as follows:
 - a. The applicant has a disability or combination of disabilities creating a minimum impairment of function equivalent to 90% in one leg, meaning the person has the equivalent of no more than 10% use of one leg although the other leg may be 100% functional; or
 - b. The applicant's visual field is less than or equal to 20% in the better eye; or
 - c. The applicant's remaining vision in the best eye after best correction is 20/200 or less.

D. All documentation provided is subject to verification by the Department. The Department shall issue the CHAMP or deny the application within 30 calendar days of receipt, except that the Department may return without denial or approval any application lacking information or certification required by this rule. Each returned application shall be accompanied by a letter

identifying the needed information or certification. When missing information can be provided verbally, the Department may add the information to the application, noting where such changes have been made, and the date and source thereof. The approval or denial period shall be restarted at day one on receipt of the completed application.

E. Any person who is denied issuance of the CHAMP may appeal the denial to the Arizona Game and Fish Commission within 30 days pursuant to R12-4-609.

F. The CHAMP vehicle placard issued by the Department with the CHAMP shall be visibly displayed on the vehicle while in use pursuant to subsection (A) of this Section.

G. Any CHAMP permittee who has been issued a tag may request a special permit for dispatch of a wounded animal. The Department shall issue the dispatch permit within 14 days of receiving the written request. The CHAMP permittee may use this dispatch permit to designate an assistant to dispatch and retrieve an animal wounded by the CHAMP permittee. This designation shall be made only to a licensed hunter and shall be done after the animal has been wounded or killed and not before. Designation on the dispatch permit shall be in ink and shall include a description of the animal, the assistant's name and hunting license number, and the date and time the animal was wounded or killed.

1. The site where the animal was wounded and from which tracking will begin shall be marked so that it can later be identified.
2. The assistant shall be in possession of the dispatch permit while tracking and dispatching the wounded animal, and the CHAMP permittee shall not leave the field during that time. The assistant shall not transfer the dispatch permit to anyone except the CHAMP permittee.
3. The assistant shall attach the dispatch permit to the carcass of the legally dispatched animal and return the carcass to the CHAMP permittee, who shall then affix his or her tag to the animal or direct that the tag be affixed on his or her behalf by the assistant.
4. If the assistant is unsuccessful in locating and dispatching the wounded animal, the assistant shall return the dispatch permit to the CHAMP permittee, who shall then strike out the assistant's name and authorization from the dispatch permit.
5. The dispatch permit for dispatch of a wounded animal shall contain spaces to designate successive assistants. Once it has been completely filled out, or has been used to attach to a carcass, it is no longer valid.

H. Any permittee acting under the authority of the CHAMP shall have the valid CHAMP on his or her person and shall exhibit it upon request to any peace officer. The CHAMP is not transferable and the Commission may suspend or revoke the CHAMP of any permittee who allows their CHAMP to be used by any other person. Upon conviction of violating any law regulating the use of firearms or the taking of wildlife, or for violation of this rule, the Commission may suspend or revoke the CHAMP. Otherwise the CHAMP remains valid as long as the criteria for issuing the permit are met.

I. This rule is effective January 1, 1996.

Arizona Administrative Register
Notices of Proposed Rulemaking

**ARTICLE 3. TAKING AND HANDLING OF
WILDLIFE**

**R12-4-302. Use of ~~Big Game Tags and Hunt Permit-
tags Tags~~**

- A. Anyone taking wildlife shall have on his or her person, in addition to his or her valid license, any valid required ~~hunt permit, appropriate tag or hunt permit tag tag as defined in R12-4-101. Any tag obtained in violation of law or rule is invalid and shall not be used to take, transport, or possess wildlife. See R12-4-104 and R12-4-114.~~
- B. A person shall not possess, while hunting, a ~~big game tag or hunt permit tag tag~~ issued to another nor shall any person attach his or her tag or allow his or her tag to be attached to an animal he or she did not kill, ~~except as provided by R12-4-217.~~
- C. A tag ~~or hunt permit tag~~ is valid for taking only the animal identified on the tag.
- D. Hunt permit-tags are issued by specific hunt number and are valid only in the season and hunt area for which issued.
- E. Immediately after a big game animal is killed, ~~the month and day of the kill shall be punched on the tag belonging to the person who killed it, and the tag shall be attached to the carcass.~~ When attaching the tag, all of the paper backing shall be removed and the tag shall be sealed around the antler or horn, or through the gambrel of a hind leg of a deer, elk or antelope, through the gambrel of a hind leg of a javelina, bighorn sheep, mountain lion or bear, and around the leg of a turkey so that it cannot be removed. The exposed adhesive portions shall be sealed together so that all the printing on the face of the tag is visible.
- F. Sandhill crane shall be tagged around the leg or neck.
- G. When a ~~big game tag or hunt permit tag tag~~ has been sealed or mutilated, or the transportation or shipping permit is signed or filled out, the tag is no longer valid for taking wildlife.
- ~~H. This rule is effective January 1, 1993.~~

R12-4-307. Trapping Regulations: Licensing; Methods; Tagging of Bobcat Pelts

- A. No change
- B. No change
- C. It is unlawful for any person to:
1. No change
 2. No change
 3. No change
 4. Set a leghold trap within 30 feet of a sight exposed bait. "Sight exposed bait" means any animal or parts thereof on the ground or suspended in a manner that it can be seen from above. This does not include dried or bleached bones with no tissue attached or small amounts of paste type baits or trap flags. "Trap flag" means any attractant made from materials other than animal parts suspended at least three feet above ground.
 5. Bait a confinement trap with live animals or portions of game animals. "Confinement trap" means any trap designed to capture an animal alive and hold it unharmed. Any bait utilized must be wholly contained within the confinement trap.
- 5-6. No change

6-7. No change

7-8. No change

8-9. No change

- D. The only leghold traps lawful for use are commercially manufactured padded or rubber-jawed traps and traps with unpadded jaws permanently offset to a minimum of 3/16 inch.
1. No change
 2. No change
 3. No change
 4. No change
- E. No change
- F. No change
- G. No change
- H. No change
- I. No change
- J. No change
- K. No change
- ~~L. This rule is effective March 1, 1994.~~

R12-4-318. Seasons

- A. No change
- B. No change
- C. The Commission may, by order, establish and designate other seasons as listed below. Other seasons shall have specific requirements and lawful methods of take more restrictive than those for general and special seasons, as prescribed in this rule. While taking wildlife:
1. No change
 2. A person participating in an "archery-only" season shall use and possess only a bow and arrow as prescribed in R12-4-304, and shall not use or possess any other weapon, including a crossbow or any other bow having devices attached to hold the bow in a drawn position, except as authorized by R12-4-216.
 3. No change
 4. No change
 5. No change
 6. No change
 7. No change
 8. No change
 9. No change
 10. No change
 11. No change
 12. A person participating in a "CHAMP" season shall be a challenged hunter mobility/access permittee pursuant to R12-4-217.
- ~~D. This rule is effective January 1, 1995.~~

ARTICLE 5. BOATING AND WATERSPORTS

R12-4-511. Personal Flotation Devices

- A. No person may use a ~~canoe or kayak of any length, or any other watercraft less than 16 feet in length~~ any watercraft unless it is equipped with at least one of the following U.S. Coast Guard-approved wearable personal flotation devices of appropriate size for each person on board:
1. No change
 2. No change
 3. No change
 4. ~~Type IV Personal Flotation Device: buoyant cushion or ring life buoy.~~
- B. No change

C. Prior to May 1, 1996, a Type IV PFD may be carried in lieu of any type PFD required under R12-4-511(A) for each person on board the watercraft, provided the watercraft is:

1. Leased or rented to another for latter's pleasure as

part of a livery or rental business; and

2. Manually propelled and

3. Under 16 feet.

NOTICE OF PROPOSED RULEMAKING

TITLE 20. PROFESSIONS AND OCCUPATIONS

CHAPTER 6. DEPARTMENT OF INSURANCE

PREAMBLE

1. Sections Affected

R20-6-307

Rulemaking Action

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. § 20-143

Implementing statutes: A.R.S. §§ 20-169, 20-211(B), 20-220, 20-261, 20-261.01, 20-261.02, 20-505, 20-508, 20-509, 20-516, and 20-732.

3. The name and address of agency personnel with whom persons may communicate regarding the rule:

Name: Gregory Y. Harris
Address: Arizona Department of Insurance
2910 North 44th Street, Suite 210
Phoenix, Arizona 85018
Telephone: (602) 912-8451
Fax: (602) 912-8452

4. An explanation of the rule, including the agency's reasons for initiating the rule:

Reinsurance provides the mechanism through which an insurer transfers all or a portion of the insurance risks its has assumed to another insurer in return for a premium payment. The insurance industry generally refers to the insurer transferring the risk as the "ceding" insurer and the insurer accepting the risk transfer as the "assuming" insurer or reinsurer.

Reinsurance transactions play an integral part in the underwriting and spreading of risk. Reinsurance enables insurers to protect themselves from losses and to spread the risk of loss much the way primary insurance enables risks to be spread. Another reason stems from the accounting steps an insurer must follow when completing its statutory financial statement of assets and liabilities for credit to be taken for ceded reinsurance.

Current law permits a domestic insurer to claim a credit for reinsurance ceded either as an asset or as a deduction from liability on its annual statement filed pursuant to A.R.S. § 20-223. Thus the evaluation of the quality of the ceding insurer's reinsurance plays an important role in the monitoring of the insurer's financial condition by the Arizona Department of Insurance (the "Department"). The provisions of A.R.S. §§ 20-169 and 20-220 empower the Director to take action against an insurer found to be in a financially hazardous condition. The provisions of A.R.S. §§ 20-261, 20-261.01, 20-261.02, 20-732 require domestic insurers to submit certain proposed reinsurance agreements to the Director for approval. Further, the provisions of A.R.S. § 20-505 require the Director to determine the liabilities of insurers, including life and disability insurers.

Taken together these provisions of A.R.S. Title 20 require the Department to review reinsurance agreements to determine the manner in which related credits or liabilities may be recorded in a ceding insurer's financial statements. The implementing statutes dictate that credits or liabilities may be recorded only if a reinsurance agreement affects an actual shift or transfer of risk.

In 1992 the Department adopted the current rule regarding life reinsurance agreements only. The rule prescribes the standards used by the Department to evaluate life reinsurance agreements to determine whether credits or liabilities may be recorded as a result of the agreement.

The Department seeks to amend the current rule and to augment it with more comprehensive provisions that address both life and and disability reinsurance agreements. The proposed revisions more thoroughly express the standards to be used by the Department to assess the risk transfer effects of both life and disability reinsurance agreements.

The Department believes that the proposed amendment of this rule represents the policy adopted by the Legislature through the enactment of the credit for reinsurance statutes. Thus the Department seeks to adopt this rule because of the benefits to be realized both by consumers and the industry from the stability fostered through accounting practices that encourage accurate reporting of financial data.

The National Association of Insurance Commissioners (the "NAIC"), an association of the chief insurance regulatory officials of the United States, has established an accreditation program that specifies minimum standards of financial solvency regulation. In 1993 the NAIC granted the Insurance Department's accreditation application. The proposed amendment has been designated by the NAIC as an accreditation maintenance requirement effective January 1, 1996. As such, the proposed amendment to the rule implements current NAIC standards to be followed by insurance regulators during the review of life and disability reinsurance agreements.

Notices of Proposed Rulemaking

Virtually every insurance regulator in the country follows the NAIC's accreditation standards. These standards provide the means by which insurers receive consistent scrutiny throughout the country. In the process, the insurance market achieves a level of reliability and integrity by virtue of the common approach taken by regulators who participate in the accreditation system. Thus domestic insurers can function across state lines confident of substantially similar levels of treatment by regulators in other jurisdictions. Further, a domestic insurer can be confident that the judgments made by this Department will be given deference. A domestic insurer will not be burdened to demonstrate its relative financial strength entirely anew in every jurisdiction in which the insurer transacts or seeks to transact business. In addition, consumers can be confident that an insurer marketing a product in Arizona but domiciled elsewhere has had its financial condition evaluated under standards substantially similar to those employed by the Department.

Arizona's use of insurer solvency evaluation criteria that are consistent with the laws and rules of other states minimizes additional findings in each state in which an insurer is authorized to transact insurance. Complying with inconsistent standards among states would be extremely burdensome, inconvenient, and expensive for insurers. Consequently, Arizona insurers want Arizona to maintain its accreditation standard.

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 principle impact of the rule will fall upon insurers, the Department, and incidentally upon consumers.

Insurers will feel the impact through the Department's articulation of the standards under which proposed reinsurance agreements will be evaluated to determine if an agreement affects a genuine transfer of risk. If a reinsurance agreement does not genuinely transfer risk, an insurer will not be permitted to gain recognition of claimed assets or reductions in liabilities in its financial statements. Were an insurer permitted to take credit or reduce liabilities for reinsurance agreements that do not affect a genuine transfer of risk, the insurer could artificially overstate its financial strength by inflating its assets or understating its liabilities, thus masking the possibility of the insurer's financial failure. This sequence of events could be catastrophic for the insurer's policyholders and shareholders, for claimants under its insurance policies, and for the taxpayers.

With insurers and the Department applying statutory accounting standards that lead to a more consistent approach to the evaluation of reinsurance agreements, the examination process undertaken by the Department should be more efficient. Further, with this fully articulated measure used to evaluate proposed reinsurance agreements and agreements recorded on an insurer's financial statements, insurers will be encouraged to enter into acceptable reinsurance transactions and future financial difficulties will be more easily and timely identified.

Consumers will benefit from this rule because the methodology imposed upon insurers for the recording of assets or reductions of liabilities will serve to ensure the accurate recognition of the financial strength of insurers. Insurance consumers will also be spared the costs of multiple filings and other compliance costs which would be imposed by other states requiring an insurer to comply with disparate accounting and solvency statutes or rules. Further, because of the methodology dictated by this rule, costs borne by the public when an insurer fails should decrease due to the steps taken to prevent failure.

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: Gregory Y. Harris
Address: Arizona Department of Insurance
2910 North 44th Street, Suite 210
Phoenix, Arizona 85018
Telephone: (602) 912-8451
Fax: (602) 912-8452

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:

The Department has scheduled an oral proceeding as follows:

Date: August 16, 1995
Time: 10 a.m.
Location: Arizona Department of Insurance
2910 North 44th Street, Suite 210
Phoenix, Arizona 85018

The Department will accept written comments which are received by 5 p.m. on August 18, 1995, or postmarked no later than that date.

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:

Not applicable.

11. The full text of the rules follows:

Arizona Administrative Register
Notices of Proposed Rulemaking

TITLE 20. PROFESSIONS AND OCCUPATIONS

CHAPTER 6. DEPARTMENT OF INSURANCE

ARTICLE 3. FINANCIAL PROVISIONS AND PROCEDURES

R20-6-307. Life and Disability Reinsurance Agreements

ARTICLE 3. FINANCIAL PROVISIONS AND PROCEDURES

R20-6-307. Life and Disability Reinsurance Agreements

A. ~~Scope and Applicability.~~ This rule shall apply ~~applies~~ to all domestic life and disability insurers and reinsurers, and to all other licensed life and disability insurers and accredited reinsurers ~~who~~ which are not subject to a substantially similar rule in their domiciliary state jurisdiction of domicile. This rule shall also apply to the disability business of licensed property and casualty insurers. "Substantially similar" standards means life reinsurance agreement standards which the Department determines equal or exceed the standards of this rule. ~~This rule shall not apply to assumption reinsurance, yearly renewable term reinsurance, yearly renewable term reinsurance, or nonproportional stop loss or catastrophe reinsurance, or similar forms of nonproportional reinsurance.~~

B. Definitions

1. "Agreement" means a reinsurance agreement and any amendment to a reinsurance agreement.
2. "Credit Quality" means the risk that invested assets supporting the reinsured business will decrease in value but excludes market value declines to changes in interest rate.
3. "Department" means the Arizona Department of Insurance.
4. "Director" means the Director of the Arizona Department of Insurance.
5. "Disintermediation" means the risk that interest rates will rise and policy loans and surrenders will increase or maturing contracts will not renew at anticipated rates of renewal.
6. "Lapse" means the risk that a policy will voluntarily terminate before the recoupment of a statutory surplus strain experienced at issuance of the policy.
7. "Reinvestment" means the risk that interest rates will fall and funds reinvested will therefore earn less than expected.

B.C. Accounting Requirements

1. ~~Unless authorized by the director, no life insurer subject to this rule shall, establish any asset for reinsurance ceded, reduce any liability or establish any asset in any statutory financial statement filed with the Department if, by the terms of the reinsurance agreement, in substance or in effect, any of the following conditions exist:~~
 - 1- ~~The effect of the reinsurance agreement is to transfer deficiency reserves or excess interest reserves to the reinsurer for a risk charge against the ceding insurer and the agreement does not provide for participation by the reinsurer that is~~

~~significant relative to the reserves transferred to the reinsurer for one or more of the following risks: mortality, morbidity, investment, or surrender benefit;~~

a. ~~Renewal expense allowances provided or to be provided to the ceding insurer by the reinsurer in any accounting period are not sufficient to cover allocable renewal expenses of the ceding insurer anticipated at the time the business is reinsured, unless a liability is established for the present value of the shortfall using assumptions equal to the applicable statutory reserve basis on the business reinsured.~~

2- ~~The reserve credit taken by the ceding insurer is not in compliance with the applicable provisions of A.R.S. Title 20 and the rules promulgated pursuant thereto;~~

3- ~~The reserve credit taken by the ceding insurer is greater than the underlying reserve of the ceding insurer supporting the policy obligations transferred under the reinsurance agreement.~~

4-b. ~~The ceding insurer is required to reimburse the reinsurer for negative experience under the reinsurance agreement, except that neither the offset of the ceding insurer's experience refunds against the reinsurer's prior years' losses, nor payment by the ceding insurer of an amount equal to the reinsurer's prior years' losses upon voluntary termination of in force reinsurance by the ceding insurer, shall be considered such a reimbursement to the reinsurer for negative experience. Neither the offset of the ceding insurer's experience refunds against current and prior years' losses, nor payment by the ceding insurer of an amount equal to the reinsurer's current and prior years' losses upon voluntary termination of in-force reinsurance by the ceding insurer, shall be considered a reimbursement to the reinsurer for negative experience.~~

5-c. ~~The ceding insurer may be deprived of surplus or assets at the reinsurer's option or automatically upon the occurrence of a specified event, including the insolvency of the ceding insurer, except that termination of reinsurance agreement by the reinsurer for nonpayment of reinsurance premiums shall not be considered to be such a deprivation of surplus; Termination of the agreement by the reinsurer for nonpayment of reinsurance premiums or other amounts due shall not be considered to be a deprivation of surplus or assets within the meaning of this subsection.~~

6-d. ~~The ceding insurer shall is required, at specific scheduled times scheduled in the agreement, to terminate the agreement or automati-~~

Arizona Administrative Register
Notices of Proposed Rulemaking

- cally recapture all or part of the reinsurance ceded;
7. ~~No cash payment is due from the reinsurer during the term of the reinsurance agreement, with all settlements prior to the termination date of the agreement made only as adjustments to a reinsurance account, but no funds attributable to such account are made available to the ceding insurer for the payment of the benefits; or~~
 - 8.e. The reinsurance agreement may require payment by the ceding insurer to the reinsurer of amounts other than from income reasonably expected from the reinsured policies.
 - f. The agreement does not transfer to the reinsurer the significant risks inherent in the business reinsured. Table A identifies the risks deemed significant for representative types of business.
 - g. The credit quality, reinvestment, or disintermediation risk is significant for the business reinsured and the ceding company does not either transfer the underlying assets to the reinsurer, segregate the underlying assets in a trust or escrow account, or otherwise segregate the underlying assets. The assets that support the reserves for classes of business that do not have a significant credit quality, reinvestment, or disintermediation risk, or for long-term care or long-term disability insurance, traditional non-par permanent, traditional par permanent, adjustable premium permanent, indeterminate premium permanent, or universal life fixed premium with no dump-in premiums allowed, may be held by the ceding company without segregation. To determine the reserves for these classes of business, the reserve interest rate adjustment formula shall reflect the ceding company's investment earnings and incorporate all realized and unrealized gains and losses reported in its statutory financial statement.
 - h. Settlements made less frequently than quarterly or payments due from the reinsurer are not made in cash within 90 days of the settlement date.
 - i. The ceding insurer is required to make representations or warranties unrelated to the business reinsured.
 - j. The ceding insurer is required to make representations or warranties related to future performance of the business reinsured.
 2. An agreement entered into after the effective date of this rule to reinsure business issued before the effective date of the agreement shall be filed by the ceding insurer with the director within 30 days after execution. Each filing shall be accompanied by a description of the corresponding reduction in liabilities or other credit for reinsurance, and any other financial impact of the agreement, reported in the ceding insurer's statutory financial statements. The ceding insurer's statutory financial statement shall separately identify as a surplus item in the aggregate write-ins for gains and losses in surplus in the Capital and Surplus account of the statutory

financial statement any increase in surplus net of federal income tax resulting from an agreement falling under this subsection. As earnings emerge from the business reinsured, the ceding insurer's recognition of surplus increase as income shall be reported on a net of tax basis as reinsurance ceded in its statutory financial statement.

C.D. Written Agreements

1. ~~No ceding life insurer subject to this rule agreement shall reduce any liability or establish any asset in any statutory financial statement filed with the Department on the basis of any reinsurance agreement or amendment thereto, unless the agreement, amendment, or a binding letter of intent has been duly executed by both all parties by the "as of" date of the statutory financial statement.~~
2. In the case of a letter of intent, A reinsurance agreement or an amendment thereto shall be executed within 90 days from the execution date of the letter of intent for credit to be granted for the reinsurance ceded based on upon the letter of intent.
3. The agreement shall provide that:
 - a. The agreement constitutes the entire contract between the parties with respect to the business reinsured, and there are no understandings between the parties other than as expressed in the agreement; and
 - b. Any change or modification to the agreement shall be void unless made by written amendment signed by all parties.

Table A

Risk Categories:

- (a) Morbidity
- (b) Mortality
- (c) Lapse
- (d) Credit Quality
- (e) Reinvestment
- (f) Disintermediation

	a	b	c	d	e	f
<u>Disability Insurance, other than long-term care or long-term disability insurance</u>	+	0	+	0	0	0
<u>Long-term care or long-term disability insurance</u>	+	0	+	+	+	0
<u>Immediate Annuities</u>	0	+	0	+	+	0
<u>Single Premium Deferred Annuities</u>	0	0	+	+	+	+
<u>Flexible Premium Deferred Annuities</u>	0	0	+	+	+	+

Arizona Administrative Register
Notices of Proposed Rulemaking

Guaranteed
Interest Contracts 0 0 0 + + +

Other Annuity
Deposit Business 0 0 0 + + +

Single Premium
Whole Life 0 + + + + +

Traditional
Non-par
Permanent Life 0 + + + + +

Traditional
Non-par
Term Life 0 + + 0 0 0

Traditional
Par
Permanent Life 0 + + + + +

Traditional Par
Term Life 0 + + 0 0 0

Adjustable
Premium
Permanent Life 0 + + + + +

Indeterminate
Premium
Permanent Life 0 + + + + +

Universal Life
Flexible Premium 0 + + + + +

Universal Life
Fixed Premium,
with dump-in
premiums allowed 0 + + + + +

+ - Significant 0 - Insignificant