

NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* 1st as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council. 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* after the final rules have been submitted for filing and publication.

NOTICE OF FINAL RULEMAKING

TITLE 3. AGRICULTURE

CHAPTER 4. DEPARTMENT OF AGRICULTURE - PLANT SERVICES DIVISION

PREAMBLE

1. Sections Affected

| | |
|-----------|--------------------------|
| R3-4-205 | <u>Rulemaking Action</u> |
| Article 5 | Renumber |
| R3-4-501 | New Article |
| | 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. § 3-205.02

Implementing statute: A.R.S. §§ 3-201.01, 3-204, 3-205, 3.205.02
3. The effective date of the rules:

April 9, 1998
4. A list of all previous notices appearing in the Register addressing the adopted rule.

Notice of Rulemaking Docket Opening: 1 A.A.R. 1708, September 29, 1995

Notice of Proposed Rulemaking: 4 A.A.R. 205, January 16, 1998

Notice of Public Hearing on Proposed Rulemaking: 4 A.A.R. 207, January 16, 1998
5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

| | |
|------------|--|
| Name: | Shirley Conard, Rules Specialist |
| Address: | Arizona Department of Agriculture 1688 West Adams, Room 124 Phoenix, Arizona 85007 |
| Telephone: | (602) 542-0962 |
| Fax: | (602) 542-5420 |
6. An explanation of the rule, including the agency's reasons for initiating the rule:

The colored cotton rule sets up the requirements for colored cotton production including the use of cotton appliances and gins; the transportation or handling of colored cotton; the labeling, moving and delinting procedures of seed; and the establishment of the colored cotton advisory committee.

Since the rule was promulgated in 1994, several problems have arisen concerning gin trash, plant-back restrictions, transportation contamination and the disposal of colored cottonseed and colored seed cotton.

The rule did not specifically address gin trash that, according to ginners, cannot be effectively crushed to render all seed sterile. Subsection (C) now allows for 3 alternatives for the disposal of gin trash. In the case of colored cotton grown in Wenden and ginned in Casa Grande, it was not economically feasible for the grower or the gin to transport all of the gin trash back to Wenden for disposal. To correct this problem subsections (C) and (E) provide an alternative method of rendering the seed sterile and give other options for disposal.

Subsection (C)(1)(a) stated that colored cottonseed and fiber, cleaned from cotton equipment, is to be disposed of on the property on which the colored cotton was grown. However, by definition, the term "cottonseed" means processed seed cotton. Because this portion of the rule was primarily referring to cotton equipment used to harvest, transport, or both, raw cotton, the term "seed cotton" was added to the cleaning requirement. This subsection further requires colored cotton producers, contractors and ginners to notify the Department at least 48 hours in advance to arrange an inspection of the cotton appliances or gins.

Arizona Administrative Register
Notices of Final Rulemaking

Subsection (C)(1)(b) required all seed to be rendered sterile by crushing and the lint to be baled or bagged and marked as colored cotton. As with gin trash, motes (very small particles or specks) cannot be effectively crushed to render all seed sterile. These methods of dealing with cottonseed, seed cotton, fiber and gin trash has been moved to the appropriate areas in subsections (E) and (F).

The rule currently does not require that cotton trailers be tarped or module trucks be totally enclosed. Both pose a potential source of contamination of neighboring white cotton fields from colored cotton falling or blowing off the transports. The new subsection (D) addresses this problem.

Subsection (F)(1) requires the producer or the contracting organization to notify the Department when they save colored cottonseed for propagative purposes. The current subsection (F)(1) and a portion of subsection (F)(2) is being removed because it is not necessary for the Department to track seed being shipped out-of-state. Seed sold out-of-state will be regulated by federal rules. Subsection (F)(2) deals with seed delinted in the State and is unnecessary.

The responsibilities of the advisory committee were clarified in subsection (G). The advisory committee's function is to discuss and provide advice on colored cotton statutes and rules dealing with enforcement requirements, not on internal policies that deal with employee procedures.

After working through the various rule changes it was suggested that, since colored cotton is not a pest, the colored cotton rule be removed from the quarantine Article and placed elsewhere. Therefore, the rule is being renumbered and placed in the previously repealed Article 5.

In the Spring of 1997, and well before the proposed rule publication on January 16, 1998, the Department received many letters concerning Arizona's colored cotton program. These letters were not written in response to the rule draft, however, but in response to information disseminated by a colored cotton producer or breeder, or both. The letters wanted the Department to allow the producer or breeder, or both, to grow colored cotton in the state and accused Arizona of creating a hostile business environment. Issues, such as organic cotton and genetically engineered cotton, which were not part of the rule draft, were raised and demands placed on the Department. The letters accused the Department of promulgating a rule that would place severe restrictions on the growing of colored cotton in Arizona, and that the rule that was backed by "large cotton growing consortiums in Arizona [that] has the power to drive a small environmentally consciences *sic* business to bankruptcy." This is simply not true.

In the fall of 1997, *Spin-Off*, a magazine for handspinners, published an article about colored cotton in Arizona and talked about a letter-writing campaign to "help convince the agriculture department that there is much interest in both colored and organically grown cotton." The article further stated that "the agriculture department began to experience heavy pressure from commercial and white cotton growers . . . [and the Department] did not have any positive support for the growing of organic and colored cotton with which to refute the white cotton grower's claims." The Department responded to the magazine and clarified the misinformation disseminated in the article.

When the colored cotton rule was 1st discussed in 1993, the Department and members of the Arizona Cotton Growers Association met to discuss what conditions would have to be met for colored cotton to be grown in Arizona. Great concern was expressed because California would no longer permit colored cotton to be grown there because of the possibility of white cotton contamination. As a result of these meetings, a comprehensive rule was drafted that would deal with field, seed and gin contamination, and the colored cotton rule was approved December 20, 1994.

While the letter-writing campaign caused great concern among Department staff about the amount of disinformation on this issue, the greater concern is that the proposed rule changes, which make the rule clearer and more enforceable, would be rejected by the Council. If this happens, the Department will be required to enforce the original rule which doesn't address problems that have arisen concerning gin trash, plant-back restrictions, transportation contamination and the disposal of colored cottonseed. Unfortunately this could work against the producer/breeder.

7. 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.

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

This rule establishes the requirements for producing colored cotton and provides strict regulations to protect the existing cotton industry from potential colored fiber and seed contamination. Because colored cotton production in Arizona did not meet the projected expectations stated in the original rulemaking and, in fact, no colored cotton is scheduled to be grown in 1997 and 1998, the Department considered not taking any action on this rule. However, a commitment was made to set up an effective program and much time and training has already been expended toward this program. It makes sense to fix the areas that are deficient because colored cotton may be grown in the future.

A. *The Arizona Department of Agriculture.*

Regulating colored cotton is a labor intensive responsibility for the Department and 80 hours of manager time, and 400 hours of Department time was projected in training for the 1st year of the program. Actual time administering the program from January 1996 through December 1996 was 793.5 hours and included inspector time in the field and in-house manager time.

Notices of Final Rulemaking

After Department personnel were trained, they trained growers and employees how to deal with the cleaning and handling of appliances and gins, and in the handling of colored cotton and cottonseed. This training ensured compliance and reduced the danger of contamination.

The Department did not hire the temporary staff person proposed in the original economic impact statement as the added record-processing for this program did not materialize. The colored cotton record-processing was handled by existing staff.

The Department carried a tremendous responsibility to ensure that this program would not jeopardize Arizona's international white cotton status. The additional inspections such as, preplanting inspections; harvest inspections; movement of cotton at farms or gins, or both; verification of appropriate removal of lint or cottonseed at a farm or gins; and second crop inspection helped with this assurance. The Department also ensured that appliances were free from contaminating fiber and seed by conducting an inspection of every appliance, such as planter, plow, disk, picker, rood, trailer, shredder, etc., after use.

The Department furnished a sign for each appliance used in the production of colored cotton to indicate Department certification of that appliance. The cost of these signs coincided with the \$500 proposed cost.

The major concern of producing naturally colored cotton in Arizona is the potential for contamination of both fiber and seed. Colored cotton fiber does not accept dyes the way white cottons do. If a few colored fibers get mixed in a white bale, flaws will appear in the dyed fabrics. The value of any contaminated white cotton bales would be discounted. Because of this concern for contamination, it is necessary that the Department be apprised of colored cotton producers and ginners.

B. Colored Cotton Growers.

It was anticipated that during the 1st year of regulation there would be approximately 10,000 acres of colored cotton grown in Arizona. This acreage was estimated to include 6 - 10 colored cotton growers.

| Growing Season | Number of Growers | Number of Acres |
|----------------|-------------------|-----------------|
| 1995 - 1996 | 4 | 1,188.5 |
| 1996 - 1997 | 1 | 35 |
| 1997 - 1998 | 0 | 0 |

The above chart shows that the original forecast for the colored cotton industry in the state was inaccurate. This forecast inaccuracy is due, in part, to the concern of Arizona's cotton growers of the possibility of contamination and the stringent rules originally promulgated. Perhaps more significant is the fact that the growers had a difficult time finding land that met the growing conditions needed for colored cotton and that also met the requirements for separation of white and colored cotton. The loss of major contracts for the sale of colored cotton crops is certainly an issue. The economic potential offered through the production of colored cotton in Arizona was a good and economically healthy reason to originally promulgate these rules, however the economic climate and strict growing requirements have not made it easy for the colored cotton grower.

Colored cotton production is a niche that allows growers to augment their return per unit of production. Growers producing organically grown white cotton should also benefit due to the demand for organic fabrics blended with naturally colored cottons.

C. Ginners.

To protect the white cotton industry from colored cotton contamination, colored cotton gins are inspected by the Department to ensure they are thoroughly cleaned. Inspecting these cotton gins is a huge undertaking, one that requires that the ginner and the inspector examine every part of the gin to make certain that cotton lint or seed has been removed. It was thought that as the program unfolded gins processing colored cotton might become dedicated to that commodity. Because colored cotton crops did not flourish as projected, gins did not realize the amount of business that would warrant dedicating a gin to colored cotton.

The ginner, however, still has to remove the colored cottonseed, seed cotton and loose lint with a high pressure spray or steam cleaner. The expense in equipment and time is a necessary expense to stop the possibility of contamination and is borne by the grower.

D. Consumers and the Public.

Through the sale of colored cotton, the consumer is given another choice in the clothing marketplace to purchase clothing that is, not only free of synthetic dyes, but actually improves its color with each washing.

Beginning colored cotton sales were healthy and the trend to purchase "environmentally friendly" clothing found many buyers.

9. **A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**
None.

10. **A summary of the principal comments and the agency response to them:**
A representative from the Arizona Cotton Growers Association spoke in full support of the rule and of the minor, but important changes that provide enforcement. No response was necessary.

11. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**
None.

Arizona Administrative Register
Notices of Final Rulemaking

12. Incorporations by reference and their location in the rule:
(B)(2)(b): Arizona Crop Improvement Association Cotton Seed Certification Standards, revised July 1995.
(E)(6): 7 CFR 301.52 et seq., amended August 30, 1994.
13. Was this rule previously adopted as an emergency rule:
No.
14. The full text of the rules follows:

TITLE 3. AGRICULTURE

CHAPTER 4. DEPARTMENT OF AGRICULTURE - PLANT SERVICES DIVISION

ARTICLE 5. COLORED COTTON

Section

~~R3-4-205~~ R3-4-501. Colored Cotton Production and Processing

ARTICLE 5. COLORED COTTON

~~R3-4-205~~ R3-4-501. Colored Cotton Production and Processing

- A. Definitions. In addition to the definitions provided in A.R.S. § 3-101 and A.A.C. R3-4-102, the following shall ~~terms~~ apply to this ~~rule~~ Section:
1. "Certified" means having been inspected with a written certificate of inspection issued by an inspector of the Department.
 2. "Colored cotton" means any variety of cotton plants of the Genus *Gossypium* which ~~that~~ produces fiber which ~~that~~ is naturally any color other than white.
 3. "Cottonseed" means processed seed cotton that will be used for propagation, ~~crushed~~ animal feed, crushed or ~~composted~~ fertilizer, or oil.
 4. "Composting" means a process that creates conditions that facilitate the controlled decomposition of organic matter into a more stable and easily handled soil amendment or fertilizer, usually by piling, aerating and moistening; or the product of such a process.
 - 4-5. "Delinting" means the process of removal of ~~using acid, flame, or mechanical means to remove~~ fiber which ~~that~~ remains on cottonseed after ginning, ~~including either acid or flame techniques.~~
 - 5-6. "Planting seed" means seed of a known variety produced for planting subsequent generations.
 - 6-7. "Seed cotton" means raw cotton containing seed and lint which ~~that~~ has been harvested from a field, but has not been ginned.
 - 7-8. "White cotton" means any variety of the Genus *Gossypium* which ~~that~~ produces white fiber as ~~prescribed~~ ~~established~~ in 28 U.S.C. 401 through 451, the Official Cotton Standards of the United States for the Color Grade of American Upland Cotton, revised July 1, 1993; and Cotton Classification Results, revised July 1994. This material; ~~is incorporated herein~~ by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Office of the Secretary of State.
- B. Production requirements.
1. ~~All producers~~ A producer who intends to grow colored cotton shall register in writing with the Department. ~~The registration form shall be received no less than at least 30 days prior to before~~ the cotton planting dates for the applicable cultural cotton zones ~~as prescribed~~ ~~established~~ in R3-4-204. ~~Any colored cotton not registered with the Department shall be abated as established in A.R.S. §§ 3-204 and 3-205, and the producer may be~~

~~assessed a civil penalty as established in A.R.S. § 205.02.~~ The registration shall include:

- a. The name, ~~address, telephone number,~~ and signature of the producer;
 - b. The name, ~~address, telephone number,~~ and signature of the property owner;
 - c. The name, ~~address and telephone number~~ of the organization or company contracting for the production of colored cotton or to whom the colored cotton will be sold, if known;
 - d. The total number of acres to be planted;
 - e. The geographical location of the proposed fields by county, section, township and range; and
 - f. The name of the property owners, if known, adjacent to the field where colored cotton will be grown.
2. Separation of white and colored cotton.
- a. ~~The~~ A colored cotton producer shall ensure that all colored cotton is planted no less than 500 feet from any white cotton field.
 - b. All ~~producers~~ of white cotton saved for planting seed shall ~~have complied~~ comply with the Field Standards, ~~as set forth in the Arizona Crop Improvement Association's Cotton Seed Certification Standards established by the Arizona Crop Improvement Association. The Cotton Seed Certification Standards, revised July 1992 1995. This material is~~ ~~are~~ incorporated herein by reference, ~~does not include any later amendments or editions of the incorporated matter, and is~~ on file with the Office of the Secretary of State. ~~These standards do not include any later amendments or editions of the incorporated matter.~~
 3. ~~White cotton~~ A producer shall not be ~~planted~~ plant white cotton on land on which colored cotton has been grown until ~~one 1 or more~~ irrigated non-cotton crops ~~or more~~ has ~~have~~ been produced on that land. If the non-cotton crop is not grown during a traditional cotton growing season, as ~~prescribed~~ ~~established~~ by R3-4-204(E), the field shall be ~~pre-irrigated prior to before~~ planting a white cotton crop.
 4. The Department shall notify all ~~farmers~~ cotton producers of the colored cotton plant-back restrictions and of the availability of location and acreage records of colored cotton crops.
 5. The Department shall notify the Arizona Crop Improvement Association of the ~~registered~~ colored cotton geographical locations ~~no less than at least 25 days prior to before~~ the cotton planting date for each cultural cotton zone ~~prescribed~~ ~~established~~ in R3-4-204.
- C. Cotton appliances.
1. ~~The Department shall inspect and certify all cotton appliances and gins used in the production, transporta-~~

Arizona Administrative Register
Notices of Final Rulemaking

~~tion or handling of colored cotton after the gins and appliances are cleaned of colored cottonseed and prior to being used for the production, transportation or handling of white cotton. No cotton producer, contractor, or ginner shall use a cotton appliance or gin to produce, transport, or handle white cotton after the gin or appliance has been used in the production, transportation or handling of colored cotton until the Department inspects the cotton appliance or gin and finds it free of colored cottonseed, seed cotton, fiber and gin trash. A cotton producer, contractor, or ginner shall notify the Department at least 48 hours, excluding Sundays and legal holidays, before an inspection is needed.~~

- ~~2.~~ a. Colored seed cotton, cottonseed, and fiber, and gin trash cleaned from cotton equipment, shall be composted or disposed of by the producer or ginner, on the property
 - a. On land where gin trash has previously been disposed and the land is managed as specified in subsection (B)(3); or
 - b. in a landfill approved by the Department.
- ~~3.~~ b. Colored cottonseed and fiber which cannot be disposed of as set forth in subparagraph (C)(1)(a) shall be rendered sterile by crushing the seed or, in the case of lint, shall be baled or bagged and marked as colored cotton.
- ~~3.~~ 3. The Department shall legibly mark Cotton cotton appliances designated for exclusive use on colored cotton crops shall be legibly marked by the Department.

D. Transportation. Except in gin yards, colored cottonseed or colored seed cotton transported over public roads shall be totally enclosed or covered.

D.E. Gin requirements.

1. The A gin owner or manager planning to process colored cotton shall notify the Department, in writing, no less than 30 days prior to before processing the colored cotton.
2. The Department shall notify the Arizona Crop Improvement Association of a gin owner's or manager's intention to process colored cotton within 10 days from the receipt of the notification by from the gin.
3. The A gin owner or manager processing colored cotton shall not process white cotton until the gin has been cleaned, and certified inspected by the Department. The gin shall be free of cottonseed, seed cotton and loose lint cotton as prescribed established in paragraph subsection (C)(1).
4. If a gin processes colored seed cotton and white seed cotton during the same season, and the white cottonseed is not retained by the plant breeder for research purposes, the producer shall be marketed market the white cottonseed as:
 - a. crushed animal Animal feed,
 - b. crushed Crushed or composted fertilizer, or
 - c. oil Oil.
5. Colored The ginner shall legibly mark colored seed cotton kept in the gin-yard or gin buildings and shall be legibly marked and isolated
 - a. Isolate the seed cotton at least 500 feet from white seed cotton, or shall be enclosed
 - b. Enclose it with two 2 foot high chicken wire or chain link fencing.
6. Gin trash not disposed as established in subsection (C)(2) shall be shipped out-of-state, subject to the requirements of the receiving state and 7 CFR 301.52 et

seq. amended August 30, 1994. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Office of the Secretary of State.

7. The ginner shall bale or bag colored cotton fiber and mark the bale or bag as colored cotton.

E. F. Seed Requirements.

1. The A producer or the contracting organization, set forth in paragraph subsection (B)(1), saving colored cottonseed for propagative purposes shall legibly label the colored planting seed container and shall notify the Department of:
 - a. The quantity₂,
 - b. The variety or color₂, and
 - c. The location where the colored planting seed is held or stored, and
 - d. Whether any seed will be shipped out-of-state.
 2. The producer or the contracting organization set forth in paragraph (B)(1) shall notify the Department within five days prior to moving colored cottonseed from a holding or storage area. The notification shall include:
 - a. The quantity to be moved;
 - b. The destination of the seed;
 - c. The receiver of the seed; and
 - d. The intended use of the seed.
 - 3.2. The producer or the contracting organization set forth in paragraph (B)(1) shall notify the Department of the state where the cotton is being sent for delinting. If the cotton seed is being delinted in Arizona, the delinting facility shall follow the requirements in Harvesting, Handling and Tagging which that are included in the Cotton Seed Certification Standards and have been incorporated by reference in subparagraph subsection (B)(2)(b).
 - 4.3. Non-delinted The producer shall render non-viable non-delinted (fuzzy) colored cottonseed not being used for propagative purposes shall be rendered non-viable by crushing or composting. Whole or cracked colored cottonseed shall not be used as animal feed in Arizona but may be shipped out-of-state, subject to the requirements of the receiving state and 7 CFR 301.52 et seq.
 - 5.4. The Department shall inspect vehicles and other equipment transporting whole or cracked colored cottonseed and shall certify the vehicles and equipment free of colored cotton seed before being used to transport any white planting seed. Cotton producers shall not transport unbagged white cotton planting seed using vehicles or other equipment previously used to transport whole or cracked colored cottonseed until the Department has certified that these vehicles and equipment are free of colored cottonseed.
- F. G. Advisory committee. The Director shall appoint an advisory committee, pursuant to under A.R.S. § 3-106, to review colored cotton policy statutes and rules, inspection procedures, and certification methods. The committee shall be appointed for two 2-year staggered terms and a member may be reappointed one for 1 additional term. The committee shall consist of one 1 representative from each of the following categories:
1. The Cotton Research and Protection Council₂,
 2. The Arizona Crop Improvement Association₂,
 3. The Arizona Department of Agriculture₂,
 4. The Arizona Cotton Growers Association₂,
 5. A colored cotton producer₂,
 6. A ginner ginning colored cotton₂, and
 7. A contractor for the production of colored cotton.

NOTICE OF FINAL RULEMAKING

TITLE 6. ECONOMIC SECURITY

CHAPTER 5. DEPARTMENT OF ECONOMIC SECURITY - SOCIAL SERVICES

PREAMBLE

1. Sections Affected

| | <u>Rulemaking Action</u> |
|------------|--------------------------|
| Article 57 | Repeal |
| R6-5-5701 | Repeal |
| R6-5-5702 | Repeal |
| R6-5-5703 | Repeal |
| R6-5-5704 | Repeal |
| R6-5-5705 | Repeal |
| R6-5-5706 | Repeal |
| R6-5-5707 | Repeal |
| R6-5-5708 | Repeal |
| R6-5-5709 | Repeal |
| Article 71 | Repeal |
| R6-5-7101 | Repeal |
| R6-5-7102 | Repeal |
| R6-5-7103 | Repeal |
| R6-5-7104 | 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(A)(12); 8-114(E)
3. The effective date of the rules:

April 9, 1998
4. A list of all previous notices appearing in the Register addressing the final rule:

Notice of Rulemaking Docket Opening: 3 A.A.R. 2309, August 22, 1997

Notice of Proposed Rulemaking: 3 A.A.R. 3008, October 31, 1997
5. The name and address of agency personnel with whom persons may communicate regarding the rule:

Name: Vista Thompson Brown

Address: Department of Economic Security
1789 West Jefferson, Site Code 837A
Phoenix, Arizona 85007
or
P.O. Box 6123, Site Code 837A
Phoenix, Arizona 85005

Voice: (602) 542-6555

Fax: (602) 542-6000
6. An explanation of the rule, including the agency's reason for initiating the rule:

In keeping with the proposed plan of action set forth in the report of the Department's 5-Year Review of the rules in 6 A.A.C. 5, the Department plans to repeal the rules listed in paragraph 1 for the following reasons:

Article 57. The rules in Article 57 are old and were written before enactment of federal and state statutes that now supersede these rules. They are also written in a style and format that is no longer appropriate for rulemaking. These general rules are no longer necessary because they are duplicative of federal and state statutes passed in recent years that govern services to children placed in out-of-home care.

Article 71. These rules are no longer necessary because: (1) some of the information duplicates statutory text; and (2) the balance of the subject matter covered by these rules has been condensed and incorporated into 6 A.A.C. 5, Article 65, specifically R6-5-6503.
7. 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.

Notices of Final Rulemaking

8. **The summary of the economic, small business, and consumer impact:**
The repeal of these rules will have no measurable economic impact on any group. The repeal has intangible benefits by eliminating the confusion that results from having outdated and duplicative rules as a part of the *Arizona Administrative Code*.
9. **A description of the changes between the proposed rules, including supplemental notices, and the final rules (if applicable):**
The Department did not make any changes between the proposed rules and the final rules.
10. **A summary of the principal comments and the agency's response to them:**
The Department did not schedule a public hearing on the proposed rulemaking. No one requested a hearing or submitted any oral or written comments on the proposed rulemaking.
11. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**
Not applicable.
12. **Incorporations by reference and their location in the rules:**
None.
13. **Was this rule previously adopted as an emergency rule?**
No.
14. **The full text of the rules follows:**

TITLE 6. ECONOMIC SECURITY

CHAPTER 5. DEPARTMENT OF ECONOMIC SECURITY - SOCIAL SERVICES

ARTICLE 57. FOSTER CARE

Section

- R6-5-5701. Definitions
- R6-5-5702. Program responsibilities
- R6-5-5703. Description of services
- R6-5-5704. Parental rights and responsibilities
- R6-5-5705. Foster care payments
- R6-5-5706. Confidentiality
- R6-5-5707. Complaints and appeals

- R6-5-5708. Civil rights
- R6-5-5709. Case management

ARTICLE 71. ATTORNEY FEES FOR ADOPTION

- R6-5-7101. Definitions
- R6-5-7102. Department review of adoption fees
- R6-5-7103. Allowable fee related services
- R6-5-7104. Documentation of reported costs

TITLE 6. ECONOMIC SECURITY

CHAPTER 5. DEPARTMENT OF ECONOMIC SECURITY - SOCIAL SERVICES

ARTICLE 57. FOSTER CARE

R6-5-5701. Definitions

In this Article, unless the context otherwise requires:

1. "Case plan" means a written document which is a discrete part of the case record, and identifies case goals, services to be delivered and their purpose, actions to be taken to resolve identified problems, date of completion or anticipated completion of the service or action, and the name of the case manager who is responsible for assuring that the case plan is implemented.
2. "Child or children" means any person(s) under the age of 18.
3. "Client" means any recipient of Social Services.
4. "DES or the Department" means the Arizona State Department of Economic Security.
5. "Foster care" means a service which provides supervision of children in family foster homes or residential living and development.
6. "Permanent placement" means placement which ensures stability to continuity of care for a child achieved through reuniting the family, adoption, legal guardianship, or long term foster care.
7. "Reasonable efforts" means preventive and reunification services to prevent the unnecessary separation of families.
8. "Voluntary placement agreement" means a written agreement between the parent(s), guardian, or caretaker,

DES and the child, if the child is over 12 years of age, placing the child in foster care for a period of not to exceed 90 days.

R6-5-5702. Program responsibilities

The Foster Care Program shall:

1. Ensure that reasonable efforts be made to prevent placement of children.
2. Ensure that reasonable efforts be made to reunite children with their parents and that the duration of foster care be kept to the minimum time possible.
3. Enable children who cannot remain in their own homes to receive care, protection and training in a substitute living arrangement.
4. Ensure that case plans for each child are designed to achieve placement in the least restrictive setting in close proximity to the parents home and consistent with the best interest and special needs of the child.
5. Ensure that an appropriate case plan is developed for the permanent placement of each child.

R6-5-5703. Description of services

The Foster Care Program shall provide the following services:

1. Intake and evaluation to determine the need for foster care services.
2. Foster homes or foster care facilities.
3. Placement and supervision of children in foster homes or foster care facilities.

4. Services directed towards permanent placement of children.

R6-5-5704. Parental rights and responsibilities

A. Parents retain the following legal rights and responsibilities concerning children removed from the home by Court Order, unless the rights are limited by the Court:

1. The right to consent to major medical services or to surgery;
2. The right to consent to the marriage of a child who is under the legal age limits;
3. The right to consent to military service for the child;
4. The right to consent to the adoption of the child;
5. The right to determine the religion of the child;
6. The right to receive proper legal notice of an action instituted on behalf of or against the child;
7. The right to visitation.

B. Under voluntary placement agreements, parents retain all rights.

R6-5-5705. Foster care payments

Payments shall be made for foster care in accordance with the current rate schedule published by the Department.

R6-5-5706. Confidentiality

The provisions of A.C.R.R. Title 6, Chapter 5, Article 23, Safeguarding of Records and Information, shall apply to this Article.

R6-5-5707. Complaints and appeals

The provisions of A.C.R.R. Title 6, Chapter 5, Article 24, Complaints and Appeals, shall apply to this Article.

R6-5-5708. Civil rights

The provisions of A.C.R.R. Title 6, Chapter 5, Article 26, Civil Rights, shall apply to this Article.

R6-5-5709. Case management

A. The Department shall conduct a case review on a quarterly basis for each child who has been in foster care for six months or more.

B. The review shall evaluate:

1. Appropriateness of the case plan;
2. Efforts to provide preventive and reunification services;
3. Implementation of judicial orders;
4. Continued need for foster placement;
5. The extent of progress toward alleviating the cause necessitating placement;
6. The extent of progress toward achieving a permanent plan.

ARTICLE 71. ATTORNEY FEES FOR ADOPTION

R6-5-7101. Definitions

In this Article, unless the context otherwise requires:

1. "Contracted services" means those services provided by qualified professionals, other than the attorney or attorney's staff, which include, but are not limited to, the adoptive home study, post placement adoption supervision, reports to the court and counseling for the birth parents, adoptive parents and child;
2. "Legal services" means the drafting and filing of legal documents, court appearances, consultations and searches for birth parent;
3. "Medical costs" means expenses incurred by the birth parent and child for prenatal care, hospitalization, birth, postnatal care and physicians.

4. "Transportation expenses" means those costs involved in transporting the birth parent between locations within the state for counseling and medical services and transportation of the child into Arizona or between locations within the state for the purpose of adoption.

R6-5-7102. Department review of adoption fees

The Department shall accept accounting affidavits required by A.R.S. §§ 8-114(D), only at the Department of Economic Security, Administration for Children, Youth and Families Office, P.O. Box 6123, Phoenix, Arizona 85005.

R6-5-7103. Allowable fee related services

The Department shall recommend allowance of reasonable charges for the following services provided in processing adoptions:

1. Preparation of legal documents which encompass, but are not limited to, the following:
 - a. Legal documents drafted for termination of parental rights:
 - i. Petition for termination;
 - ii. Notice of hearing;
 - iii. Order of termination;
 - iv. Parental consents for adoptions;
 - v. Affidavit of due diligence when publication is required in search for parent; and
 - vi. Affidavit regarding denial or inability to determine paternity.
 - b. Legal documents for adoption:
 - i. Petition to adopt;
 - ii. Notice of hearing; and
 - iii. Order of adoption.
 - c. Documents drafted for granting the adoptive parents temporary custody of the adoptive child:
 - i. Petition for temporary custody;
 - ii. Notice of hearing; and
 - iii. Order of temporary custody.
 - d. A verified accounting of fees for the adoption services;
 - e. Affidavits of compliance with A.R.S. §§ 8-130(D)(1).
2. Other legal services including, but not limited to:
 - a. Court appearances
 - b. Services to locate birth parent including, but not limited to:
 - i. Newspaper publications;
 - ii. Telephone calls;
 - iii. Registered mailings; and
 - iv. Employment/military searches.
 - c. Separate legal counsel for birth parents or child when necessary;
 - d. Separate, out of state counsel to prepare the documents for the Interstate Compact on the Placement of Children when necessary.
 - e. Legal consultations;
3. Contracted services;
4. Medical costs for birth parent and child;
5. Transportation expenses;
6. Court filing fee;
7. Other unusual and documented costs.

R6-5-7104. Documentation of reported costs

The Department shall have the right to request any or all documentation to substantiate reported payments.