

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by 1st submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Due to time restraints, the Secretary of State's Office will no longer edit the text of proposed rules. We will continue to make numbering and labeling changes as necessary.

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 2. ADMINISTRATION

CHAPTER 5. DEPARTMENT OF ADMINISTRATION

PERSONNEL ADMINISTRATION

PREAMBLE

- | | |
|---------------------------------|---------------------------------|
| <u>Sections Affected</u> | <u>Rulemaking Action</u> |
| R2-5-304 | Amend |
- 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. § 41-763(6)
Implementing statute: A.R.S. § 41-783(1)
- A list of all previous notices appearing in the Register addressing the final rule:**
Notice of Rulemaking Docket Opening: 5 A.A.R. 2179, July 9, 1999.
- The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Thomas Michael, Human Resources Generalist
Address: Department of Administration
1831 W. Jefferson, Room 137
Phoenix, AZ 85007
Telephone: (602) 542-4897
Fax: (602) 542-2796
- An explanation of the rule, including the agency's reasons for initiating the rule:**
The proposed rulemaking is to amend Section R2-5-304. The proposed rule contains requirements for performance increases for all employees subject to legislative appropriation and who meet the performance increase guidelines issued by the Director. The amended Section also provides for special performance awards for employees at the maximum salary of their pay grade as a lump sum payment or other payment method. The docket opening for Section 304 is June 18, 1999.
- Reference to any study that the agency proposes to rely on and its evaluation of or justification for proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**
None.
- 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

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

The rules directly affect state service employees through procedures that increase salaries paid by the state. The result would have an economic impact by increasing discretionary income and could impact consumers based upon the quality of services that are provided. The extent of the impact as measured in financial terms cannot be projected due to the unknown amount of funds that could be allocated.

9. 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: Claudia R. Smith, Personnel Manager

Address: Department of Administration
1831 W. Jefferson, Room 128
Phoenix, AZ 85007

Telephone: (602) 542-4894

Fax: (602) 542-2796

10. 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:

Date: August 9, 1999

Time: 1 p.m.

Location: Grand Canyon Room
1700 W. Washington
West Wing Basement

Nature: Oral Proceeding

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. The full text of the rules follows:

TITLE 2. ADMINISTRATION

**CHAPTER 5. DEPARTMENT OF ADMINISTRATION
PERSONNEL ADMINISTRATION**

ARTICLE 3. CLASSIFICATION AND COMPENSATION

Section

R2-5-304. Performance Adjustments

ARTICLE 3. CLASSIFICATION AND COMPENSATION

R2-5-304. Performance Adjustments

A. Performance increase limits. Subject to legislative appropriation the Director shall determine employee eligibility and the minimum and maximum performance increase percentage.

AB. Performance increases.

1. All employees ~~except seasonal, temporary, emergency and clerical pool employees~~ who are in the state service on ~~August 31 of any year~~ the date set forth in the performance increase guidelines issued by the Director and who meet the criteria detailed therein are eligible for a performance increase in salary of up to ~~7.5%~~ the percentage limit set in the guidelines, effective on the ~~following January 1~~ date set in the guidelines.
2. All employees, ~~except seasonal, temporary, emergency, and clerical pool employees~~, who enter the state service between September 1 and the last day of February are eligible for a performance increase in salary of up to 7.5%, effective on the following July 1, and thereafter on each subsequent January 1.
3. ~~The provisions of subsection (A), paragraph (1) above apply to seasonal and temporary employees provided they have worked a minimum of 520 hours between July 1 and December 31 during their first year of state service and work a minimum of 1,040 hours per year in subsequent calendar years.~~

Arizona Administrative Register
Notices of Proposed Rulemaking

4. ~~The provisions of subsection (A), paragraph (2) above apply to seasonal and temporary employees provided they have worked a minimum of 520 hours between September 1 and the last day of February and work a minimum of 1,040 hours per year in subsequent calendar years.~~
 52. A performance increase may not raise the salary of an employee beyond the maximum salary of the pay grade.
 63. An employee may not receive ~~more than a 7.5% performance increase~~ greater than the percentage increase limit set by the Director in any fiscal year.
- B.** Performance decreases. The salary of an employee may be reduced by up to 2.5% based on substandard performance, effective on January 1, but shall not be reduced below the entrance salary for that class.
- C.** Special performance awards. Employees who are at the maximum salary of their pay grade, or who receive performance increases which place them at the maximum salary of the pay grade, are eligible for special performance awards as a lump sum payment or other payment method of up to 5.0% the percentage limit outlined in the performance increase guidelines issued by the Director. The special performance award shall remain in effect until the Director issues new performance increase guidelines, effective January 1. Employees retain the award until the following December 31.
- D.** Combination of increases. An employee may not receive a combination of a performance increase and a special performance award exceeding 7.5% the limit set in the performance increase guidelines issued by the Director in any fiscal year.

NOTICE OF PROPOSED RULEMAKING

TITLE 3. AGRICULTURE

CHAPTER 2. DEPARTMENT OF AGRICULTURE

ANIMAL SERVICES DIVISION

PREAMBLE

1. **Sections Affected** **Rulemaking Action**
R3-2-906 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. § 3-710(F)
Implementing statute: A.R.S. § 3-727
3. **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 235
Phoenix, Arizona 85007
Telephone: (602) 542-0962
Fax: (602) 542-5420
E-mail: shirley.conard@agric.state.az.us
4. **A list of all previous notices appearing in the Register addressing the proposed rule.**
Notice of Rulemaking Docket Opening: 5 A.A.R. 880, March 26, 1999.
5. **An explanation of the rule, including the agency's reasons for initiating the rule:**
HB2068, passed in the 1999 legislative session, changed the ambient temperature requirement in A.R.S. § 3-727(A) for the refrigeration of shell eggs for human consumption from 60° to 45°. This rulemaking reflects that proposed statutory change and makes minor punctuation changes.
6. **A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material.**
None.
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.

Arizona Administrative Register
Notices of Proposed Rulemaking

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

The 1999 legislative session enacted legislation requiring that dealers, manufacturers, and retailers keep shell eggs for human consumption under refrigeration at an ambient temperature not higher than 45°F. This rulemaking reflects that legislation.

A. *Estimated Costs and Benefits to the Arizona Department of Agriculture.*

Other than administrative costs for promulgating this rulemaking, there is no quantifiable beneficial impact to the Department for the implementation and enforcement of this rulemaking.

B. *Estimated Costs and Benefits to Political Subdivisions.*

Political subdivisions of this state are not directly affected by the implementation and enforcement of this rulemaking.

C. *Businesses Directly Affected By the Rulemaking.*

Dealers, manufacturers and retailers are required by law to refrigerate shell eggs at an ambient temperature not higher than 45°F., this rulemaking does not economically affect these entities.

D. *Estimated Costs and Benefits to Private and Public Employment.*

Private and public employment are not directly affected by the implementation and enforcement of this rulemaking.

E. *Estimated Costs and Benefits to Consumers and the Public.*

Consumers and the public are not directly affected by the implementation and enforcement of this rulemaking.

F. *Estimated Costs and Benefits to State Revenues.*

This rulemaking will have no impact on state revenues.

9. 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: Shirley Conard
Address: Arizona Department of Agriculture
1688 West Adams, Room 235
Phoenix, Arizona 85007
Telephone: (602) 542-0962
Fax: (602) 542-5420
E-mail: shirley.conard@agric.state.az.us

10. The time, place, and nature of the proceedings for the making, 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:

Date: August 9, 1999
Time: 10 a.m.
Location: Arizona Department of Agriculture
1688 West Adams, Room 206
Phoenix, Arizona 85007
Nature: Oral Proceeding

Written comments on the proposed rules or preliminary economic, small business and consumer impact statement must be received by 4:30 p.m., August 10, 1999. Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the department's coordinator, Patrick Stevens, (602) 542-4316 (voice) or 1-800-367-3839 (TDD Relay). Requests should be made as early as possible to allow time to arrange the accommodation.

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

None.

12. Incorporations by reference materials 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 3. AGRICULTURE

**CHAPTER 2. DEPARTMENT OF AGRICULTURE
ANIMAL SERVICES DIVISION**

ARTICLE 9. EGG AND EGG PRODUCTS CONTROL

Sections

R3-2-906. Violations and Penalties

ARTICLE 9. EGG AND EGG PRODUCTS CONTROL

R3-2-906. Violations and Penalties

A. Dealers, producer-dealers, manufacturers, producers and retailers may be subject to civil penalty if any of the following actions occur. At the retail level, violations shall accrue at each individual location and not at the parent firm.

1. Category A.
 - a. Making a false or misleading statement relating to advertising and selling eggs and egg products.
 - b. Acting as a dealer, producer-dealer, producer, or manufacturer without a valid license;
 - c. Allowing shell eggs to be sold with incorrect or no date codes;
 - d. Selling grade AA or grade A eggs after the expiration date on the carton, case, or container. A violation for retailers will not be issued for grade AA or grade A eggs if 10% or 60 dozen of the eggs, whichever are less, are being offered for sale after the expiration date on the carton, case, or container, pursuant to A.R.S. § 3-715(K);
 - e. Failing to maintain records and reports required by this Article;
 - f. Failing to label cartons, cases, and containers with ~~one~~ 1 size, ~~one~~ 1 quality grade, and ~~one~~ 1 brand name;
 - g. Moving eggs or their cases, cartons, or containers to which a warning notice hold tag or notice has been placed or removing a warning notice hold tag or notice from the place where it is affixed without permission from the Director;
 - h. Refusing to submit eggs or egg products or a case, carton, container, subcontainer, lot, load, or display of eggs to inspection;
 - i. Refusing to stop, at the request of an authorized representative of the Department any vehicle transporting eggs or egg products.
2. Category B.
 - a. Extending the expiration date of shell eggs as prescribed by A.R.S. § 3-701(10);
 - b. Advertising, representing, or selling out-of-state eggs as local eggs.
3. Category C.
 - a. Failing to ensure that shell eggs for human consumption are kept refrigerated at an ambient temperature not higher than ~~60~~ 45⁰ Fahrenheit;
 - b. Failing to ensure that frozen egg products for human consumption which are labeled for storage at ~~zero degrees~~ 0⁰ Fahrenheit or below are kept under refrigeration at a temperature not higher than ~~zero degrees~~ 0⁰ Fahrenheit.
 - c. Failing to ensure that liquid egg products for human consumption are kept refrigerated at a temperature not higher than 40⁰ Fahrenheit.

B. Violations of this Article or of Title 3, Chapter 5, Article 1 of the Arizona Revised Statutes that are not listed in subsection (A) shall be classified as a Category A civil penalty.

C. Pursuant to A.R.S. § 3-739, civil penalties shall be based upon the categories listed in subsection (A). Additional violations in each category shall be subject to the last civil penalty given in that category.

NUMBER OF VIOLATIONS	CATEGORY A	CATEGORY B	CATEGORY C
1 (Notice)	Warning	Warning	Warning
2	\$50.00	\$50.00	\$100.00
3	\$100.00	\$100.00	\$200.00
4		\$150.00	\$400.00
5		\$200.00	\$500.00
6		\$250.00	
7		\$300.00	

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 16. BOARD OF MEDICAL EXAMINERS

PREAMBLE

1. **Sections Affected**

R4-16-301 R4-16-302 R4-16-303	<u>Rulemaking Action</u> New Section New Section New Section
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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. § 32-1404(D)
Implementing statute: A.R.S. § 32-1456 (B) and (D)

3. **A list of all previous notices appearing in the Register addressing the proposed rule:**

Notice of Rulemaking Docket Opening: 5 A.A.R. 2006, June 18, 1999.

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

Name: Dominick Spatafora, Legislative and Regulatory Liaison
Address: Arizona Board of Medical Examiners
1651 E. Morten, Suite 210
Phoenix, Arizona 85020
Telephone: (602) 255-3751, Ext. 7414
Fax: (602) 870-5297

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

To effect its authority in A.R.S. § 32-1456 (B) and (D), the Board is adopting rules which address medical assistants. The proposed rules set forth the criteria and process which the Board of Medical Examiners will utilize for approving training programs for medical assistants, and the activities which a medical assistant will be permitted to carry out under the direct supervision of a physician or physician assistant.

6. **A reference to any study that the agency proposes to rely on in its evaluation of or jurisdiction for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**

None.

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

The Board believes that implementation of the proposed rule will be of significant benefit to both physicians and health care consumers, since it will help to ensure that medical assistants have completed programs with an appropriate level of training, and have been reviewed by a recognized state agency. The Board will incur minimal costs to notify its regulated community and interested parties of the new rule once approved. The content and procedures identified in the rule can be easily implemented, and will not have an economic impact on the cost of these programs to the students. The regulated community will bear a negligible economic impact in that they will need to ensure, prior to the hiring of medical assistants, that they meet the requirements of this rule. These new sections, therefore, may impose very minimal economic costs on the Board and regulated community. However, the benefit of having medical assistant rules outweighs the costs.

9. **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: Dominick Spatafora, Legislative and Regulatory Liaison
Address: Arizona Board of Medical Examiners

Arizona Administrative Register
Notices of Proposed Rulemaking

1651 East Morten, Suite 210
Phoenix, Arizona 85020
Telephone: (602) 255-3751, Ext. 7414
Fax: (602) 870-5297

10. 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 Arizona Board of Medical Examiners will hold oral proceedings to receive public comments in accordance with A.R.S. §41-1023. The times, places, and locations of the oral proceedings are listed below:

Date: Monday, August 23, 1999
Time: 10 a.m.
Location: State Office Complex
400 West Congress, Room 254
Tucson, Arizona

Nature: Public Hearing
Date: Tuesday, August 24, 1999
Time: 9 a.m.
Location: Board of Medical Examiners
1651 East Morten, Suite 210
Phoenix, Arizona

Nature: Public Hearing
Date: Tuesday, August 24, 1999
Time: 10 a.m.
Location: Registrar of Contractors
2708 North 4th Street, Suite C1
Flagstaff, Arizona

Nature: Public Hearing

The Board of Medical Examiners will accept written comments which are received by 5 p.m. on August 26, 1999, or which are postmarked by that date. The comment period will end and the record will close at 5 p.m. on August 26, 1999.

The Board of Medical Examiners is committed to complying with the Americans With Disabilities Act. Persons with a disability may request a reasonable accommodation such as a sign language interpreter, by contacting Board staff at (602) 255-3751, ext. 7500. Requests should be made as early as possible to allow time to arrange the accommodation.

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

None.

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

None.

13. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 16. BOARD OF MEDICAL EXAMINERS

ARTICLE 3. MEDICAL ASSISTANTS

Sections

R4-16-301. Definitions

R4-16-302. Medical Assistant Training Requirements

Arizona Administrative Register
Notices of Proposed Rulemaking

R4-16-303. Authorized Procedures for Medical Assistants

ARTICLE 3. MEDICAL ASSISTANTS

R4-16-301. Definitions

For the purposes of A.R.S. Title 32, Chapter 13 and of this Chapter, the following term shall have the meaning set forth in this rule, unless the context otherwise requires: "Approved medical assistant education program" means a program that is accredited by the Commission on Accreditation of Allied Health Education Programs (CAAHEP), the Accrediting Bureau of Health Education Schools (ABHES) or a training program designed and offered by a licensed allopathic physician, that meets or exceeds either of the 2 accrediting programs, and verifies the entry level competencies of a medical assistant referenced in R4-16-303.

R4-16-302. Medical Assistant Training Requirements

- A.** The hiring physician shall ensure that a medical assistant satisfies 1 of the following training requirements:
1. Completion of an approved medical assistant education program.
 2. Completion of an unapproved medical assistant education program which was approved within 36 months following completion of the program. Completion of an unapproved medical assistant education program and passage of the medical assistant examination administered by either the American Association of Medical Assistants or American Medical Technologists.
- B.** This rule does not apply to any person who:
1. Prior to (effective date of rules) has completed an unapproved medical assistant training program and has been employed continuously as a medical assistant since completion of the program.
 2. Prior to (effective date of rules) has been directly supervised by the same physician, group of physicians, or physician assistant for a minimum of 2000 hours during the preceding 24 consecutive calendar months.
 3. Prior to (effective date of rules) has completed a medical services training program of the Armed Forces of the United States.

R4-16-303. Authorized Procedures for Medical Assistants

A medical assistant may, under the direct supervision of a doctor of medicine or a physician assistant, perform the medical procedures listed in the current "Educational Components" published by the American Association of Medical Assistants. Additionally, a medical assistant may, under the direct supervision of a doctor of medicine or physician assistant, engage in physical medicine modalities, including administering whirlpool treatments, diathermy treatments, electronic galvaton stimulation treatments, ultrasound therapy, massage therapy, traction treatments, and applying Transcutaneous Nerve Stimulation units and hot and cold packs.

NOTICE OF PROPOSED RULEMAKING

TITLE 12. NATURAL RESOURCES

CHAPTER 15. DEPARTMENT OF WATER RESOURCES

PREAMBLE

- | | |
|------------------------------------|---------------------------------|
| 1. <u>Sections Affected</u> | <u>Rulemaking Action</u> |
| R12-15-850 | New Section |
| R12-15-851 | New Section |
| R12-15-852 | New Section |
- 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. § 45-105(B)(1)
- Implementing Statute: A.R.S. §§ 45-605(A) and 45-605(E)
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**
- Notice of Rulemaking Docket Opening: 5 A.A.R. 881, March 26, 1999.
- Notice of Rulemaking Docket Opening: 5 A.A.R. 1022, April 9, 1999.
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
- Name: Tim Gibson
- Address: Arizona Department of Water Resources
500 North Third Street

Arizona Administrative Register
Notices of Proposed Rulemaking

Phoenix, Arizona 85004

Telephone: (602) 417-2400, Ext. 7261

Fax: (602) 417-2426

5. An explanation of the rules, including the agency's reasons for initiating the rules:

A.R.S. § 45-605(E) required the adoption of rules for review of notices and applications for new or replacement wells to determine the risk of vertical cross-contamination from groundwater contamination. The rules were designed to enable the Department to properly address well owner notification procedures under the statutory mandate provided in A.R.S. § 45-605(A) for well inspections, and also to expand the coverage under A.R.S. § 45-605(E) to include reviews of notices and applications for well modifications or abandonments that may also incur the risk of vertical cross-contamination.

6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:

Not applicable.

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

Not applicable.

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

The major impact of the well inspection and notification rules for vertical cross-contamination will be on the Department itself. There will be no major changes in the way a notice of intent form or well permit application is processed administratively within the Department. These rules will not cause substantial additional costs because the new duties overlap with existing administrative functions pertaining to other types of water quality reviews within the Department. Staff time has already been allocated and funded through the Water Quality Assurance Revolving Fund (WQARF) under A.R.S. § 49-282(C), which includes funding for all well inspection, evaluation, and notification activities performed in response to the A.R.S. § 45-605 mandates. Staff workloads will not increase substantially under R12-15-850 and R12-15-851 because a similar review process for evaluation and notification has already been established for other types of groundwater permit applications processed by the Department.

If the Department chooses to conduct well investigations for vertical cross-contamination pursuant to R12-15-852, staff time allocations may increase temporarily to compile lists of potentially impacted well owners within selected areas of investigation. These costs are already budgeted through A.R.S. § 45-618.

Well applicants subject to notification under R12-15-850 will gain improved access to information about risks of vertical cross-contamination. In some cases, a well applicant may be requested to submit a well design diagram so that the Department can accurately determine the potential risk of vertical cross-contamination to a proposed or existing well. Once a drilling card has been issued to a well applicant, applicants and contracted well drillers will bear the added responsibility of seeing that the Department is properly notified under R12-15-851. In regards to the evaluation of well applications, the Department already has existing rules not related to WQARF, R12-15-812 and R12-15-821, which enable it to attach special well construction requirements to an application, above and beyond the minimum well construction requirements, in order to avoid vertical cross-contamination. The new rules do not constitute any additional regulatory burden that is placed on well owners or applicants which extend beyond these authorities. Well evaluation and notification procedures established pursuant to the new rules are intended to inform well applicants and existing well owners about potential risks of groundwater contamination and prevent wells from being constructed that could cause a threat to public health. The evaluation process was designed to prevent unintended vertical cross-contamination of aquifers, thereby helping to protect well owners from liability.

Well inspections will greatly assist well owners in identifying wells which are conduits for vertical cross-contamination and can provide remedies to correct well deficiencies and protect the public and individual well owners' health by mitigating exposure to contaminated groundwater.

9. 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: Tim Gibson

Address: Arizona Department of Water Resources
500 N. 3rd Street
Phoenix, Arizona 85004

Arizona Administrative Register
Notices of Proposed Rulemaking

Telephone: (602) 417-2400, Ext. 7261

Fax: (602) 417-2426

10. 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 rules:

Once the Notice of Proposed Rulemaking is published in the *Register*, persons may request an oral proceeding within 30 days of the publication of this notice. To request a hearing, please notify the agency contact person cited previously in this document under sections 4 and 9.

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. Incorporation by reference and their location in the rules:

Not applicable.

13. The full text of the rule follows:

TITLE 12. NATURAL RESOURCES

CHAPTER 15. DEPARTMENT OF WATER RESOURCES

ARTICLE 8. WELL CONSTRUCTION AND LICENSING OF WELL DRILLERS

Section

R12-15-850. Evaluation of Notices of Intention to Drill; Notification of Registered Site Locations; Vertical Cross-Contamination Evaluation

R12-15-851. Notification of Commencement of Well Drilling

R12-15-852. Notification of Proposed Well Inspection; Opportunity to Comment

ARTICLE 8. WELL CONSTRUCTION AND LICENSING OF WELL DRILLERS

R12-15-850. Evaluation of Notices of Intention to Drill; Notification of Registered Site Locations; Vertical Cross-Contamination Evaluation

A. The Director shall, upon receipt of a complete and correct notice of intention to drill form required pursuant to A.R.S. § 45-596, or upon receipt of an application for a permit pursuant to A.R.S. § 45-597 through A.R.S. § 45-599, identify whether the proposed well will be drilled within a groundwater basin or subbasin in which there exists a site listed on the registry established pursuant to A.R.S. § 49-287.01, subsection (D). If the proposed well is situated within such a groundwater basin or subbasin, the Director shall notify the applicant and the authorized well drilling contractor in writing of the existence of the site and shall enclose a map indicating the boundaries of all listed sites within the groundwater basin or subbasin. The notification letter shall include the name, address, and phone number of a Department contact person, along with a reference to the provision set forth in R12-15-851 which requires the applicant and the authorized well drilling contractor to notify the Department in advance of the date drilling of the well will commence. The Department will also specify within the notification letter whether the applicant is subject to the requirements of R12-15-851.

B. The Director shall, upon receipt of a complete and correct notice of intention to drill form required pursuant to A.R.S. § 45-596, or upon receipt of an application for a permit pursuant to A.R.S. § 45-597 through A.R.S. § 45-599, identify whether the proposed well will be drilled within an area where existing or anticipated future groundwater contamination may present a risk of vertical cross-contamination from hazardous substances, as defined in A.R.S. § 49-281(15). If the Director determines that the proposed well will be drilled in such an area, the Director may establish requirements consistent with R12-15-811, R12-15-812 and R12-15-821 to prevent vertical cross-contamination.

R12-15-851. Notification of Commencement of Well Drilling

Both the well owner and the authorized well drilling contractor who has been issued a drilling card authorizing the drilling of a well located within a site listed on the registry established pursuant to A.R.S. § 49-287.01, shall provide written notice to the Director indicating the date drilling will commence. This notice shall consist of a letter or facsimile transmission sent to the Department, and it must be received by the Department at least 2 business days in advance of the commencement of drilling at the well site. A standard form shall be provided to both the well owner and authorized well drilling contractor upon approval of the application and issuance of the drilling card. This form shall be referenced in the notification letters distributed by the Department pursuant to R12-15-850(A), and it shall be used for purposes of notifying the Department prior to the commencement of drilling.

Arizona Administrative Register
Notices of Proposed Rulemaking

R12-15-852. Notification of Proposed Well Inspection; Opportunity to Comment

- A.** At least 30 days before the beginning of a well inspection pursuant to A.R.S. § 45-605, subsection A, the Director shall notify in writing all potentially affected well owners of record within a community involvement area established pursuant to § 49-289.02 or within other areas that the Director has selected for inspection of wells which may be contributing to vertical cross-contamination. The notification shall include a map of the community involvement area, site boundary, or subsection thereof, which the Department intends to inspect indicating the location of affected wells of record. The notification shall indicate the approximate date the inspection will start, the approximate duration of the inspection, an access agreement defining what specific activities will occur during a well inspection, and the name, address, and phone number of a Department contact person.
- B.** Once the Director has given notice of an intention to conduct a well inspection pursuant to A.R.S. § 45-605, subsection A, potentially affected well owners shall have 30 days, from the date the letter is postmarked, to comment on the proposed inspection. The Director, upon receiving a written request, may extend the comment period for a maximum of 30 additional days.