

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* first as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council or the Attorney General. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Register* after the final rules have been submitted for filing and publication.

NOTICE OF FINAL RULEMAKING

TITLE 6. ECONOMIC SECURITY

CHAPTER 10. DEPARTMENT OF ECONOMIC SECURITY THE JOBS PROGRAM

[R05-440]

PREAMBLE

1. Sections Affected

Rulemaking Action

R6-10-101	Amend
R6-10-101.01	New Section
R6-10-102	Amend
R6-10-103	Amend
R6-10-104	Amend
R6-10-105	Amend
R6-10-106	Repeal
R6-10-106	New Section
R6-10-107	Repeal
R6-10-107	New Section
R6-10-108	Amend
R6-10-109	Amend
R6-10-110	Amend
R6-10-111	Amend
R6-10-112	Amend
R6-10-113	Amend
R6-10-114	Amend
R6-10-115	Amend
R6-10-116	Amend
R6-10-117	Amend
R6-10-118	Amend
R6-10-119	Amend
R6-10-120	Repeal
R6-10-120	New Section
R6-10-121	Renumber
R6-10-121	Amend
R6-10-122	Renumber
R6-10-122	New Section
R6-10-123	Renumber
R6-10-123	Amend
R6-10-124	Renumber
R6-10-124	Amend
R6-10-125	Renumber
R6-10-125	Amend
R6-10-126	Renumber
R6-10-126	Amend
Article 3	Amend
R6-10-301	Amend
R6-10-302	Amend
R6-10-303	Amend
R6-10-304	Amend

Notices of Final Rulemaking

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

Authorizing statutes: A.R.S. §§ 41-1954(A)(3), 41-1954 (A)(1)(c)

Implementing statutes: A.R.S. §§ 46-134 and 46-299

3. The effective date of the rules:

January 14, 2006

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

Notice of Rulemaking Docket Opening: 10 A.A.R. 2727, July 2, 2004

Notice of Proposed Rulemaking: 10 A.A.R. 4537, November 12, 2004

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

Name: Beth Broeker
Address: 1789 W. Jefferson
Site Code 837A
Phoenix, AZ 85007
Telephone: (602) 542-6555
Fax: (602) 542-6000
E-mail: bbroeker@azdes.gov

6. An explanation of the rule, including the agency's reason for initiating the rule:

The Department is amending these rules to make them consistent with current policy and practice, and in response to the *Olea v. Clayton* lawsuit and settlement agreement. The Jobs Program provides assistance to eligible TANF cash assistance recipients to achieve economic independence through employment. The Jobs Program helps, through services and training, to identify and remove barriers that can prevent individuals from finding and maintaining employment. The Jobs Program also determines whether to reduce or terminate the TANF cash assistance grant if an individual fails to comply, without good cause, with the federally mandated work activities.

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

The agency did not review any studies relating to these rules.

8. 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

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

Arizona's Employing and Moving People Off Welfare and Encouraging Responsibility (EMPOWER) Program is charged with assuring that needy recipients receive cash assistance and employment services that will help them avoid long-term welfare dependence. EMPOWER encompasses the Jobs Program, which provides eligible cash assistance recipients the opportunity to become economically independent through employment. The Jobs Program helps remove barriers these individuals may have by providing a variety of services that make a positive difference in their lives. Additionally, the Jobs Program has the responsibility of determining whether the cash assistance grant must be reduced or closed (sanctioned) if a cash assistance recipient does not comply with Jobs Program work requirements.

Funding for the Jobs Program comes through federal funding and state Maintenance of Effort (MOE) funding. Arizona's minimum basic MOE for a fiscal year is 75 percent of its historic state expenditures. Arizona's SFY 2005 annual cost of operating the Jobs Program is \$33,086,804, including \$14,454,504 in administrative costs, and \$18,632,300 for participant services and all other costs. For SFY 2005, the Jobs Program uses a total of 272.2 FTEs.

The Jobs Program reaches all of Arizona except the areas served by the Native Employment Works (NEW) Program, and the Tribal TANF Program. Approximately 42,464 cash assistance recipients were served by the Arizona Jobs Program in SFY 2004.

The percentage of TANF recipients who are placed in a sanctioned status has remained constant, even with recent policy changes to improve due process procedures. Each month, approximately 240 Jobs participants statewide reach the 100% sanction level and have their TANF cash assistance case closed.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

Minor grammatical and typographical changes were made at the suggestion of G.R.R.C. staff.

Notices of Final Rulemaking

11. A summary of the comments made regarding the rule and the agency response to them:

The Department did not receive any comments on the rules.

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

Not applicable

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

None

14. Was this rule previously made as an emergency rule?

No.

15. The full text of the rules follows:

TITLE 6. ECONOMIC SECURITY

CHAPTER 10. DEPARTMENT OF ECONOMIC SECURITY
THE JOBS PROGRAM

ARTICLE 1. JOBS: GENERAL PROVISIONS

Section

- R6-10-101. Definitions
- R6-10-101.01. Applicability
- R6-10-102. Work Requirement
- R6-10-103. Tribal JOBS-Welfare-to-Work Program
- R6-10-104. Selection for Participation in the Jobs Program; Notification
- R6-10-105. Orientation and Initial Appointment Jobs Introduction Meeting
- R6-10-106. Temporarily Deferred Determinations Temporary Deferrals
- R6-10-107. Self-assessment Participant Assessment; Referral
- R6-10-108. Employment Plan
- R6-10-109. Participation in Primary Activities
- R6-10-110. Participation Deemed to Be Meeting that Meets the Work Requirement
- R6-10-111. Participation in Secondary Activities
- R6-10-112. Job Search and Job Readiness Activities Assistance
- R6-10-113. On-the-job Training (OJT) OJT
- R6-10-114. Work Experience
- R6-10-115. Community Service Programs
- R6-10-116. Vocational Educational Training
- R6-10-117. High School, GED Preparation, and Education Directly Related to Employment
- R6-10-118. Transportation-related Expenses
- R6-10-119. Support Services
- R6-10-120. Issue Resolution Procedures: Issues Involving Participants Participant Complaint Resolution
- ~~R6-10-122~~R6-10-121. Failure to participate; Good Cause Exceptions Reasons; Verification; Establishment of Good Cause
- R6-10-122. Services to Address Barriers to Participation
- ~~R6-10-121~~R6-10-123. All Families Except TPEP Families: Failure to Participate; Sanctions Sanction Process
- ~~R6-10-123~~R6-10-124. TPEP: Failure to Participate; Withholding
- ~~R6-10-124~~R6-10-125. Subsidized Employment - JOBSTART
- ~~R6-10-125~~R6-10-126. Employer Participation - JOBSTART

ARTICLE 3. JOB DISPLACEMENT GRIEVANCE PROCEDURES

Section

- R6-10-301. Definitions
- R6-10-302. Grievance Regular Employees; Employer Job Displacement
- R6-10-303. Grievance Process
- R6-10-304. Further Appeal

ARTICLE 1. JOBS: GENERAL PROVISIONS

R6-10-101. Definitions

The definitions in A.R.S. § 46-101 and the following definitions apply to this Chapter:

1. "AHCCCS" means the Arizona Health Care Cost Containment System.
2. ~~"All families" means all families, except TPEP, receiving cash assistance payments.~~
2. "Assessment" means the evaluation of a participant by a case manager, with the assistance of the participant, to determine employment potential, as well as services necessary to remove barriers to employment. The case manager will use the assessment to develop the participant's employment plan.
3. "At risk" means an individual who is either expecting a child or has a dependent child and is vulnerable to becoming TANF dependent based on one or more of the following factors. The individual:
 - a. Has reading or math skills that are at or below 9th grade level;
 - b. Has dropped out of school;
 - c. Has a criminal record;
 - d. Is homeless or a run-away youth;
 - e. Has a mental or physical disability;
 - f. Is pregnant;
 - g. Is a victim of domestic violence;
 - h. Has received services from a domestic violence shelter;
 - i. Is income eligible for TANF;
 - j. Has a WIA service delivery area designated barrier;
 - k. Is a displaced homemaker;
 - l. Is eligible for WIA programs
 - m. Is attending school; or
 - n. Other similar factors that place the family at risk.
4. "Barrier" means a circumstance that, if not addressed, may prevent or delay participation in work activities. A barrier includes one or more of the following circumstances, or any similar circumstance:
 - a. A temporary physical or mental condition, including behavioral health issues of the participant or the participant's family member for whom the participant is the primary caregiver;
 - b. A physical or mental disability of the participant or the participant's family member for whom the participant is the primary caregiver;
 - c. A lack of transportation;
 - d. A lack of child care;
 - e. Limited English proficiency;
 - f. A threat of domestic violence toward the participant, the participant's family member, or the caregiver for a minor child, if the threat interferes with the participant's ability to participate in work activities;
 - g. Illiteracy; insufficient education; lack of vocational skills; or
 - h. An on-going family crisis that interferes with the participant's ability to participate in work activities.
- 3.5. "Calendar week" means 7 consecutive days beginning on Saturday.
- 4.6. "Calendar year" means a 12-month period beginning January 1 and ending December 31.
7. "Case manager" means the Jobs employee who determines the needs of an individual requesting or receiving services through Jobs.
8. "Case Management" means the process through which Jobs determines the needs of the participant requesting or receiving services through Jobs. Appropriate services or benefits for participants are identified, planned, obtained, provided, recorded, monitored, and terminated, and follow-up is provided, as necessary and subject to budgetary constraints, in accordance with A.R.S. § 46-299.
- 5.9. "Cash assistance program" means the state Temporary Assistance for Needy Families program established by Public Law 104-193, Section 407 (1996) 42 USC § 601 et seq.
10. "Community resource" means a community, faith-based, or non-profit organization that provides services to the general public at no cost to the participant or Jobs.
- 6.11. "Community service programs program" means an unpaid work activities activity that which provide provides a service to the community or an organization.
12. "Complaint" means a formal accusation or charge expressing dissatisfaction or a grievance with a service provider, an agency, or a Jobs action or decision.
13. "Day" means a calendar day unless otherwise specified. If, under rule or statute, a deadline falls on a weekend day or a holiday, Jobs shall consider the deadline to fall on the next business day.
- 7.14. "DES" "Department" means the Arizona Department of Economic Security, which is sometimes referred to as "the Department."
- 8.15. "Education directly related to employment" means remedial education, classes leading to a GED or high school diploma, and English for Speakers of Other Languages (ESOL), for individuals who have not attained a high school

Notices of Final Rulemaking

- ~~diploma or GED.~~
- 9-16. "Employment plan" means the ~~agreement document~~ described in ~~R6-10-108~~ ~~R6-10-107~~, ~~between prepared by the~~ participant and the Program, ~~describing which lists the steps required of the participant, and the services to be provided by Jobs, and the referrals made to address barriers to participation needed to transition a client the participant to~~ economic independence.
17. "Employment services" means vocational educational training, education directly related to employment, job skills training, and other similar training or education provided by a service provider or community resource to assist a participant in obtaining employment.
- 10-18. "FAA" means the Family Assistance Administration, which is the ~~an~~ administrative unit within the ~~DES Department's~~ Division of Benefits and Medical Eligibility responsible for providing cash assistance to eligible persons.
- 11-19. "Fails to participate," or "failure to participate," means that a participant has not ~~done one or more of the following, absent good cause:~~
- ~~Participated in met~~ JOBS requirements for orientation, assessment, employment plan development, job readiness activities, ~~compliance with~~
 - ~~Complied with the terms of~~ requirements in the participant's employment plan, or
 - ~~participation~~ Participated in work activities.
- 12-20. "Full-time employment" means employment that is 40 hours per week or, if less, is regarded as full-time for a specific industry.
21. "Functionally incapable" means a person who suffers a continuing inability to function in daily life activities due to life circumstances, including past physical or sexual abuse, insufficient education, nonexistent vocational skills, episodic depression, or emotional dysfunction.
- 13-22. "GED" means general equivalency degree, which is a certificate awarded upon completion of a series of 5 tests that demonstrate high school skills equivalency.
23. "Good cause" means one or more of the circumstances listed in R6-10-121(B).
24. "Health care professional" means a licensed physician, registered nurse, or a licensed physician's assistant.
25. "Immediate threat of domestic violence" means a domestic violence situation that, in the perception of the participant, is physically, mentally, or emotionally dangerous or harmful to the participant or any child ~~..~~ living with the participant.
- 14-26. "Job readiness assistance" means all activities, involving the Department and the participant, that prepare a participant for work. These activities include: completion of an assessment, any additional assessments under R6-10-107(E), and an employment plan; attendance at the Jobs Introduction Meeting; participation in an ~~a structured~~ employment preparation program, which includes life skills, employment, and job retention skills training; and any other Program requirement under this Article or a statute pertaining to assisting a participant in preparing for and obtaining employment.
- 15-27. "JOBS" "Jobs" means the administrative unit within the ~~DES Department's~~ Division of Employment and Rehabilitation Services ~~that which~~ is responsible for administration of the JOBS Jobs Program, including providers under contract with the Department that provide Jobs case management and employment services.
- 16-28. "Job search" means a structured activity in which participants are required to actively seek employment by identifying employment opportunities, applying for employment, and participating in employment interviews.
- 17-29. "Job skills training" means training opportunities ~~that which enable~~ enables a participant to become proficient in an occupation or skill necessary to meet the participant's employment goal.
30. "Jobs Program services" means ongoing case management services offered to participants by Jobs.
- 18-31. "JOBSTART" means the ~~state's~~ Department's subsidized employment work activity in the public and private sectors.
- 19-32. "JOBSTART employment" means the subsidized employment work activity for which participants are hired.
- 20-33. "Licensed physician" means:
- Medical doctors,
 - Doctors of osteopathy,
 - Doctors of naturopathic medicine,
 - Chiropractors,
 - Psychiatrists, ~~or~~
 - Board-certified psychologists, ~~or~~
 - Other personnel authorized to act on the physician's behalf.
21. "Making satisfactory progress" means that a participant is meeting, on a periodic basis, a consistent standard of progress based upon standards established by the institution or program, and approved by JOBS in which the participant is enrolled for educational or training activities.
34. "Mailing date" means one day after the date printed on the notice.
- 22-35. "OJT" means on-the-job training, which is a paid training opportunity generally provided at a worksite for a specified period.

Notices of Final Rulemaking

- 23-36. "Participant" ~~means~~ has the meaning in A.R.S. § 46-101(15), and includes any recipient selected to participate in the Jobs Program, a cash assistance recipient who is registered with JOBS to participate in the Program.
- 24-37. "Primary activities activity" means a work activities activity that which count counts toward the work requirement.
- 25-38. "Program" means the ~~JOBS~~ Jobs Program, as authorized by A.R.S. § 46-299.
39. "Program Administrator" means the Program Administrator of the Employment Administration.
- 26-40. "Recipient" ~~means~~ has the meaning in A.R.S. § 46-101(17), and includes an individual who received assistance or services but is no longer eligible for cash assistance because of statutory time limits, an individual receiving cash assistance payments through the cash assistance program administered by the FAA.
- 27-41. "Regular employee" means an unsubsidized individual currently employed by an employer.
- 28-42. "Sanction" means a reduction or termination of cash assistance, for all families, except TPEP families, who fail to participate ~~or comply with in the Jobs Program requirements~~ without good cause.
- 29-43. "Satisfactory attendance in high school or GED activities" means that a participant who has not completed high school or received a GED is attending high school or participating in GED activities and meeting attendance requirements established by the school or GED program.
- 30-44. "Satisfactorily participates in education directly related to employment" or "satisfactory progress" means that a participant is meeting, on a periodic basis, a consistent standard level of progress, based upon standards established by the educational institution or program and approved by JOBS Jobs, in which the participant is enrolled for educational or training activities.
- 31-45. "Secondary activities activity" means a work activities activity that count counts toward the work requirement only after the participant obtains meeting the required number of hours in of primary activities activity.
46. "Services" means Jobs Program services, community resources, employment services, support services, or any other available service, subject to budgetary constraints.
47. "Service provider" means an entity that is responsible for providing services to clients. This includes Jobs staff, an agency or organization, public or nonprofit, or a person awarded a grant or contract by the Jobs Program to provide services to clients.
- 32-48. "Subsidized employment" means employment in a public or private sector organization that which receives a JOB-START subsidy to offset the cost of wages (and possibly other employer-paid benefits) of an employee.
49. "Supplemental payment" means an amount paid to a participant whose net wages are less than the combined benefit amount of cash assistance and food stamps for which the participant is eligible.
- 33-50. "Support services" means services provided to a JOBS Jobs participants participant that which facilitate the participant's ability enable them to participate in work activities, ~~to~~ accept and maintain employment, and ~~to~~ successfully make the transition to employment. Examples of support services include child care and transportation.
51. "Temporary Assistance for Needy Families" or "TANF" has the meaning in A.R.S. § 46-101(22).
- 34-52. "Teen custodial parent" means a parent age 13 through 19 years, who is caring for that the parent's own child.
- 35-53. "TPEP" means the Two-Parent Employment Program ~~for~~ that provides cash assistance for a 2-parent ~~families~~ family if:
- The parents have at least one child in common;
 - ~~in which both parents are able to work~~ Neither parent is permanently disabled; and
 - ~~In which the~~ The primary wage-earning wage-earning parent is unemployed or underemployed.
- 36-54. "Transportation-related expenses" means an allowance for transportation expenses travel costs that a participant may be incurred by a participant will incur as a result of participating because of participation in JOBS the Jobs Program.
- 37-55. "Unaffordable" child care" means that child care is not affordable to a family because the cost of care is more than ~~what DES~~ the Department will pay.
- 38-56. "Unavailable" child care" means that:
- ~~Child care providers are located more than 1 ½ hours 1 way in total travel time from the recipient's home to the child care provider, and to work, after exploring all modes of transportation, including walking; The location of a child care provider is at a distance that requires a one-way travel time by vehicular transportation equal to or greater than 1 hour, measured from the participant's residence to the child care provider and then to work, or if walking, a distance that requires a one-way travel time equal to or greater than 1/2 hour, measured in the same manner.~~
 - Child care providers do not have available slots or vacancies;
 - Child care providers cannot provide services to a child with a disability disabled or handicapped child with who has special needs;
 - Child care providers related to the child are unavailable or unwilling to provide care;
 - Child care is available through a non-relative provider, ~~as defined in A.R.S. § 46-801(11)~~ but the provider is unwilling to apply for DES certification; ~~or~~
 - A child age 13 or older requires adult supervision:
 - Due to a disability, which includes mental health or other health-related issues;

Notices of Final Rulemaking

- ii. Because the child would be harmful to himself, herself, or others if left alone; or
 - iii. Because the child is on court-ordered probation that requires the child to remain in the home or under house arrest.
- 39-57. “Unsubsidized employment” means all paid employment in the public or private sector except JOBSTART or OJT.
- 40-58. “Unsuitable” child care” means that child care is available through a relative provider, but the recipient participant declares in writing that the provider is inappropriate unsuitable, based on factors such as the following, that the relative The provider:
- a. Has a history of child neglect or abuse;
 - b. Is experiencing domestic violence;
 - c. Has a history of serious crime;
 - d. Is a drug abuser;
 - e. Has an emotional, mental, or physical condition ~~which that~~ prevents the relative provider from providing safe care; ~~or~~
 - f. Resides in a home ~~which that~~ is unsafe for children, or
 - g. Possesses similar attributes that render the provider unsuitable to furnish child care services.
59. “Verification” means any documentation that substantiates an individual’s claim.
- 41-60. “Vocational educational training” means training directly related to a career or occupation and which results in a degree or certificate that is intended to result in a degree, certificate, or license. Vocational educational training includes hours spent studying for vocational coursework, as provided in R6-10-116(E). Examples of vocational educational training include postsecondary education, as limited by A.R.S. § 46-299(B), and training in such professions as carpentry, auto mechanics, nursing, or certified public accountancy.
61. “WIA” means the federal Workforce Investment Act of 1998.
62. “WIA local workforce investment area designated barrier” means that a participant has a barrier to employment as determined by a WIA service provider.
- 42-63. “Withholding” means withholding retention of semi-monthly TPEP cash assistance ~~checks payments;~~ for TPEP parents who fail to participate or comply with Jobs Program requirements without good cause.
- 43-64. “Work activities” means the following activities that are countable toward the federal work participation rate as prescribed in Public Laws 104-193, Section 407 (1996) 42 U.S.C. 607:
- a. Unsubsidized employment;
 - b. Subsidized private or public sector employment;
 - c. Work experience;
 - d. On-the-job training;
 - e. Job search and job readiness assistance;
 - f. Community service programs;
 - g. Vocational educational training;
 - h. Job skills training directly related to employment;
 - i. Education directly related to employment, in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency;
 - j. Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of a recipient who has not completed secondary school or received such a certificate; as described in A.R.S. § 46-101(23)-46-101(24)(j).
- 44-65. “Workday” means Monday through Friday, excluding Arizona state holidays.
- 45-66. “Work experience” means unpaid work in the public or private sector that helps a participant establish a good work record and develop good work habits and skills, and provides opportunities for the participant to transition into paid employment.
- 46-67. “Work requirement” means the minimum number of hours required for a Jobs participant ~~all families and 2-parent families~~ to participate in work activities as a condition of eligibility for cash assistance, ~~as prescribed in Public Law 104-193, Section 407 (1996), not including any later amendments or editions, which is incorporated by reference in this rule. Copies of the incorporated material are available for inspection at the Department’s Authority Library, 1789 W. Jefferson, Phoenix, Arizona and in the office of the Secretary of State, Public Service Department, 1700 W. Washington, Phoenix, Arizona.~~

R6-10-101.01 Applicability

The rules in this Chapter apply to all Jobs service providers.

R6-10-102. Work Requirement

- A. As a condition of eligibility To remain eligible for cash assistance, a recipient shall participate in work activities unless the recipient satisfies is governed by subsection (B).
- B. JOBS Jobs shall not require the following a recipients recipient of cash assistance or a participant in the Jobs Program to participate in work activities if either is:

Notices of Final Rulemaking

1. ~~The recipient is already meeting~~ Already complying with the work requirement;
 2. ~~The recipient is a~~ A dependent child ~~under~~ less than age 16 or is age 16 through 18 and attending school;
 3. ~~The recipient is temporarily~~ Temporarily deferred from the work requirement, as prescribed in R6-10-106; ~~or~~
 4. ~~Temporarily excused from participating in a work activity, under R6-10-121(B).~~
- C. ~~JOBS Jobs shall assign all recipients~~ participants, other than those listed in subsection (B), to work activities for ~~at least the minimum number of 35 hours per week or more as required to meet the federal work requirement rate.~~
- D. ~~JOBS Jobs may require recipients, who are required to participate and a participant who has~~ have not been temporarily deferred; to participate in work activities for ~~at least up to 5 hours more per week in work activities than the minimum number of hours required to meet the work requirement, if required by an employer.~~
- E. The Department shall impose a sanction, as provided ~~at in R6-10-121~~ R6-10-123, or a withholding, as provided ~~in at R6-10-123~~ R6-10-124, if a ~~recipient~~ participant who is required to ~~participate~~ fails to participate in work activities ~~fails to do so~~ without good cause, as defined in ~~R6-10-122~~ R6-10-121.
- F. ~~JOBS Jobs may~~ shall permit a recipient who is already ~~meeting~~ complying with the work requirement to ~~volunteer to~~ voluntarily participate in ~~JOBS the Jobs Program~~, under the following conditions:
1. ~~A volunteer shall receive~~ JOBS Jobs shall provide Jobs Program services on a 1st-come, 1st-served basis, to the extent that resources permit, except that Jobs shall give priority to volunteers who are nearest to reaching the ~~24-month~~ 60 month lifetime ~~time~~ limit for cash assistance ~~shall receive priority.~~
 2. ~~JOBS Jobs shall not sanction a volunteer who fails to participate in work activities without good cause. However, a the volunteer who fails to participate without good cause shall lose Jobs Program priority status for participation in the Program. Good cause, for~~ For the purpose of this subsection, “good cause” means ~~±~~ one of the circumstances described in ~~R6-10-122~~ R6-10-121(B).

R6-10-103. Tribal ~~JOBS Welfare-to-Work Program~~

~~JOBS Jobs shall not serve a person an individual~~ who is eligible to receive assistance through a tribal cash assistance program or services through a Tribal ~~JOBS~~ program similar to Jobs.

R6-10-104. Selection for Participation in the Jobs Program; ~~Notification~~

- A. ~~JOBS may select a recipient, other than a TPEP parent, for services according to program priorities which are based on serving those at risk of losing cash assistance due to time limits or becoming long term welfare dependents. In selecting recipients to participate in the Jobs Program, Jobs shall give priority to recipients who are:~~
1. At risk of losing cash assistance due to time limits, or
 2. At risk of becoming long term welfare dependents.
- B. ~~JOBS Jobs shall consider the following factors when determining selection priorities:~~
1. The number of months a recipient has received cash assistance,
 2. Whether the recipient is a teen-custodial parent, and
 3. Sanction status.
- ~~C. JOBS shall notify a recipient, in writing or in person, who has been selected to participate in the Program of the requirement to attend an initial interview appointment. The notice shall include:~~
1. ~~The date and time of the appointment, and the address of the JOBS office where the interview will be held;~~
 2. ~~The procedure for rescheduling the initial interview appointment; and~~
 3. ~~The penalty for failing to comply with the initial interview appointment requirements, as prescribed in R6-10-121.~~
- ~~D.C. JOBS Jobs shall begin Jobs Program services to for a sanctioned parent or a TPEP parent individual at the time the parent individual reports to the JOBS a Jobs local office.~~

R6-10-105. ~~Orientation and Initial Appointment~~ Jobs Introduction Meeting

- ~~A. Jobs shall notify in writing a recipient selected to participate in Jobs of the requirement to attend a Jobs Introduction Meeting. The notice shall include:~~
1. The date and time of the Jobs Introduction Meeting and the address of the Jobs local office where the Jobs Introduction Meeting will be held;
 2. Information regarding transportation, translation, and child care assistance that may be available for the Jobs Introduction Meeting if requested, and the contact information necessary to obtain available services;
 3. A provision explaining that if the recipient needs transportation, translation, or child care services to attend the Jobs Introduction Meeting, and the services are not available, the recipient has good cause for not attending the Jobs Introduction Meeting under R6-10-121(B).
 4. The procedure for rescheduling the Jobs Introduction Meeting, under R6-10-105(C); and
 5. A statement that the consequence of failing, without good cause, to attend the Jobs Introduction Meeting is progressive sanctioning under A.R.S. § 46-300.
- ~~A.B. The Department shall provide a program orientation to applicants prior to a cash assistance determination. A recipient selected under subsection (A) becomes a participant in the Jobs Program and shall attend a Jobs Introduction Meeting provided by Jobs. Upon request, the Department shall provide the participant with transportation, translation, and child care assistance, if services are available, to enable the participant to attend the Jobs Introduction Meeting. If a participant is~~

Notices of Final Rulemaking

unable to attend the Jobs Introduction Meeting because requested services are not available, the participant shall be granted good cause under R6-10-121(B).

~~**B.C.** At the initial appointment Jobs Introduction Meeting, JOBS Jobs shall:~~

- ~~1. Register the recipient participant in the Program;~~
- ~~2. Ensure the recipient has completed a self-assessment as prescribed by the Program; Explain to the participant the rights and responsibilities of the participant, Jobs, and the Department's child care program, including:
 - ~~a. A statement that the consequence of non-compliance with the Program requirements, without good cause, is progressive sanctioning under A.R.S. § 46-300;~~
 - ~~b. The contents and meaning of the Program sanction or withholding notices; and~~
 - ~~c. The deferral and good cause procedures;~~~~
- ~~3. Explain to the recipient the rights and responsibilities of the recipient, the Program, and the child care program; Complete privately, with the participant's assistance, an assessment of the participant;~~
- ~~4. Complete privately, with the participant, an employment plan with the recipient that considers takes into account the recipient's participant's background and skills, any barriers to employment, and any available services that will assist in the removal of barriers to employment.~~

~~**C.D.** JOBS shall permit a recipient to reschedule an initial interview appointment only if the interview process can be completed no later than 10 days from the date of the original interview appointment date. Jobs shall explain the procedures for rescheduling the Jobs Introduction Meeting, and the consequences of failure to complete the Jobs Introduction meeting.~~

- ~~1. If a participant does not attend a Jobs Introduction Meeting as required by the Jobs Program, the case manager shall send the participant a Jobs Introduction Meeting Rescheduled Notice to allow the participant to reschedule attendance at the meeting. The Jobs case manager shall also attempt to contact the participant by telephone, inquire as to whether other administrations have had contact with the participant, or use any other reasonable method of making contact with the participant.~~
- ~~2. If the participant fails to attend the rescheduled meeting or contact the case manager by the close of business 10 calendar days after the date of the original meeting, the case manager shall initiate the good cause process described in R6-10-121. The case manager shall count the day following the date of the original meeting as day 1.~~

~~**D.** If a recipient does not complete the initial interview process within the timeframe prescribed in subsection (C), the Department shall sanction the recipient as prescribed in R6-10-121.~~

R6-10-106. ~~Temporarily Deferred Determinations~~ Temporary Deferrals

~~**A.** JOBS shall determine whether to temporarily defer a participant from participation in work activities.~~

~~**B.** JOBS shall defer a recipient, except a TPEP parent, if the recipient falls into 1 of the categories listed in this subsection:~~

- ~~1. A licensed physician determines that the participant is mentally or physically incapable of engaging in work activities.~~
- ~~2. The recipient is a victim of domestic violence whose participation in JOBS may cause an immediate threat to the safety of the victim or the victim's child.
 - ~~a. JOBS shall defer a victim of domestic violence for the period of time the recipient needs to make changes in circumstances that will enable the recipient to safely participate in work activities.~~
 - ~~b. The deferral shall not exceed 6 months.~~~~
- ~~3. The recipient needs to be present in the home on a continuous basis to care for a member of the family who has a physical or mental disability, as verified by a licensed physician, and no other member of the household is available or suitable to provide the care.~~
- ~~4. The recipient is a teen custodial parent with a child under 12 weeks of age.~~
- ~~5. The recipient is a parent, relative, or caretaker who is personally caring for a child under the age of 1 year, unless the recipient is a teen parent who does not have a high school diploma or GED.~~

~~**C.** JOBS shall temporarily defer only 1 parent in a TPEP family. JOBS shall temporarily defer a TPEP parent, if the TPEP parent:~~

- ~~1. Is personally caring for the TPEP parent's child who is under the age of 1 year, unless the TPEP parent is a teen custodial parent who does not have a high school diploma or GED.~~
- ~~2. Is a teen custodial parent with a child under 12 weeks of age.~~
- ~~3. Is personally caring for a member of the family, who is not the other TPEP parent, who has a physical or mental disability as verified by a licensed physician, and no other member of the household is available or suitable to provide the care.~~
- ~~4. Has an illness of a temporary nature, as verified by a licensed physician.~~

~~**D.** JOBS shall request verification from the recipient to substantiate the recipient's claim of inability to participate in work activities due to a circumstance established in this Section.~~

~~**E.** JOBS shall determine the length of time a recipient is temporarily deferred based on verification provided by the recipient.~~

~~**A.** Jobs shall determine whether to temporarily defer a participant from engaging in work activities under A.R.S. § 46-299(A) and this Section.~~

~~**B.** Jobs shall defer a participant with a temporary or permanent disability. A participant with a temporary or permanent dis-~~

Notices of Final Rulemaking

ability may opt to participate and receive reasonable accommodation to facilitate participation, and Jobs shall not impose a sanction if the participant is then subsequently unable to participate due to the disability.

- C.** For the purposes of this Section:
1. “Disability” means a physical or mental impairment that substantially limits one or more major life activities, and includes being mentally, physically, or functionally incapable of participating in work activities.
 2. “Permanent disability” means a disability under subsection (1) that is expected to last for the life of the individual.
 3. “Temporary disability” means a disability under subsection (1) that is not expected to last for the life of the individual.
- D.** Jobs shall obtain verification of a temporary or permanent disability from a participant according to the terms of subsection (J) from any of the following:
1. A health care professional;
 2. A vocational rehabilitation specialist; or
 3. The district medical consultant.
- E.** Jobs shall temporarily defer a participant from work activities if the participant or the participant’s child is a victim of domestic violence.
1. Jobs shall grant a temporary deferral for domestic violence if:
 - a. Participation in Jobs threatens the safety of or, in the perception of the participant, causes an immediate threat of physical, mental, or emotional harm to the participant, the participant’s child, or any child living with the participant; or
 - b. Due to domestic violence, the participant has been physically or emotionally harmed to such an extent that the participant is incapable of participation in Jobs.
 2. Jobs shall provide a participant who is a victim of domestic violence with:
 - a. A deferral from Program requirements, under A.R.S. § 46-244 and R6-10-121, for a period of time that will enable the participant to safely participate in work activities. The maximum deferral period is 6 months. Jobs may grant additional deferrals consistent with A.R.S. § 46-299; and
 - b. A referral to appropriate and available services.
- F.** Jobs shall temporarily defer a participant who needs to be present to care for a dependent who has a disability if no other member of the household is available or suitable to provide the care. The participant shall provide a statement, obtained from an individual listed in subsection (D), regarding the dependent’s disability within 15 days of the date on the deferral request. The Department may grant an extension if the participant has requested a statement from a health care professional and is unable to obtain the statement within 15 days.
- G.** Jobs shall temporarily defer a participant who is an unmarried custodial parent less than age 18 and personally caring for a child less than 12 weeks of age.
- H.** Jobs shall temporarily defer a participant who is a parent, relative, or caretaker personally caring for a child less than one year of age, for no more than 12 months in the participant’s lifetime, unless the participant is a teenaged custodial parent who does not have a high school diploma or GED.
- I.** Jobs shall temporarily defer only one parent at a time in a TPEP family. Jobs shall temporarily defer a TPEP parent, if the TPEP parent:
1. Is personally caring for the TPEP parent’s child who is less than one year of age, unless the TPEP parent is a teenaged custodial parent who does not have a high school diploma or GED;
 2. Is an unmarried teen custodial parent less than 18 years of age who is personally caring for a child less than 12 weeks of age;
 3. Is personally caring for a member of the family, who is not the other TPEP parent, who has a disability, as verified by a health care professional, and no other member of the household is available or suitable to provide the care; or
 4. Has an illness that is expected to last less than 30 days, as verified by a health care professional.
- J.** Jobs shall request that a participant substantiate the participant’s claim of inability to participate in work activities due to a circumstance established under this Section, and shall assist the participant as necessary to obtain the verification. Unless otherwise stated, the following are examples of acceptable verification:
1. Physician or other health care professional statement;
 2. Vocational Rehabilitation (VR) consultation report, if a physician or health care professional statement does not contain conclusive information and the participant claims a disability;
 3. Police report;
 4. Court or medical records;
 5. Newspaper article, or similar evidence of public knowledge;
 6. Statement from crisis shelter staff or witness to domestic violence;
 7. Statement from DES Child Protective Services;
 8. Statement from a third party; or
 9. Statement signed by the participant if no other verification is available.

Notices of Final Rulemaking

K. Jobs shall determine the length of time that a participant is temporarily deferred based on the information provided under this Section.

R6-10-107. Self-assessment Participant Assessment; Referral

~~A. A participant shall have a self-assessment of employability.~~

~~B. A participant shall complete, or assist in completing, a self-assessment as prescribed by the Program.~~

~~C. The self-assessment shall include the participant's:~~

- ~~1. Education and employment history;~~
- ~~2. Skills, talents, and interests; and~~
- ~~3. Family and other circumstances which may impact the participant's employability.~~

~~D. JOBS shall consider the self-assessment factors in the employment planning process.~~

A. At or following the Jobs Introduction Meeting, the case manager shall, with the assistance of the participant, complete an assessment, using a standard form, to identify any possible barriers to employability or participation in the Jobs Program. The participant shall provide, either verbally or in writing, all personal information necessary to accurately complete the assessment form. The assessment form shall include questions to determine whether the participant needs services to address:

1. Past or ongoing domestic violence,
2. Chemical dependency,
3. Psychological or psychiatric needs,
4. Education or training insufficient to obtain or sustain employment,
5. Mental, physical, or functional incapacity or disability,
6. Issues regarding retaining or maintaining employment,
7. Inadequate housing,
8. Inadequate child care, or
9. Inadequate transportation,
10. Other family issues that affect the individual's ability to participate in work activities.

B. Using the information from the assessment, Jobs shall refer a participant who is identified as in need of services to available Jobs Program services or community resources. Jobs shall give priority to any service provider that furnishes services at no cost to the participant. Jobs shall refer the participant to any available community resource that provides the service, or a contracted provider, if available to address the needed service. If, after researching available options, the case manager determines that a needed service is not available through Jobs Program services or community resources, Jobs shall not make a referral and shall grant the participant good cause for not engaging in work activities under R6-10-121.

C. If a participant does not cooperate with the assessment process, Jobs is not required to provide the participant with referrals to service providers.

D. Jobs shall use the information provided by the participant during the assessment to develop the employment plan described in R6-10-108.

E. Based on the initial assessment and available resources, Jobs may determine that a participant may benefit from a more in-depth employment-focused assessment. The case manager shall determine whether such an assessment can be provided by an outside provider.

R6-10-108. Employment Plan

A. JOBS Jobs and the recipient participant shall complete an employment plan for the recipient participant that takes into consideration barriers to employment and incorporates work activities and agreed upon services offered, to ensure that so that the participant can meet work requirements are met and to ensure that the recipient transitions to move into unsubsidized employment at the earliest opportunity. JOBS Jobs shall include the following factors on in the employment plan:

1. Employment goals,
2. Work activities,
3. Activity begin and end dates Dates for beginning and ending activities,
4. Support services Available services offered by Jobs Program or community resources,
5. A list of referrals made as a result of the participant assessment,
- ~~6. Signatures of the recipient participant and the JOBS Program Specialist case manager assigned to oversee provision of services to the recipient participant. Jobs shall not sanction a participant solely for refusing to sign the employment plan.~~

B. The JOBS case manager Program Specialist, in consultation with the recipient participant, may revise the employment plan as needed necessary to ensure the participant continues to advance toward the employment goal. The case manager shall revise an employment plan:

1. To address any barriers to participation identified by the case manager or the participant,
2. To reflect any change in services needed by the participant, if the participant has expressed an intent to participate with the Jobs Program, as provided at R6-10-123, and
3. At any time a participant's circumstances require a change in work activities or services.

Notices of Final Rulemaking

R6-10-109. Participation in Primary Activities

- A. ~~JOBS~~ Jobs shall assign a participant, unless temporarily deferred as provided in under R6-10-106, to no less than 30 hours per week of primary activities that are most appropriate to, based on the participant's employment plan as described in R6-10-108. For the 10 remaining required work activity hours, Jobs shall assign the participant to any primary activity or any secondary activity as described in R6-10-111.
- B. ~~JOBS~~ shall assign participants to primary activities; unsubsidized employment is the 1st priority for all participants. Unsubsidized employment is the first priority for a participant. Whenever possible, Jobs shall assign a participant to unsubsidized employment as the participant's primary activity.
- C. The following are primary activities:
1. Unsubsidized employment; Job search and job readiness assistance for up to 6 weeks per calendar year;
 2. Unsubsidized employment; Job search and job readiness assistance, described in R6-10-112, for up to 6 weeks per federal fiscal year;
 3. Subsidized employment such as JOBSTART, described in R6-10-125;
 4. OJT, described in R6-10-113 ;
 5. Work experience, described in R6-10-114;
 6. Community service programs, described in R6-10-115;
 7. Vocational educational training, described in R6-10-116.
 - a. If the participant is an unmarried custodial parent, provided that the state continues to meet the federally required work participation rates referenced in A.R.S. § 46-299(B);
 - b. ~~for~~ For up to 4-year 12 months, for all other participants;
 8. Satisfactory attendance in high school or GED preparation classes, described in R6-10-117, for any single teen custodial parents parent who are is a heads head of household and have has not obtained a high school diploma or GED;
 9. Education directly related to employment, described in R6-10-117, for any teen custodial parents parent who are heads is a head of household and have has not obtained a high school diploma or GED; if actual participation hours equal at least the minimum hours required in primary activities.
- ~~E.D.~~ The Department shall require TPEP parents to shall participate for a minimum of 3 consecutive work days in work activities before the Department authorizes issuance of the initial TPEP cash assistance payment.
- G. The Department shall require sanctioned individuals, who wish to reestablish their eligibility for cash assistance, to reemploy with JOBS requirements by participating for a minimum of 3 days in work activities before the Department authorizes issuance of the cash assistance payment.

R6-10-110. Participation Deemed to be Meeting that Meets the Work Requirement

- A. ~~JOBS~~ shall deem the The following participants to be meeting meet the work requirement:
1. A parent who is participating in work activities for at least the minimum average number of hours per week as described at under R6-10-102(C).
 2. A parent; with a child under less than age 6, who participates for at least 20 hours per week in primary activities, except that only 1-one parent in a TPEP family can meet the federal work requirement in this manner.
 3. A single, teen custodial parent under less than age 20 who:
 - a. Is a head of household;
 - b. Has not obtained a high school diploma or GED; and either
 - e-i. Maintains satisfactory attendance in high school or GED activities, or ;
 4. A single, teen custodial parent under age 20 who:
 - a. Is head of household;
 - b. Has not obtained a high school diploma or GED; and
 - e-ii. Satisfactorily participates in education directly related to employment for at least the minimum number of hours required in primary activities an average of 20 hours per week during the month.
- B. A participant who falls in 1 one of the categories shown listed in subsection (A), who is deemed to be meeting the work requirement, may participate in additional work activities beyond those deemed to be meeting that meet the work requirement.

R6-10-111. Participation in Secondary Activities

- A. ~~JOBS~~ Jobs may assign a participant to secondary activities that are appropriate to based on information obtained through the assessment or contained in the participant's employment plan only after the participant meets required participation in primary activity hours under R6-10-109 activities.
- B. The following are secondary activities:
1. Job search and job readiness activities assistance after that exceeds the maximum of 6 weeks per federal fiscal year allowable as a primary activity;
 2. Job skills training directly related to employment;
 3. High school or GED preparation for an individual a participant (other than a single, teen custodial head parent who is a head of household) who has not attained a high school diploma or GED certificate; and

Notices of Final Rulemaking

4. Education directly related to employment for ~~an individual~~ a participant (other than a single, teen custodial parent who is a head of household) who has not attained a high school diploma or GED certificate.

R6-10-112. Job Search and Job Readiness ~~Activities~~ Assistance

- A. ~~JOBS~~ Based on information obtained through assessment or contained in a participant's employment plan, Jobs may assign a participant to job search and job readiness ~~activities~~ assistance as a primary activity in accordance with ~~Public Law 104-193, Section 407 (1996), 42 U.S.C. § 607.~~
- B. A participant assigned to job search and job readiness ~~activities~~ assistance as a primary activity shall participate in job search and job readiness ~~activities~~ assistance for at least the minimum number of hours required under R6-10-102 ~~participation requirement within a calendar week.~~
- C. ~~JOBS shall count only 1 calendar week of job search and job readiness activities in which a participant participates for only 3 or 4 days in any week. On not more than one occasion per participant, Jobs shall permit 3 or 4 days of job search and job readiness assistance, and Jobs shall count this as a full week of participation.~~

R6-10-113. On-the-job Training (OJT) ~~OJT~~

- A. ~~JOBS~~ Based on information obtained through the assessment or contained in a participant's employment plan, Jobs may assign a participant to OJT ~~when if~~ other work activities have not resulted in employment and OJT is consistent with the participant's employment plan.
- B. ~~JOBS~~ Jobs shall approve OJT worksites and assignments ~~which that~~:
 1. Are designed to improve the participant's chances for employment, and
 2. Provide compensation in accordance with applicable wage laws.

R6-10-114. Work Experience

- A. ~~JOBS~~ Based on information obtained through the assessment or contained in a participant's employment plan, Jobs may assign a participant to work experience to improve the participant's employability ~~by providing work experience, or to meet work participation requirements.~~
- B. ~~JOBS~~ When assigning work experience, Jobs may shall assign a participant to select work experience that is consistent with ~~the participant's employment goals set forth in~~ the participant's employment plan and ~~shall~~ consider the participant's prior training and experience ~~when making an assignment to work experience.~~

R6-10-115. Community Service Programs

- ~~A. JOBS may assign a participant to community service programs in conjunction with other primary activities to meet participation requirements.~~
- ~~B. JOBS~~ Based on information obtained through the assessment or contained in a participant's employment plan, Jobs may assign a participant to community service programs to establish good work habits ~~when if~~ the participant is unlikely to meet work participation requirements by participating in other primary activities.

R6-10-116. Vocational Educational Training

- A. ~~JOBS~~ Based on information obtained through the assessment or contained in a participant's employment plan, Jobs may assign a participant to vocational educational training, for any period of time up to a the maximum of 1-year 12 months, ~~when if~~ other work activities have not resulted in employment and vocational educational training is consistent with the participant's employment plan.
- B. ~~JOBS~~ In addition to criteria in subsection (A), Jobs shall use the following criteria to determine ~~if whether~~ a participant ~~may should~~ be assigned to, or remain in, vocational educational training:
 1. The participant:
 - a. Lacks a self-supporting skill for available jobs in the participant's geographical area;
 - b. Will attend at least half-time, as defined by the institution, an educational or training facility ~~which that~~ is legally authorized, accredited, or recognized in Arizona as providing a program to prepare students for gainful employment; and
 - c. Remains in good standing with the educational or training institution and makes satisfactory progress as defined by the institution.
 2. ~~The participant seeks the education or training activities shall result in:~~
 - a. ~~The attainment of to attain~~ skills directly related to job opportunities for self-supporting employment in a recognized occupation that does not have high turnover due to substandard wages or working conditions; ~~and,~~
 - b. ~~An associate or bachelor degree, a diploma, a certificate, or a license related to employment opportunities which are or are likely to become available in the participant's geographical area.~~
- C. ~~JOBS~~ Jobs may approve, as vocational educational training, the educational or training activities of an individual who is already enrolled in ~~education~~ educational, ~~or vocational,~~ or technical training at the time the individual is ~~registered in~~ selected for the Program.
- D. ~~JOBS~~ Jobs shall use the following criteria to determine ~~if whether~~ the educational or training activities of an individual already enrolled in education or training ~~may be is~~ approved:
 1. The individual is:

Notices of Final Rulemaking

- a. ~~Is attending~~ Attending at least half-time, as defined by the institution, an educational or training facility ~~which that~~ is legally authorized, accredited, or recognized in Arizona as providing a program to prepare students for gainful employment; and
 - b. ~~Is in~~ In good standing with the educational or training institution and is making satisfactory progress, as defined by the institution; ~~and~~
 - e. ~~Is within 2 years of completing the program of study.~~
2. The ~~individual seeks the~~ education or training activities ~~shall to result in-~~
- a. ~~The attainment of~~ attain skills directly related to job opportunities for self-supporting employment in a recognized occupation that does not have high turnover due to substandard wages or working conditions; ~~and~~
 - b. ~~An associate or bachelor degree, a diploma, a certificate, or a license related to employment opportunities which are or are likely to become available in the participant's geographical area.~~

E. Jobs shall allow time spent studying for vocational education training coursework to count toward the work participation requirement at a rate of one hour of study time for every 2 hours of scheduled classroom time.

R6-10-117. High School, GED Preparation, and Education Directly Related to Employment

- A. ~~JOBS shall~~ Based on information obtained through the assessment or contained in a participant's employment plan, Jobs may assign a teen custodial parent; who has not obtained a high school diploma or GED; ~~to participate in educational activities~~ education directly related to employment.
- B. ~~JOBS~~ Jobs may assign a single, teen custodial parent ~~under age 20~~, who is head of household and has not obtained a high school diploma or GED, to education directly related to employment.
- C. ~~JOBS~~ Jobs may only assign an adult participant, who does not have a high school diploma or GED, to ~~GED activities or~~ education directly related to employment ~~only~~ as a secondary activity.

R6-10-118. Transportation-related Expenses

- A. ~~JOBS shall~~ As budget permits, Jobs shall reimburse a participant for pay a participant, on a weekly basis, a transportation allowance expense of up to \$5.00 \$7.00 per day for each day in which the participant participates in the Program and incurs a transportation expense incurred as a result of complying with the work requirement such participation. If Jobs determines that a lack of transportation expense reimbursement prevents a participant from participating in work activities, Jobs shall:
1. Identify an alternate work activity or mode of transportation that does not require the participant to incur a transportation expense; or
 2. Grant the participant good cause for failing to participate in work activities in accordance with R6-10-121(B).
- B. ~~Except for participants in subsidized employment, JOBS shall not pay transportation-related expenses past the participant's 1st 4 weeks of employment or receipt of the participant's 1st paycheck, whichever comes 1st. Jobs may pay transitional transportation and post-employment education and training for up to 6 months from the date of employment if a participant's cash assistance case is closed due to employment.~~

R6-10-119. Support Services

- A. ~~The Department shall~~ As budget permits, Jobs may provide a participant with paid child care support services to enable participation in the Program. Jobs shall give a participant a list of available support services. Support services may include:
1. Transportation services to assist a participant with transportation expenses that may be incurred as a result of Jobs participation. Services may include:
 - a. Transportation-related expenses (TRE).
 - b. Bus tickets or passes.
 - c. Vehicle repair.
 - d. Vehicle general maintenance.
 - e. Liability insurance, or
 - f. Contracted transportation services.
 2. Health-related services not covered by AHCCCS but necessary to enable a participant to become employed or to make a determination of employability. The following are examples:
 - a. Medical examinations and tests.
 - b. Eyeglasses and other optical services.
 - c. Dental services, or
 - d. Mental health counseling.
 3. The following are examples of other optional support services:
 - a. Clothing.
 - b. Tools, equipment, or specialized garments used in specific occupations such as uniforms, hard hats, or other similar attire.
 - c. Licenses.
 - d. GED testing.

Notices of Final Rulemaking

- e. Relocation, or
- f. Shelter or utility assistance.
- B. ~~JOBS may provide a participant with other support services, through payments to DES approved service providers to enable participation in the Program. As budget permits, the Department shall provide a participant with subsidized child care and other child care related expenses to enable participation in the Jobs Program. The following are examples of other child care related expenses:~~
 - 1. Transportation to and from child care centers and to and from school.
 - 2. Child care registration fees, and
 - 3. Participants' co-pay obligations.
- C. ~~Support services include: As budget permits, Jobs may provide post-employment support services to participants whose TANF case is closed due to employment. The following are examples of post-employment support services:~~
 - 1. ~~Transportation services, Health related services which are not covered by AHCCCS and which are necessary to enable a participant to become employed or to make a determination of employability including:~~
 - a. ~~Medical examinations and tests;~~
 - b. ~~Eyeglasses;~~
 - e. ~~Dental services;~~
 - d. ~~Mental health counseling, and~~
 - e. ~~Other similar services.~~
 - 2. Child care and related expenses, Other support services including:
 - a. Clothing;
 - b. Licenses;
 - e. Tools, equipment, and specialized garments used in specific occupations such as uniforms, hard hats, or other similar garments;
 - 3. Health-related expenses, Substance abuse rehabilitation services;
 - 4. Clothing, Short-term crisis services for housing assistance and utility deposit assistance.
 - 5. Tools, equipment, or specialized garments.
 - 6. Licenses.
 - 7. GED testing.
 - 8. Relocation.
 - 9. Shelter or utility assistance, or
 - 10. Post-employment education.
- D. ~~During the 1st 30 calendar days of employment, JOBS may provide support services, which includes those listed in subsection (C).~~

R6-10-120. Issue Resolution Procedures: Issues Involving Participants Participant Complaint Resolution

- A. ~~When an issue arises between a participant and JOBS, JOBS shall 1st attempt to resolve the issue informally through issue resolution proceedings.~~
- B. ~~A participant or JOBS may request issue resolution proceedings by making a written request to JOBS describing the nature of the problem. If a participant makes an oral request, JOBS shall help the participant put the request in writing by completing the JOBS notice used for that purpose.~~
- C. ~~JOBS shall begin issue resolution procedures within 2 working days of the date of a participant's written request, or the date of a written notice from JOBS to the participant.~~
- D. ~~Issue resolution procedures shall terminate after 45 days, or upon JOBS' determination that the issue cannot be resolved, whichever comes 1st.~~
- E. ~~A participant shall continue to participate in the Program while issue resolution proceedings are pending. If a participant fails to participate JOBS shall direct a sanction, as provided at R6 10 121 or withholding as provided at R6 10 123.~~
- A. This Section applies to participant complaints about the Jobs Program, including complaints about service providers.
- B. Each service provider shall establish a written complaint resolution procedure that shall be posted and given to participants. The complaint resolution procedure shall include an opportunity for an informal dispute resolution meeting between the participant and the service provider, and inform the participant of the right to elevate the complaint to the Program Administrator if the participant is not satisfied with the service provider decision.
- C. A participant shall continue to participate in the Program while the complaint resolution is pending, unless the participant has established a good cause reason for not participating. If a participant fails to participate, JOBS shall initiate the sanction process as provided in R6-10-123 or withholding as provided in R6 10-124.
- D. A participant shall use all applicable steps of the following process to seek a resolution of a complaint:
 - 1. The participant shall attempt to informally resolve a complaint at the lowest management level. However, if a participant believes that a complaint to the service provider would be futile, the participant may complain directly to the Program Administrator under subsection (D)(4).
 - 2. The participant shall submit the complaint orally or in writing to the participant's service provider. If requested, the service provider shall assist the participant with writing the complaint.

Notices of Final Rulemaking

3. Upon receipt of the participant's complaint, the service provider shall respond in writing within 7 days of the date the complaint was filed. The response shall provide the reason for the decision, and mention the participant's right to complain to the Program Administrator.
4. If the service provider takes no action to resolve the complaint or the participant perceives the complaint is unsatisfactorily resolved, the participant shall submit a complaint orally or in writing to the Program Administrator.
5. The Program Administrator shall issue a written decision within 30 days after the date the complaint is filed. The Program Administrator shall consider the participant's employment plan, applicable statutes, rules, and policy and, if applicable, the terms of the service provider's contract, in reaching a decision.

R6-10-122 R6-10-121.Failure to participate; Good Cause Exceptions Reasons; Verification; Establishment of Good Cause

- A.** Failure to participate. If a participant does not participate in work activities, including attendance at the Jobs Introduction Meeting, the case manager shall determine whether a barrier to participation has been identified through discussions with the participant, or information provided by the participant, and if so, whether services have been provided to address the barrier.
1. If services have not been provided to address an identified barrier, the case manager shall refer the participant to available Jobs Program services or community resources.
 2. If services have been provided to address all identified barriers, or no barrier has been identified, the case manager shall send the participant a Request for Good Cause Information to determine whether a good cause reason exists for the participant not to participate.
- A.B.** Good cause reasons. Good cause reasons are those deemed acceptable by JOBS which that prevent a participant from participating engaging in work activities under R6-10-102, complying with JOBS requirements, or accepting employment. The following circumstances shall constitute good cause: include:
1. The participant has a barrier to participation for which services are not available, or the participant is participating in referred services to address a barrier;
 - 1-2. The participant had a verified has an illness;
 3. The participant is required to care for an ill or disabled family member;
 - 2-4. Either the participant or a dependent child had a has an verified appointment, which that cannot could not be rescheduled, such as for a court-ordered appearance, medical appointment, incarceration, or other significant appointment such as an employment interview, Division of Child Support Enforcement (DCSE) related appointment, or other similar another comparable appointment;
 - 3-5. The participant had has a verified emergency family emergency crisis, such as loss of residence due to a natural disaster or the death of a participant's immediate family member;
 - 4-6. The participant had has a temporary verified lack of transportation with no reasonable alternate means of transportation, including walking;
 7. Extreme weather makes walking to childcare or work activities unreasonable for a participant who has no other form of transportation.
 - 5-8. The participant was is prevented from participating due to verified severe inclement weather; conditions which prevented other persons in the area of the participant's residence from traveling.
 - 6-9. The participant provides verification that child The participant is unable to obtain child care for a child who is under the age of less than 13 years old because the child care is was unavailable, unaffordable, or unsuitable;
 10. Child care is unavailable for a child age 13 or over who requires adult supervision:
 - a. Due to a disability, which includes mental health or other health-related issues;
 - b. Because the child would be harmful to himself, herself, or others if left alone; or
 - c. Because the child is on court-ordered probation that requires the child to remain in the home or under house arrest.
 11. The participant needs translation services that are not available or not provided.
 - 7-12. The participant is not capable of performing the work activity due to: assigned or the essential job functions related to the work activity due to; unsafe worksite conditions, physical demands of the position, the participant's lack of skills or knowledge required for the position, and other similar circumstances.
 - a. Unsafe worksite conditions;
 - b. Physical demands of the job;
 - c. Lack of skills, aptitude, or knowledge for the position;
 - d. Strike, lockout, or other bona fide labor dispute; or
 - e. Conditions of the participant's membership in a union representing employees in the occupation.
 8. The job offered is vacant due to a strike, lockout, or other bona fide labor dispute; or the job offered is contrary to the conditions of the participant's membership in a union governing the occupation;
 - 9-13. The participant provides verification that he or she is a victim or perceives himself or herself to be a victim of experiencing a domestic violence whose current situation:
 - a. Threatens the safety of the participant or any child living with the participant; or

Notices of Final Rulemaking

b. Causes physical, mental, or emotional harm to the participant or any child living with the participant, episode which threatened the safety of the participant and/or the participant's child

14. The Department fails to provide the participant with services agreed upon in the employment plan; or

15. Other comparable circumstances beyond the participant's control, including an error by the Department.

~~B.C.~~ Verification. JOBS shall request, and the A participant subject to subsection (A) shall provide, verification of documentation that verifies good cause within 10 calendar days of the mailing date on the Request for Good Cause Information. The case manager may obtain verification directly from the reporting source. The case manager shall, upon request, assist the participant in obtaining the documentation that verifies good cause. Verification may include includes the following:

1. Physician's Physician or other health care professional statements statement;
2. Appointment notices notice such as appointments from a courts court, FAA, and or other comparable entity similar notices;
3. Death certificates certificate;
4. Public knowledge or newspaper articles Newspaper article, or other similar evidence of public knowledge;
5. Information Document or statement from the DES Child Care Administration (CCA);
6. Police reports report;
7. Statements Statement from crisis shelter staff and/or or a witness witnesses of to the domestic violence;
8. Worksite visits; Statement from a third party; or
9. Signed participant statements statement explaining the circumstances that establish containing all factors contributing to the failure to comply good cause if no other verification is possible.

D. Notice.

1. If the participant establishes a good cause reason for failing to participate within 10 calendar days of the mailing date on the Request for Good Cause Information, the case manager shall not sanction the participant, and shall send the participant a notice indicating that good cause has been established. If, based on the information received from the participant, the case manager determines that a barrier exists that prevents the participant from participating, the case manager shall refer the participant to available Jobs Program services or community resources.
2. If the participant does not establish good cause within 10 calendar days of the mailing date on the Request for Good Cause Information, the case manager shall send the participant a notice indicating that good cause has not been established and begin the sanction process described in R6-10-123.

R6-10-122. Services to Address Barriers to Participation

A. Identification of Barriers to Participation and Referral to Available Services.

1. A participant shall notify the participant's case manager of any barrier to participation in the Jobs Program.
2. Upon notification or personal observation that a participant has a barrier to participation, the case manager shall document the barrier, and determine whether revising the participant's employment plan would address the identified barrier. If so, the case manager shall revise the employment plan as necessary.
3. If revising the employment plan does not address the identified barrier, the case manager shall refer the participant to available community resources.
4. If no community resources are available to address the identified barrier, the case manager shall refer the participant to available Jobs Program services.
5. If no services are available, the case manager shall grant the participant good cause for not participating and re-evaluate the situation in 30 days to determine whether the barrier has been resolved or services have become available.

B. A participant shall participate in a referred service until identified barriers have been resolved, or the service is no longer available.

1. If the participant's barriers have been resolved, the participant shall participate in work activities. If the participant does not participate in work activities after the participant's barriers have been resolved, the case manager shall initiate the good cause process under R6-10-121.
2. If the participant does not participate in referred services and does not participate in work activities, the case manager shall initiate the good cause process under R6-10-121.

~~R6-10-121.~~ **R6-10-123. All Families Except TPEP Families: Failure to Participate; Sanctions Sanction Process**

~~A.~~ If an individual a participant required to participate fails to participate in work activities without good cause under R6-10-121, the case manager shall initiate the sanction process. at the JOBS initial interview, as outlined at R6-10-105, the Department shall sanction the individual.

1. Case review. Before requesting a sanction, the case manager shall review the case to determine whether all necessary steps have been taken, including barrier identification, available service referrals, and an opportunity to establish good cause. After reviewing the case and determining that a sanction is appropriate, the case manager shall submit the case to a Jobs supervisor for review. The Jobs supervisor shall review the case to determine whether all necessary steps have been taken before imposing a sanction, and shall approve or deny the sanction based on this review.
 - a. If the Jobs supervisor approves the sanction, the case manager shall sanction the participant under A.R.S. § 46-300, as provided in subsection (4).

Notices of Final Rulemaking

- b. If the Jobs supervisor does not approve the sanction, the case manager shall review the case record and take all necessary corrective action on the case.
- B2. Notice. If a sanction is approved, at each sanction level the JOBS case manager shall send the individual participant written notification notice of the Department's intent to sanction, explaining The adverse action notice shall be timely and shall adequately explain:
 - 1a. When and how the individual failed to comply. The date and the location of the alleged failure to comply;
 - 2b. The consequences of the non-compliance. How or why the case manager believes the participant failed to comply;
 - 3c. The month in which the Department shall impose the sanction, and
 - d. The length of time that the sanction will be imposed.
 - 4-e. How the individual can re-comply participant can stop the proposed sanction or re-comply if it is too late to stop the proposed sanction;-
 - f. The name and telephone number of a specific contact person who will provide more information to the participant about the sanction level;
 - g. The percentage of the sanction;
 - h. The benefit amount, after the sanction is imposed;
 - i. The fact that the participant is required to contact a case manager by the due date listed on the notice and either participate in work activities or express an intent to participate in work activities to avoid the imposition of a sanction; and
 - j. Information regarding the right to request a hearing, and how to do so.
- C. If a participant required to participate subsequently fails to participate or comply with Program requirements or is avoiding or limiting employment, JOBS shall determine whether good cause exists as described in R6-10-122.
- 3. How a participant can avoid a sanction or have benefits restored after a sanction is imposed.
 - a. A participant who has received a notice that the Jobs Program intends to impose a sanction may avoid the sanction by participating in work activities, expressing an intent to participate, or identifying a barrier to participation within 10 calendar days from the mailing date on the notice.
 - i. The participant may express an intent to participate in work activities by contacting the participant's case manager by telephone or appearing in person. If a barrier is identified, the case manager shall follow the process in R6-10-122.
 - ii. If the participant requests a fair hearing within 10 calendar days from the mailing date of the notice, Jobs shall not reduce the cash grant due to a sanction, pending the results of the fair hearing.
 - b. If the participant does not respond within 10 calendar days of the mailing date of the notice, the sanction is imposed. If the participant responds after the sanction is imposed, and resumes participation, expresses an intent to participate, or identifies a barrier to participation, the Jobs Program shall restore benefits after one month of sanction. The participant may express an intent to participate or identify a barrier by contacting the case manager by telephone or in person. If a barrier is identified, the case manager shall follow the process in R6-10-122. The Jobs Program shall not require a participant to begin work activities before the program takes action to restore benefits.
 - c. Upon re-compliance with the Jobs Program following a sanction, the participant shall attend a Jobs Introduction Meeting if the participant has not attended a Jobs Introduction meeting in the prior 6 months.-
 - d. If a participant has been sanctioned 100% and the participant's Jobs case has been closed, the participant shall reapply for cash assistance to resume the Jobs Program services and work activities.
- D. When JOBS determines that a participant required to participate fails to participate without good cause as described in R6-10-122, the Department shall sanction the participant.
- 4. Sanction levels. The Department shall impose a sanction, which is a percentage of the original cash assistance amount, in accordance with A.R.S. § 46-300 as follows:
 - a. For the first instance of noncompliance, the department shall reduce the household's cash assistance grant by twenty-five per cent for one month.
 - b. For a second instance of noncompliance that occurs in a month other than the month in which the first noncompliance occurred, the department shall reduce the household's cash assistance grant by fifty per cent for one month.
 - c. For a third instance of noncompliance that occurs in a month other than the month in which the second noncompliance occurred and any instance of noncompliance thereafter, the department shall terminate the household's cash assistance grant for at least one month or until the household complies. The Jobs Program shall close the participant's case at this sanction level, and upon subsequent sanctions. The former participant shall reapply for cash assistance to resume the Jobs Program services and work activities.
- E. JOBS shall send the participant written notification explaining:
 - 1. When and how the participant failed to comply;
 - 2. The consequences of the non-compliance;

Notices of Final Rulemaking

3. ~~The month in which the Department shall impose the sanction, and~~
 4. ~~How the participant can reemploy.~~
 5. Monitoring sanctioned participants.
 - a. A case manager shall keep a record listing each sanctioned participant, the participant's sanction date, sanction level, benefit month, and revised benefit amount, and shall review the record each month, in addition to the participant's case record, to determine whether the next sanction level should be imposed. A Jobs supervisor shall review the case record before the initiation of any sanction action by a case manager.
 - b. Before imposing the 100% sanction, the case manager shall use the following methods in an attempt to contact the participant and determine whether good cause exists under R6-10-121:
 - i. A telephone call, if the participant has a telephone;
 - ii. Notice by first class mail;
 - iii. Consultation with other programs within the Department to determine whether they have had contact with the non-compliant participant or have a current address or telephone number for the participant;
 - iv. Any other reasonable method for contacting the participant.
- ~~F. At the 3rd and subsequent sanctions, JOBS shall close the participant's JOBS case.~~
- ~~G.6. A participant is entitled to a fair hearing, as provided at A.A.C. R6-12-1001, to contest a Department sanction of cash assistance.~~
- ~~H.7. A participant who wishes to appeal a sanction of cash assistance shall file a written request with the Department, following the procedures in A.A.C. R6-12-1002.~~

~~R6-10-123~~R6-10-124. TPEP: Failure to Participate; Withholding

- A. ~~If a TPEP parent required to participate who is a participant fails to participate or comply with Jobs Program requirements, or is avoiding or limiting employment, JOBS Jobs shall determine whether good cause exists as described under at R6-10-122 R6-10-121.~~
- B. ~~When JOBS~~ If Jobs determines that a the TPEP parent required to participate fails failed to participate without good cause, the Department shall withhold TPEP cash assistance.
- C. ~~JOBS Jobs shall send the participant a timely adverse action notice that adequately explains written notification explaining:~~
 1. ~~When and how the individual failed to comply~~ The date and location of the alleged failure to participate;
 2. ~~The consequences of non-compliance~~ How or why the case manager believes the participant failed to participate,
 3. ~~The pay period to in which the Department shall impose the withholding, and~~
 4. The length of time that the withholding will be imposed.
 - 4.5. How the individual can reemploy participant can stop the proposed withholding or resume participation if it is too late to stop the proposed withholding:-
 6. The name and telephone number of a specific contact person who will provide more information to the participant about the withholding;
- D. ~~At the 3rd withholding, JOBS Jobs shall close the participant's JOBS Jobs case.~~
- E. ~~A participant is entitled to a fair hearing, as provided at A.A.C. R6-12-1001, to contest a Department withholding of cash assistance.~~
- F. ~~A participant who wishes to appeal a withholding of cash assistance shall file a written request with the Department, following the procedures in A.A.C. R6-12-1002.~~

~~R6-10-124~~R6-10-125. Subsidized Employment - JOBSTART

- A. ~~To be eligible to participate in for JOBSTART, a participant shall:~~
 1. ~~Be a JOBS Jobs participant,~~
 2. ~~Be receiving both cash assistance and food stamps,~~
 3. ~~Have completed a Complete Job Readiness training workshop and a preliminary job search,~~
 4. ~~Be reasonably expected to be able to Assist Jobs in assessing whether the participant can achieve benefit from enhanced employability through subsidized employment in terms of enhanced employability.~~
- B. ~~JOBS~~ If a participant is selected for JOBSTART, Jobs shall provide a JOBSTART orientation to the participant participants. The orientation shall describe JOBSTART, including:
 1. The benefits of subsidized employment;
 2. The diversion of the participant's cash assistance and food stamp benefits for wage subsidy;
 3. The consequences of failure to comply with JOBSTART requirements;
 4. The availability of, and the requirements to qualify for and obtain, supplemental payments;
 5. The fair hearing process for challenging adverse action or failure to receive a supplemental payment;
 6. The exclusion of JOBSTART wages in calculating cash assistance and food stamp benefit eligibility;
 7. The potential eligibility for advance Earned Income Credits (EIC), as allowed under the Internal Revenue Code.
- C. ~~JOBS Jobs shall make job referrals by matching a participant's skills, experience, and employment goal plan with a JOBSTART employer's requirements. JOBS Jobs shall also consider the following criteria in making JOBSTART employ-~~

Notices of Final Rulemaking

ment referrals:

1. Whether a referral ~~will give~~ provides a participant with additional employment opportunities because of skills learned through JOBSTART employment;
 2. Whether a referral is likely to result in a permanent, unsubsidized, or full-time employment for the participant;
 3. The length and quality of training the JOBSTART employer will provide to the participant;
 4. Wages, benefits, and opportunities for advancement;
 5. The employer's turnover rate; and
 6. Other comparable or similar factors.
- D. ~~JOBS~~ Jobs shall schedule the participant for an interview with the prospective employer and notify the participant of the interview date, place, and time.
- E. The employer shall decide whether to hire a participant.
- F. A participant shall abide by an employer's regular requirements regarding:
1. Submitting an application for employment,
 2. Appearing for interviews,
 3. Providing necessary information, such as citizenship verification,
 4. Hours of employment,
 5. Attendance,
 6. Job performance,
 7. Conduct, and
 8. Other similar conditions of ~~the~~ employment.
- G. A participant shall ~~comply with the following~~ JOBSTART requirements:
1. Sign the ~~JOBS~~ Jobs form, agreeing to abide by JOBSTART requirements;
 2. Appear for pre-referral and assessment interviews with ~~JOBS~~ Jobs staff or ~~JOBS~~ a Jobs designee;
 3. File a weekly report of employment days, hours, and pay received;
 4. Accept and maintain subsidized employment; ~~or~~
 5. ~~Establish~~ establish good cause for failing to participate, as prescribed in ~~R6-10-122~~ R6-10-121;
 6. ~~Report changes to~~ JOBS Jobs ~~which that~~ that affect JOBSTART participation such as;
 - a. The need for additional support services ~~as provided at~~ under R6-10-119,
 - b. ~~Accepting~~ Acceptance or ~~refusing~~ refusal of an offer of employment offer,
 - c. Absence from or termination of employment,
 - d. Job position or function modifications, and
 - e. Other similar or comparable factors;
 7. ~~Ensure that the participant's children between the ages of 6 and 16 receive school instruction as prescribed in A.R.S. § 15-802.~~
- H. At the end of each work week, a participant shall complete and sign the ~~JOBS~~ Jobs form on which the participant shall indicate ~~his or her~~ the participant's name, days and hours worked, and pay received. The participant shall obtain ~~his or her~~ the participant's supervisor's signature, or ~~the signature of~~ that person's designee, on the form and send the form to ~~his or her~~ the participant's ~~JOBS case manager~~ worker.
- I. ~~The Department~~ Jobs shall use information on the form to determine:
1. Whether the participant is entitled to a supplemental payment ~~as provided in~~ R6-10-125(N) under subsection (N);
 2. The amount of reimbursement for JOBSTART employers ~~as prescribed in~~ under R6-10-126(H); and
 3. The participant's compliance with JOBSTART requirements.
- J. If the participant fails to send in the completed form, the Department shall ~~impose a sanction~~ initiate the sanction process, ~~under as provided in~~ R6-10-121 R6-10-123, or a withholding ~~as provided in~~ R6-10-123 ~~of cash assistance, and withhold supplements under R6-10-124 for TPEP.~~ If the employer fails to sign the form, Jobs shall delay reimbursement payments to the employer ~~shall be delayed~~ until the employer signs the form or is terminated for the failure to sign, ~~as prescribed in~~ R6-10-126(D)(4) under R6-10-126.
- K. ~~Participants~~ A participant may participate in JOBSTART employment for up to ~~6~~ six months with ~~1~~ one extension of ~~3~~ three months, ~~at the option of~~ Jobs. If a participant's employer wishes to request ~~an extension~~ the three month extension, the employer shall make the request ~~the extension~~ in writing and shall provide the following information on which ~~JOBS~~ Jobs shall ~~base~~ consider in its decision whether to extend:
1. Name of the participant for whom the extension is requested,
 2. Position for which an extension is requested,
 3. ~~What additional~~ Additional experience or training that is needed necessary for the participant to achieve competency,
 4. ~~The employer's expectation for hiring~~ Whether the employer expects to hire the individual following the extension,
 5. The length of the extension, not to exceed three months, and
 6. Other similar or comparable factors indicating that an extension is necessary.
- L. Jobs shall not permit the total ~~Total~~ JOBSTART employment time for a participant ~~shall not to~~ exceed 9 months.
- M. ~~Participants~~ A participant shall comply with Jobs Program requirements, including all JOBSTART requirements; ~~as~~

Notices of Final Rulemaking

~~described as prescribed~~ in this Article. If a participant fails to participate or to comply with Program these requirements, ~~or is avoiding or limiting employment,~~ the Department shall impose a sanction, ~~as provided at under R6-10-121 R6-10-123,~~ or withholding of cash assistance, ~~as provided at under R6-10-123 R6-10-124.~~

- N. Each month, the Department shall make a supplemental payments payment to participants ~~any participant~~ whose net wages ~~did do~~ not equal the combined benefit amount of cash assistance and food stamps for which ~~they were~~ the participant is eligible.
- O. ~~When~~ If a participant's combined cash assistance and food stamp monthly benefit amount exceeds the amount of the participant's adjusted gross wages and supplemental payments for the same month, and the loss is due to an unpaid hour of unexcused absence as reported by the JOBSTART employer, the Department shall:
 - 1. Presume that each unpaid hour was not for good cause;
 - 2. Withhold a supplemental payment to make up the difference; and
 - 3. Send the participant written notice of adverse action no later than 10 calendar days following the end of the benefit month. At a minimum, the notice shall include the following information:
 - a. ~~The information required for an adequate notice as described in R6-10-121(D);~~ When and how the participant failed to comply, the consequences of the noncompliance, the month in which the Department is imposing the sanction or withholding, and how the participant can reapply;
 - b. The participant's right to provide verification of good cause for such absence, ~~as prescribed in under R6-10-122 R6-10-121,~~ and the participant's right to receive a supplemental payment if the Department finds that the participant has established good cause; and
 - c. The participant's responsibility to provide documentation of good cause to ~~JOBS~~ Jobs within 10 calendar days from the mailing date of the notice to avoid withholding of the supplemental payment pending the outcome of a fair hearing.
- P. The Department shall provide a supplemental payment, reconciling ~~the~~ the any difference, no later than 10 work days after the end of the month in which the participant establishes good cause if:
 - 1. The participant provides verification of good cause ~~under as described in R6-10-122(B), R6-10-121,~~ and
 - 2. The verification is received by ~~JOBS~~ Jobs within 10 calendar days of the mailing date on the adverse action notice was mailed.
- Q. The Department shall not provide the participant with a supplemental payment, reconciling the difference, if the participant does not request a hearing or requests a hearing but waives the continuation of benefits pending the outcome of the hearing, and either does not:
 - 1. ~~The participant does not provide~~ Provide any verification of good cause, or
 - 2. ~~The participant does not timely~~ Timely provide verification of good cause.
- R. The Department shall conduct hearings on appeals of adverse action as prescribed in Article 3. Grievances are also governed by procedures provided in Article 3.

~~R6-10-125, R6-10-126.~~ **Employer Participation - JOBSTART**

- A. An employer who wants to participate in JOBSTART shall notify the ~~JOBS~~ Jobs office in the community where the employer is located. To qualify for participation, an employer shall:
 - 1. Agree to place a participant in a full-time position;
 - 2. ~~Reasonably expect to offer~~ Offer the participant an opportunity for full-time, unsubsidized employment;
 - 3. ~~Normally~~ Not require ~~the~~ a participant to work ~~no~~ more than an average of 40 hours per week, on a regular basis;
 - 4. Not place the participant in a position that will displace a regular employee;
 - 5. Pay wages that are substantially ~~like~~ similar to the wages paid for similar jobs, with ~~like~~ adjustments for experience and skills, but never less than the federal minimum wage;
 - 6. Maintain safety, health, and working conditions at or above levels generally acceptable in the industry and no less than ~~that~~ conditions of comparable jobs offered by the employer;
 - 7. Provide training at the worksite ~~which that~~ which is necessary to meet the competency standards for the position;
 - 8. Provide health care coverage, sick leave, ~~holiday~~ holidays, and vacation leave, and other comparable benefits in ~~conformance~~ accordance with the employer's rules for new employees;
 - 9. Provide Workers' Compensation coverage;
 - 10. Help the participant obtain any advance Earned Income Credit for which the participant may be eligible;
 - 11. Sign the agreement, as prescribed in ~~R6-10-125~~ subsection (D); and
 - 12. Sign the Department's certification form, as prescribed in ~~R6-10-125~~ subsection (F).
- B. If the employer satisfies the criteria listed in subsection (A), the employer may submit ~~place~~ place a job placement order ~~with~~ to ~~JOBS~~ Jobs. The order shall include the following information on the available position;:
 - 1. Days and hours of work,
 - 2. Wages,
 - 3. Description of responsibilities,
 - 4. Benefits,
 - 5. ~~Opportunity~~ Any opportunity for advancement, and

Notices of Final Rulemaking

6. Other pertinent ~~job-related~~ job-related information.
- C. ~~No~~ An employer is not required to participate in JOBSTART.
- D. An employer who wants to hire a participant shall sign an agreement with the Department.
 1. The employer shall affirm that the employer satisfies all of the ~~selection~~ criteria listed in ~~R6-10-125~~ subsection (A) and will continue to meet all the ~~selection~~ criteria while participating in JOBSTART.
 2. If the employer violates a JOBSTART requirement, the employer shall repay any reimbursements the employer receives after the date of the violation.
 3. The employer shall avoid conflicts of interest and the appearance of impropriety or favoritism in hiring practices, such as preferential hiring of relatives, friends, and business associates.
 4. The employer shall prepare and provide to the Department the following reports:
 - a. Each week, the employer shall verify and sign a timesheet for each participant stating:
 - i. Gross wages,
 - ii Participant net earnings,
 - iii. Number of paid hours ~~of work~~ worked (including paid hours of leave),
 - iv. Hours for which a participant was not paid because the participant had an unexcused absence, and
 - v. Hours for which the participant was not paid because the employer reduced available work hours.
 - b. No later than the 10th workday of each calendar month following a month of work, the employer shall complete and provide to ~~JOBS~~ Jobs with a ~~1-page~~ one-page report on each participant's performance. The report shall include the employer's assessment of the participant's following information:
 - i. Skills (competencies) gained as a result of employment;
 - ii Ability to correctly and timely complete assignments;
 - iii. General work habits such as punctuality, absenteeism, and neatness of work area; and
 - iv. Development of effective and efficient working relationships with people, including supervisors, peers, and subordinates.
 5. An employer shall allow ~~JOBS~~ Jobs staff to schedule and make visits to the worksite, so that staff can observe a participant's work activities and interview the participant.
- E. The employer shall sign and date the agreement. A ~~JOBS~~ Jobs representative and the participant shall also sign and date the agreement.
- F. An employer who wants to participate in JOBSTART shall ~~also~~ provide ~~JOBS~~ Jobs with a completed, signed, dated, and certified form. On the form, the employer shall certify that the following information ~~listed in this Section as is~~ true, ~~as to~~ regarding the employer, and its principal officers and directors: ;
 1. The employer is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by a federal department or agency, the state of Arizona, or any other state.
 2. The employer has not, within the preceding 3 years, been convicted of or had a civil judgment rendered against the employer for:
 - a. Fraud,
 - b. Antitrust violations,
 - c. Embezzlement,
 - d. Theft,
 - e. Forgery,
 - f. Bribery,
 - g. Falsification or destruction of records,
 - h. Making false statements, or
 - i. Receiving stolen property.
- G. ~~The Department~~ Jobs shall compute an employer's reimbursement amount, based on the information the participant and employer ~~provided~~ provide under as described in R6-10-125 subsection (D)(4)(a).
- H. For each participant, ~~the employer's~~ Jobs shall provide an employer with reimbursement for wages and employer's expenses ~~shall not exceed a wage reimbursement~~ that is the lesser of:
 1. The gross wages paid to the participant in the month, or
 2. \$400.
- I. ~~The Department~~ Jobs shall issue the reimbursement no later than the 25th day of the same calendar month in which the employer's report is timely received. Late receipt of the form may delay reimbursements.
- J. If ~~JOBS~~ Jobs knows or learns of information indicating that the employer's certification, ~~pursuant to R6-10-125~~ under subsection (F), is or has become untrue, ~~the Department~~ Jobs shall terminate the employer's participation in JOBSTART in writing, and ~~shall not allow~~ exclude the employer to participate from participation in the future.
- K. ~~The Department~~ Jobs shall also terminate ~~the an~~ employer's participation in JOBSTART if the employer demonstrates ~~has shown~~ a pattern of either unjustifiably terminating participants before the completion of their training or of not offering unsubsidized employment to participants who have successfully completed training with the employer.
 1. ~~JOBS~~ Jobs shall consider each occurrence of either circumstance in establishing the pattern.

Notices of Final Rulemaking

2. ~~JOBS~~ Jobs shall not allow the employer to participate in JOBSTART if the total number of occurrences exceed the greater of the following figures, unless the employer can establish good cause:
 - a. 2 occurrences, or
 - b. 20% of the total number of participants placed with the employer.
3. If the employer claims good cause, the employer shall provide proof that ~~the a~~ a participant failed to meet the employer's requirements, absent good cause, pursuant to ~~R6-10-124(F)~~ R6-10-125(F), and that the employer attempted to establish a reasonable alternative with the participant but was unsuccessful, due to circumstances outside the employer's control.
- L. If Jobs determines that an employer has violated JOBSTART requirements, ~~as prescribed in R6-10-125 subsection (A), the Department~~ Jobs shall take all of the following adverse actions against the employer:
 1. Withhold any subsidized ~~payments~~ payment due the employer, following the date of the violation;
 2. Seek repayment of any ~~amounts~~ amount overpaid to the employer; and
 3. ~~Not allow~~ Exclude the employer to ~~participate any longer from participation~~ in JOBSTART, as prescribed in ~~R6-10-125 subsection (J)~~.
- M. If ~~the Department~~ Jobs plans to take adverse action against an employer, ~~the Department~~ Jobs shall send the employer a written notice of adverse action. ~~At a minimum, the~~ The notice shall include:
 1. The name and address of the employer;
 2. The action taken and the reason for the adverse action;
 3. The authority for the action; and
 4. The employer's appeal rights.
- N. An employer who disagrees with the amount of an unsubsidized payment; or ~~who~~ is subject to adverse action as prescribed in subsection (M), may file a grievance as provided in Article 3.
- O. The Department shall conduct grievance procedures ~~pursuant under~~ to R6-10-303.

ARTICLE 3. JOB DISPLACEMENT GRIEVANCE PROCEDURES

R6-10-301. Definitions

The definitions in R6-10-101 apply ~~in~~ to this Article.

R6-10-302. ~~Grievance—Regular Employees; Employer Job Displacement~~

Regular employees of employers with whom ~~JOBS~~ Jobs participants are placed in unpaid or subsidized jobs may file a grievance regarding displacement as prescribed in this Article. As used in this Section, "displacement" ~~shall include assigning~~ means assignment of a participant to a position which:

1. Results in the termination or reassignment of a regular employee;
2. Results in the reduction of non-overtime work, wages, or benefits ~~of for~~ for a regular employee;
3. Impairs an existing contract for service or a collective bargaining agreement;
4. Fills the position of a regular employee on layoff status;
5. Creates a new position for ~~a the~~ participant ~~when the new position performs that has~~ that has substantially the same job functions as the position held by a regular employee ~~who is~~ who is on layoff, or ~~who is~~ who is subsequently terminated;
6. Infringes upon the promotional opportunities of a regular employee; or
7. Fills any established, unfilled position that can be filled by a qualified, regular employee who has applied for the position.

R6-10-303. Grievance Process

- A. Upon request, ~~JOBS~~ Jobs shall provide information to regular employees and ~~Project~~ JOBSTART employers regarding their right to file a grievance and the ~~procedures~~ procedure for doing so.
- B. ~~The~~ An aggrieved party may seek to informally resolve a grievance at the regional level with the ~~JOBS~~ Jobs Regional Program manager, or that person's designee, or may request a fair hearing.
- C. To pursue informal resolution, an aggrieved party shall file a Departmental grievance form with the ~~JOBS~~ Jobs Regional Program Manager or designee. The form shall contain the following information:
 1. Aggrieved party's name, address, and ~~phone~~ telephone number;
 2. Date of grievance;
 3. Contact person, if other than the aggrieved party;
 4. Regional Program Manager or designee, address, ~~phone~~ telephone number;
 5. A description of the action ~~which that~~ that is the subject of the grievance and the date of the action; and
 6. The proposed resolution.
- D. If the aggrieved party requests an informal resolution, the Department shall hold an informal resolution meeting with the aggrieved party, within 15 working days from the date the Department receives the grievance.
- E. If a grievance is not resolved at the informal meeting, the aggrieved party may request a fair hearing with the Department

Notices of Final Rulemaking

of Economic Security, Office of Appeals, within ~~20~~ 30 days from the date of the informal meeting, by sending a written request for a fair hearing to the ~~JOBS~~ Jobs local office.

- F. If the aggrieved party does not choose to seek an informal resolution as prescribed in subsections (C) and (D), the aggrieved party may request a fair hearing by filing a written request with the local ~~JOBS~~ Jobs office. An employer who requests a fair hearing shall file a written request within ~~20-30~~ calendar days of the date of the adverse action notice as described in A.A.C. R6-12-1002. Upon request, ~~JOBS~~ Jobs shall assist the aggrieved party in preparing the hearing request. Assistance shall include an explanation of the aggrieved party's right to fair hearing, the fair hearing procedures, and the process.
- G. ~~The date the A request for a hearing is deemed filed shall be on the date in accordance with specified in A.A.C. R6-12-1002.~~
- H. The ~~JOBS~~ Jobs local office shall prepare and forward the request for a hearing to the Office of Appeals. The ~~JOBS~~ Jobs office shall include:
1. The information submitted ~~pursuant to~~ under subsection (C),
 2. The decision reached at the informal resolution meeting, ~~if any, and~~
 3. Any decision, notice, or other documents relating to the hearing request.
- I. Upon receipt of a request for a fair hearing, the Office of Appeals ~~will~~ shall conduct the ~~hearings pursuant to hearing under~~ hearings pursuant to hearing under A.A.C. R6-12-1005 through R6-12-1007 and R6-12-1009 through R6-12-1013(A), except that references to "FAA" ~~shall be references to JOBS~~ are replaced by "Jobs."

R6-10-304. Further Appeal

- A. Regular employees grieving displacement issues ~~pursuant to R6-10-125(A)(4)~~ under R6-10-126(A)(4) may appeal the ~~decisions~~ any decision of a Department hearing officer as prescribed below:
1. The aggrieved party shall send the appeal to:
Office of Administration Law Judges
U.S. Department of Labor
Vanguard Building, Room 600
1111 20th Street, N.W.
Washington, DC 20036
 2. The aggrieved party shall send a copy of the appeal to the following:
 - a. Assistant Secretary for Employment and Training
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210; and
 - b. Assistant Secretary for Family Support
Department of Health and Human Services
370 L'Enfant Promenade, SW, 6th Floor
Washington, DC 20447
 3. The aggrieved party shall include the following information in the appeal:
 - a. The full name, address, and telephone number of the aggrieved party;
 - b. Citations to provisions or regulations the aggrieved party believes have been violated;
 - c. A copy of the original grievance filed with the state; and
 - d. A copy of the state's finding and decision.
 4. The decision of the Office of the Administrative Law Judges is the final decision of the Department of Labor.
- B. Employers grieving issues ~~pursuant to R6-10-125~~ under R6-10-126 may appeal the findings of a Department hearing officer to the Department's Appeals Board ~~pursuant to under~~ under R6-12-1014(A), except that the decision of the Board is final.

report the quantities of spillwater delivered for irrigation and non-irrigation uses, and R12-15-1017, which establishes June 1 as the date when community water systems must file their annual reports under A.R.S. § 45-343. The changes are as follows:

Article 1. Definitions, Fees, Procedural Rules for Hearings

The heading of Article 1 is changed to “Fees” to accurately reflect the content of the Article.

R12-15-151. Fee Schedule

R12-15-151(B)(7), which sets forth fees for adequate and assured water supply, is deleted and replaced with language that provides a cross-reference to fees prescribed in Article 7, “Assured and Adequate Water Supply.” When R12-15-714(B) and R12-15-725(B) were adopted, ADWR intended that the fees in those sections would replace the fees in R12-15-151(B)(7). However, R12-15-151(B)(7) was not amended at that time, resulting in an inconsistency between the fees in that Section and the fees in R12-15-714(B) and R12-15-725(B). This amendment corrects that inconsistency.

R12-15-401. Licensing Time-frames

R12-15-401 is amended in the following two ways:

1. In the introductory subsection, the citation for the statutory definition of “license” is changed from “A.R.S. § 41-1001.11” to “A.R.S. 41-1001.” After Rule R12-15-401 was adopted, the definition of “license” in A.R.S. § 41-1001 was renumbered from paragraph 11 to paragraph 10. This amendment eliminates the reference to a paragraph number, leaving a reference only to the section in which the definition appears.
2. R12-15-401(2) is amended to change the language describing the action ADWR may take if an applicant with an incomplete application fails to timely complete the application after receiving notice from ADWR that the application is incomplete. The language formerly stated that the Department may “deem the application withdrawn and close the file.” That language is deleted and replaced with language stating that the Director may deny the application. ADWR has no authority to deem an application withdrawn. It must either grant or deny an application.

R12-15-811. Minimum well construction requirements

R12-15-811(A)(5) is amended to update the addresses for ADWR and the American Society for Testing and Materials. The address for ADWR is changed to the new address ADWR will have beginning in December 2005.

R12-15-814. Disinfection of wells

R12-15-814 is amended to update ADWR’s address. The address is changed to the new address ADWR will have beginning in December 2005.

R12-15-904. Water Measuring Method Reporting Requirements

R12-15-904(B) is amended to correct a cross-reference error. The reference to R12-15-909(C) will be changed to R12-15-909(B) and (D).

R12-15-1001. Definitions

R12-15-1001 is amended in the following ways:

1. The definition of “annual report” in R12-15-1001(2) is amended to include annual reports filed under the following statutes: (1) A.R.S. § 45-437, the statute requiring annual reports by persons withdrawing groundwater from non-exempt wells in irrigation non-expansion areas; (2) A.R.S. §§ 45-876.01, 45-877.01 and 45-878.01, the statutes requiring annual reports by replenishment districts; and (3) A.R.S. § 45-1004, the statute requiring annual reports by persons authorized to give or receive water pursuant to a water exchange. A.R.S. § 45-437 was inadvertently omitted when the rule was adopted, and A.R.S. §§ 45-876.01, 45-877.01, 45-878.01 and 45-1004 were enacted after the rule was adopted. In addition, because A.R.S. §§ 45-655 and 45-815 have been repealed, the references to those statutes are deleted and replaced with a reference to the statute that has replaced them, A.R.S. § 45-875.01.
2. The definition of “farm” in R12-15-1001(5) is amended by changing the citation for the statutory definition of “farm” from A.R.S. § 45-402(9) to A.R.S. § 45-402. The reference to A.R.S. § 45-402(9) is no longer accurate because the definition of “farm” in A.R.S. § 45-402 was renumbered to A.R.S. § 45-402(10). This amendment eliminates the reference to a paragraph number, leaving a reference only to the section in which the definition appears.
3. The definition of “normal flow” in R12-15-1001(7) and the definition of “responsible party” in R12-15-1001(9) are amended by making non-substantive grammatical changes.
4. The definition of “spillwater” in R12-15-1001(10) is amended to broaden the definition to include surface water, other than Colorado river water, released for beneficial use from diversion or distribution facilities to avoid spilling that would otherwise occur due to uncontrolled surface water inflows that exceed facility capacity. This conforms the definition to the current statutory language for spillwater. See A.R.S. §§ 45-467(D) and 45-561(11). Non-substantive grammatical changes are also made.

R12-15-1003. Filing of annual reports/accuracy

Existing Rule R12-15-1003 is deleted and replaced with a new R12-15-1003 entitled "Accuracy of annual reports." The repealed rule contained two subsections. Subsection (A) provided that annual reports shall be filed no later than March 31 of each year for the preceding calendar year. Subsection (B) set forth accuracy requirements for annual reports. The new rule contains only language establishing the accuracy requirement for annual reports. That language is different than the accuracy requirement in the repealed rule in two respects. First, the accuracy requirement in the repealed rule applied only to the quantity of water reported as having been withdrawn or used during a year. The accuracy requirement in the new rule applies to the quantity of water reported as having been withdrawn, delivered, received, transported, recharged, replenished, stored, recovered or used during a year. Second, the accuracy requirement in the repealed rule was 8% for calendar years 2000 through 2009, while the accuracy requirement in the new rule is 10%, with no expiration date.

The Department eliminated the language in the repealed rule requiring annual reports to be filed by March 31 of each year because that language is not accurate for certain annual reports. For example, annual reports by replenishment districts under A.R.S. §§ 45-877.01 and 45-878.01 are due by August 31 of each year. It is not necessary to include any language specifying the dates by which annual reports must be filed because the dates are established in statute.

The Department made changes to the accuracy requirement for two reasons. First, the Department broadened the scope of the requirement to apply to all water sources and to additional types of water uses so that the requirement covers all water and water uses that may be the subject of annual reports. The Department changed the accuracy requirement from 8% to 10% to conform R12-15-1003 to the accuracy requirements for approved measuring devices set forth in A.A.C. R12-15-905(A) and the accuracy requirements for the reporting of tailwater deliveries set forth in A.A.C. R12-15-1010(A)(1)(a).

R12-15-1004. Filing of an annual report required by A.R.S. § 45-467 or 45-632 on behalf of the responsible party

R12-15-1004 is amended in the following ways:

1. R12-15-1004(A), which provides that a responsible party shall be liable for any fines, penalties or other sanctions resulting from the filing or contents of an annual report filed for the responsible party by another person, is amended to make the rule applicable to all annual reports. Prior to this amendment, the subsection applied only to annual reports required by A.R.S. §§ 45-467 and 45-632. Non-substantive grammatical changes are also made to the subsection.
2. R12-15-1004(B), which provides that there will be a rebuttable presumption that an annual report filed on behalf of a responsible party was filed with the responsible party's knowledge, consent and authorization if the responsible party has not filed an annual report for the year, is amended to make the subsection applicable to all annual reports. Prior to this amendment, the subsection applied only to annual reports required by A.R.S. §§ 45-467 and 45-632.
3. The heading of the Section is changed by removing the references to A.R.S. §§ 45-467 and 45-632. This reflects that the Section applies to all annual reports, not just those required by A.R.S. §§ 45-467 and 45-632.

R12-15-1006. Reporting requirements for holders of recovery well permits

R12-15-1006 is amended by replacing the reference to A.R.S. § 45-815(B) with a reference to A.R.S. § 45-875.01. A.R.S. § 45-815 was repealed by the Legislature and replaced with A.R.S. § 45-875.01. Several non-substantive grammatical changes are also made to this subsection.

R12-15-1008. Information required to maintain an operating flexibility account

R12-15-1008 is amended in the following manner:

1. R12-15-1008(A) and (B) are amended to clarify that the reporting requirements for groundwater apply to in lieu water received pursuant to a groundwater savings facility permit issued pursuant to A.R.S. § 45-812.01. Although in lieu water is physically surface water or effluent used by a person in lieu of groundwater, A.R.S. § 45-873.01 provides that the water is deemed to be groundwater for all purposes of title 45, chapter 2, Arizona Revised Statutes and must be reported as groundwater. The amendments are made in the introductory paragraph in subsection (A) and in R12-15-1008(A)(3) and (4) and R12-15-1008(B)(1).
2. The introductory paragraph in R12-15-1008(B) is amended by replacing the reference to A.R.S. § 45-458 with a reference to A.R.S. § 45-468. This corrects a typographical error.
3. R12-15-1008(B), which requires water deliverers to report the quantities of specific types of water delivered to farms during the year, is amended to add effluent to the list of the types of water that must be reported. A.R.S. § 45-468(B) requires the reporting of effluent, but effluent was inadvertently omitted from the list when R12-15-1008 was originally adopted.
4. Several non-substantive grammatical changes are made to R12-15-1008(A) and (B).

R12-15-1009. Credits to operating flexibility account

R12-15-1009 is amended in the following ways:

1. R12-15-1009(A), which describes the method for determining the amount of any credits that will be registered to a farm's operating flexibility account for a year, is amended to provide that spillwater used by a farm will not be considered when determining whether the amount of water used by the farm during a year is less than the farm's maximum annual groundwater allotment for the year. This conforms the subsection to A.R.S. § 45-467(D), which excludes spillwater from consideration when determining credits to a farm's operating flexibility account.
2. R12-15-1009(B) is amended by making several non-substantive grammatical changes.

R12-15-1010. Operating flexibility account; tailwater

R12-15-1010(A) and (B) are amended by making several non-substantive grammatical changes.

R12-15-1011. Statement of operating flexibility account

R12-15-1011 is amended in the following ways:

1. R12-15-1011(A), which provides that the operating flexibility account for each farm will be established with a balance of zero on the first day of the first year in which the person entitled to use groundwater on the farm is required to comply with the first irrigation water duty established by the director pursuant to Title 45, Chapter 2, Article 9, is deleted because the subsection is outdated. The operating flexibility accounts for all farms were established in the 1980s, and all accounts now have either a positive or negative account balance.
2. R12-15-1011(B) and (C) are re-lettered to (A) and (B), and non-substantive grammatical changes are made to those subsections.
3. R12-15-1011(D), which provides that a statement of operating flexibility account or an amendment thereto may be appealed as provided in A.R.S. § 45-405, is deleted because A.R.S. § 45-405 no longer sets forth a person's right to appeal a decision of the director. Rather than amending the subsection to include a reference to the statute that now governs appeals from decisions of the director, the subsection is deleted because it is not necessary to describe a person's right to appeal in a rule.

R12-15-1014. Late filing or payment; extension and late payment of fees

R12-15-1014 is amended as follows:

1. The heading of the Section is reworded to improve clarity. The new heading is "Late filing or payment of fees; extension; penalties."
2. In R12-15-1014(B), (C), and (E), the term "stored water recovery fees" is changed to "long-term storage credit recovery fees" to reflect a change in the name of the fees in A.R.S. § 45-874.01.
3. In R12-15-1014(D) and (E), the references to March 31 is changed to "the date the annual report or annual account is required to be filed under the applicable statute." This change is necessary because although most annual reports are required to be filed by March 31 of the following year, annual reports under A.R.S. § 45-876.01 are required to be filed by May 15 of the following year and annual reports required by 45-877.01 and 45-878.01 are required to be filed by August 31 of the following year.
4. In R12-15-1014(D) and (E), references to repealed statutes (A.R.S. §§ 45-655, 45-814, 45-815, 45-817 and 45-818) are replaced with references to the statutes that have taken their place (A.R.S. §§ 45-874.01, 45-875.01 and 45-881.01). Also, references to the statutory provisions for imposing penalties for filing late annual reports under A.R.S. §§ 45-437 (irrigation non-expansion areas), A.R.S. §§ 45-876.01, 45-877.01 and 45-878.01 (replenishment districts) and A.R.S. § 45-1004 (water exchanges) are added so that the provisions in R12-15-1014(D) and (E) that establish the date when late penalties begin to accrue and provide an opportunity to request an extension of time to file an annual report will be applicable to those annual reports.
5. In R12-15-1014(B) through (E), non-substantive grammatical changes are made.

R12-15-1016. Spillwater reporting by water deliverers

A new Section, R12-15-1016, is added requiring water providers delivering spillwater during a year to include in their annual report for the year the quantity of spillwater delivered for non-irrigation use, the quantity of spillwater delivered for irrigation use and such other information as the director may reasonably require to determine whether the water qualifies as spillwater. This is consistent with ADWR's current practice of requiring persons delivering spillwater during a year to report the quantities delivered for irrigation use and non-irrigation use.

R12-15-1017. Maintenance and filing of annual reports required by A.R.S. § 45-343

A.R.S. § 45-343, which was enacted into law in 2005, requires certain community water systems to file annual reports with ADWR. Community water systems subject to the reporting requirements are all community water systems outside of AMAs and those community water systems within AMAs that are exempt from filing annual reports under A.R.S. § 45-632. The statute specifies the information that must be included in an annual report and the actions the director must take if a community water system fails to timely file an annual report. However, the statute does not

Notices of Final Rulemaking

specify the date by which a community water system must file an annual report. A new Section, R12-15-1017, is added to Article 10 to provide that a community water system required to file an annual report under A.R.S. § 45-343 must maintain the report on an calendar year basis and file the report with ADWR no later than June 1 of each year for the preceding calendar year.

R12-15-1101. Inspections

R12-15-1101 is amended as follows:

1. In R12-15-1101(A)(1), the references to repealed statutes A.R.S. §§ 45-655, 45-815 and 45-864 are deleted and replaced with a reference to the statute that replaced them, A.R.S. § 45-879.01. In addition, a reference to A.R.S. § 45-1004 (recordkeeping requirements for parties to a water exchange) is added in order to make the inspection rule applicable to inspections for the purposes of obtaining factual data or access to records kept under that statute.
2. R12-15-1101(A)(3) is amended to conform the language in that subsection to statutory amendments relating to inspections of underground water storage projects and recovery wells, including the repeal of A.R.S. §§ 45-816 and 45-865 and the enactment of A.R.S. § 45-880.01.
3. A new subsection, R12-15-1101(A)(6), is added to the definition of “inspection” so the definition will also include entry by the director at reasonable times onto private or public property to inspect facilities for the withdrawal, diversion or use of water pursuant to a water exchange contract or to ascertain compliance with Title 45, Chapter 4 (Water Exchanges).
4. R12-15-1101(I) is added to provide that the director shall comply with the requirements of A.R.S. § 41-1009 when conducting inspections under this Article. A.R.S. § 41-1009 sets forth procedures that an agency inspector or regulator must follow when conducting an inspection.

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

None

8. 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

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

Any economic, small business and consumer impacts (referred to hereafter as “economic impact(s)”) that may result from the final rulemaking are expected to be minor and are limited to changes in Article 10, “Reporting Requirements for Annual Reports, Annual Accounts, Operating Flexibility Accounts, and Conveyances of Groundwater Rights.” Minor economic impacts may be associated with the following Article 10 changes:

R12-15-1001. Definitions. The definition of “annual report” in R12-15-1001(2) is amended to include annual reports filed under the following statutes: (1) A.R.S. § 45-437, the statute requiring annual reports by persons withdrawing groundwater from *non-exempt wells in irrigation non-expansion areas*; (2) A.R.S. §§ 45-876.01, 45-877.01 and 45-878.01, the statutes requiring annual reports by *replenishment districts*; and (3) A.R.S. § 45-1004, the statute requiring annual reports by persons authorized to give or receive water pursuant to a *water exchange*. Changing the definition of “annual report” in this way will subject persons filing these annual reports to the accuracy requirement in R12-15-1003, the provisions of R12-15-1004(A) regarding responsibility for fines, penalties or sanctions associated with the contents of an annual report when the report is filed by another person on behalf of the responsible party, the requirements in R12-15-1013 regarding records retention, and the provisions of R12-15-1014 that establish the date when late penalties begin to accrue and that provide an opportunity to request an extension of time to file an annual report. While this amendment will subject new classes of persons to these provisions, it is expected to result in only a minor economic impact, if any. These persons are already required to file annual reports. This amendment will simply impose certain procedural requirements on the filing of the annual reports and make the annual reports subject to the same accuracy requirement imposed on all other annual reports and on water measuring devices.

R12-15-1003. Filing of annual reports/accuracy. This Section will be changed to broaden the scope of the accuracy requirement for annual reports so that the requirement applies to the quantity of water reported as having been withdrawn, delivered, received, transported, recharged, replenished, stored, recovered or used during a year. Currently, the accuracy requirement applies only to the quantity of groundwater reported as being withdrawn or used. In addition, the accuracy requirement will be changed from 8 percent to 10 percent. ADWR expects minor economic impacts, if any, resulting from these changes. Increasing the maximum allowable deviation between the amount of water reported and the amount actually withdrawn, used, delivered, etc., from 8 percent to 10 percent, will provide a minor benefit to persons required to file annual reports, primarily water providers and farmers. While the new language broadens the scope of the accuracy requirement to apply to the reporting of additional categories of water uses, this should not result in an economic impact to persons filing annual reports because the accuracy requirement will be identical to the accuracy requirement for water measuring devices in A.A.C. R12-15-905.

R12-15-1004. Filing of an annual report required by A.R.S. § 45-467 or 45-632 on behalf of the responsible party. The Section will be amended in the following two ways: (1) to make all annual reports subject to the provision that the person required by statute to file an annual report shall be responsible for any fines, penalties, or other sanctions resulting from the filing or contents of the annual report when the report is filed on behalf of the person by an irrigation district or other person; and (2) to extend to all annual reports a rebuttable presumption that an annual report filed on behalf of a responsible party was filed with the responsible party's knowledge, consent and authorization if the responsible party has not filed an annual report. The primary effect of these changes is to subject persons withdrawing groundwater from non-exempt wells in irrigation non-expansion areas, participants in water exchanges and persons holding water storage permits, underground storage facility permits, recovery well permits and groundwater savings facility permits to the provisions in the Section. ADWR expects minor economic impacts, if any, resulting from these changes. Annual reports are already filed by the newly affected classes of water users and permit holders. Regardless of whether the responsible party or another person files the annual report, filings are timely in most cases and contents are unusually accurate to ADWR's knowledge, even if the responsible parties may not always see the reports before they are filed.

R12-15-1016. Spillwater reporting by water deliverers. This new Section will require water providers delivering spillwater during a year to include in their annual reports the quantity of spillwater delivered for non-irrigation use, the quantity of spillwater delivered for irrigation use and such other information as the director may reasonably require to determine whether the water qualifies as spillwater. Minor or no economic impacts are expected because ADWR already requires water providers to include these items in their annual accounts and annual reports.

R12-15-1017. Maintenance and filing of annual reports required by A.R.S. § 45-343. A.R.S. § 45-343 was enacted into law in 2005. It requires community water systems outside of AMAs and those community water systems within AMAs that are exempt from filing annual reports under A.R.S. § 45-632 to file annual reports with ADWR. The statute does not specify the date by which a community water system must file an annual report. This new Section will provide that the reports under A.R.S. § 45-343 are to be maintained on a calendar year basis and filed with ADWR no later than June 1 of each year for the preceding calendar year. The Section adds a deadline, six months, to prepare and file the report. ADWR views the time-frame as reasonable, and anticipates minor or no economic impacts to result from the deadline.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

Minor grammatical and format changes were made at the request of G.R.R.C. staff.

11. A summary of the comments made regarding the rule and the agency response to them:

No comments were received.

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

None

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

None

14. Was this rule previously made as an emergency rule?

No.

15. The full text of the rules follows:

TITLE 12. NATURAL RESOURCES

CHAPTER 15. DEPARTMENT OF WATER RESOURCES

ARTICLE 1. ~~DEFINITIONS, FEES, PROCEDURAL RULES FOR HEARINGS~~

Section

R12-15-151. Fee Schedule

ARTICLE 4. LICENSING TIME-FRAMES

Section

R12-15-401. Licensing Time-frames

Notices of Final Rulemaking

ARTICLE 8. WELL CONSTRUCTION AND LICENSING OF WELL DRILLERS

Section

- R12-15-811. Minimum ~~well construction requirements~~ Well Construction Requirements
- R12-15-814. Disinfection of ~~wells~~ Wells

ARTICLE 9. WATER MEASUREMENT

Section

- R12-15-904. Water Measuring Method Reporting Requirements

ARTICLE 10. REPORTING REQUIREMENTS FOR ANNUAL REPORTS, ANNUAL ACCOUNTS, OPERATING FLEXIBILITY ACCOUNTS, AND CONVEYANCES OF GROUNDWATER RIGHTS

Section

- R12-15-1001. Definitions
- R12-15-1003. ~~Filing Accuracy of annual reports/accuracy~~ Annual Reports
- R12-15-1004. ~~Filing of an annual report required by A.R.S. § 45-467 or 45-632~~ Annual Reports Filed on behalf ~~Behalf of the a responsible party~~ Responsible Party
- R12-15-1006. Reporting ~~requirements~~ Requirements for holders ~~Holders of recovery well permits~~ Recovery Well Permits
- R12-15-1008. Information ~~required~~ Required to maintain ~~Maintain an operating flexibility account~~ Operating Flexibility Account
- R12-15-1009. Credits to ~~operating flexibility account~~ Operating Flexibility Account
- R12-15-1010. Operating ~~flexibility account; tailwater~~ Flexibility Account; Tailwater
- R12-15-1011. Statement of ~~operating flexibility account~~ Operating Flexibility Account
- R12-15-1014. Late ~~filing~~ Filing or payment ~~Payment of Fees; extension~~ Extension and late payment of fees Penalties
- R12-15-1016. Spillwater Reporting by Water Deliverers
- R12-15-1017. Maintenance and Filing of Annual Reports Required by A.R.S. § 45-343

ARTICLE 11. INSPECTIONS AND AUDITS

Section

- R12-15-1101. Inspections

ARTICLE 1. DEFINITIONS, FEES, PROCEDURAL RULES FOR HEARINGS

R12-15-151. Fee Schedule

- A. No change
- B. The following fees shall be paid:
 - 1. No change
 - a. No change
 - i. No change
 - ii. No change
 - b. No change
 - i. No change
 - ii. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
 - g. No change
 - h. No change
 - i. No change
 - ii. No change
 - iii. No change
 - iv. No change
 - 2. No change
 - a. No change
 - b. No change

Notices of Final Rulemaking

- c. No change
- d. No change
- e. No change
- f. No change
- 3. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
- 4. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
 - g. No change
 - h. No change
 - i. No change
 - j. No change
 - k. No change
 - l. No change
 - m. No change
- 5. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
 - g. No change
- 6. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
- 7. ADEQUATE AND ASSURED WATER SUPPLY
 - a. ~~Application for certificate of assured water supply or report of adequate water supply~~ 50.00
 - b. ~~Review of study and plans as a function of development size:~~
 - i. First 20 lots 0
 - ii. Next 80 lots \$1.00/lot
 - iii. Next 900 lots50/lot
 - iv. Next 9,000 lots25/lot
 - v. Over 10,000 lots10/lot
 - e. ~~Certificate of assured water supply~~ 50.00

Applications, certificates, licenses, reports, and permits relating to assured and adequate water supply The applicable fee prescribed in Article 7 of this Chapter.
- 8. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change

Notices of Final Rulemaking

- f. No change
- g. No change
- h. No change
- i. No change
- j. No change
 - i. No change
 - ii. No change
- k. No change
 - i. No change
 - ii. No change
- 9. No change
 - a. No change
 - b. No change
- 10. No change
 - a. No change
 - i. No change
 - ii. No change
 - b. No change
 - i. No change
 - ii. No change
 - c. No change
 - d. No change
- 11. No change
 - a. No change
 - b. No change
 - i. No change
 - ii. No change
 - iii. No change
 - iv. No change
 - c. No change
 - i. No change
 - ii. No change
- 12. No change
 - a. No change
 - b. No change
- 13. No change
 - a. No change
 - b. No change
 - c. No change
 - i. No change
 - ii. No change
 - d. No change
- C. No change

ARTICLE 4. LICENSING TIME-FRAMES

R12-15-401. Licensing Time-frames

The following time-frames apply to licenses issued by the Department. In this Article, “license” has the meaning prescribed in A.R.S. § 41-1001(H). The licensing time-frames consist of an administrative completeness review time-frame, a substantive review time-frame, and an overall time-frame.

- 1. No change
- 2. An applicant with an incomplete application shall supply the missing information within 60 days from the date of the notice, or within such further time as the Director may specify, unless another time limit is specified by statute or applicable rule. If the applicant fails to complete the application within the specified time period, ~~the Department may deem the application withdrawn and close the file. Closing a file~~ Director may deny the application. Denial of an application under this provision does not preclude the applicant from filing a new application.
- 3. No change
- 4. No change

5. No change
6. No change
7. No change

Table A. No change

ARTICLE 8. WELL CONSTRUCTION AND LICENSING OF WELL DRILLERS

R12-15-811. ~~Minimum well construction requirements~~ Well Construction Requirements

- A. Well casing
 1. No change
 2. No change
 3. No change
 4. No change
 5. Copies of The American Society for Testing and Materials standard specifications referred to in subsections (3) and (4) above may be obtained with these rules at the Office of the Secretary of State of the State of Arizona, State Capitol, West Wing, Phoenix, Arizona 85007; from the Department of Water Resources, ~~Operations Division, 15 South 15th Avenue, Phoenix, AZ 85007~~ 3550 N. Central Avenue, Phoenix, AZ 85012; and from the American Society for Testing and Materials, ~~1916 Race Street, Philadelphia, Pennsylvania 19103~~ 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959. This rule does not include any later amendments or editions of those standard specifications.
- B. No change
 1. No change
 2. No change
 3. No change
 4. No change
- C. No change
- D. No change
 1. No change
 2. No change
- E. No change
- F. No change
 1. No change
 2. No change
 3. No change
- G. No change
 1. No change
 2. No change
- H. No change
 1. No change
 2. No change
- I. No change

R12-15-814. ~~Disinfection of wells~~ Wells

~~All wells~~ A well drilling contractor shall disinfect any well from which the water to be withdrawn is intended to be utilized for human consumption or culinary purposes without prior treatment ~~shall be disinfected by the well drilling contractor~~ before removing the drill rig from the well site in accordance with the requirements contained in Engineering Bulletin No. 8, "Disinfection of Water Systems", issued by the Arizona Department of Health Services in August 1978, and Engineering Bulletin No. 10, "Guidelines for the Construction of Water Systems", issued by the Arizona Department of Health Services in May 1978, both of which are incorporated ~~herein~~ by reference and are on file with the Office of the Secretary of State. Copies of the Engineering Bulletins referred to above may be obtained with these rules at the Office of the Secretary of State of the State of Arizona, State Capitol, West Wing, Phoenix, Arizona 85007, and from the Department of Water Resources, ~~Operations Division, 15 South 15th Avenue, Phoenix, Arizona 85007~~ 3550 N. Central Avenue, Phoenix, AZ 85012. This rule does not include any later amendments or editions of those Bulletins.

ARTICLE 9. WATER MEASUREMENT

R12-15-904. Water Measuring Method Reporting Requirements

- A. No change
 - 1. No change
 - 2. No change
 - 3. No change
- B. Except as provided in R12-15-904(B)(5) and R12-15-909(C)(B) and (D), a responsible party shall file with the annual report the information required in subsection (A) of this Section and the following information on a form prescribed by the Director:
 - 1. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
 - g. No change
 - h. No change
 - 2. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
 - g. No change
 - 3. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
 - g. No change
 - 4. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
 - g. No change
 - h. No change
 - 5. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
- C. No change

ARTICLE 10. REPORTING REQUIREMENTS FOR ANNUAL REPORTS, ANNUAL ACCOUNTS, OPERATING FLEXIBILITY ACCOUNTS, AND CONVEYANCES OF GROUNDWATER RIGHTS

R12-15-1001. Definitions

In addition to the definitions set forth in A.R.S. §§ 45-101 and 45-402, the following words and phrases in this Article shall have the following meanings, unless the context otherwise requires:

- 1. No change
- 2. “Annual report” means an annual report of water withdrawn, delivered, received, transported, recharged, stored, recovered, replenished or used as required by A.R.S. §§ 45-437, 45-467, 45-632, 45-655, or 45-815 45-875.01, 45-

Notices of Final Rulemaking

876.01, 45-877.01, 45-878.01 or 45-1004.

3. No change
4. No change
5. "Farm" means an area of irrigated land under the same ownership as defined in A.R.S. § 45-402(9), including the area of land described in a certificate of irrigation grandfathered right, as well as contiguous land ~~which~~ that the owner is legally entitled to irrigate only with decreed or appropriative surface water.
6. No change
7. "Normal flow" means water ~~which is~~ delivered or used pursuant to a right to appropriate an unstored, natural flow of surface water.
8. No change
9. "Responsible party" means a person ~~who is~~ required by law to file an annual account or annual report.
10. "~~Spill water~~ Spillwater" means surface water, other than Colorado River water, ~~which is released from a storage facility into a surface water distribution system either through a spillway or to avoid using a spillway, and which is released for beneficial use from storage, diversion, or distribution facilities to avoid spilling that would otherwise occur due to uncontrolled surface water inflows that exceed facility capacity and to which one of the following applies:~~
 - a. ~~Pursuant to the dam operator's~~ The water is released from the facility under written criteria for releasing water to avoid spilling ~~which that~~ have been approved in writing by the Director; ~~or.~~
 - b. ~~Because there is a risk, unacceptable to a reasonable person,~~ The water is released from the facility because an unreasonable risk exists that the storage capacity of the facility will be exceeded within the next 30 days because the facility is near capacity and either the inflow to the facility or the forecast runoff into the facility is equal to or greater than the quantity of water ordered from the facility; ~~or.~~
 - c. ~~Because there is a risk, unacceptable to a reasonable person,~~ The water is released from the facility because an unreasonable risk exists that the storage capacity of the facility will be exceeded more than 30 days in the future because the forecast runoff into the facility exceeds current unused storage capacity and projected water demand during the forecast period, provided that the Director has made a written finding before the release that the forecast is reasonable.
11. No change
12. No change
 - a. No change
 - b. No change
13. No change

R12-15-1003. Filing Accuracy of annual reports/accuracy Annual Reports

- A.** Each person required to file an annual report of groundwater withdrawals, transportation and use pursuant to A.R.S. § 45-632 shall file a report no later than March 31, 1985, for the period from January 1, 1984, through December 31, 1984. Subsequent annual reports shall be filed no later than March 31st of each year for the preceding calendar year.
- B.** A person shall not be found to be in violation of the reporting requirements of A.R.S. § 45-632 if the quantity of groundwater in fact withdrawn or used does not exceed the quantity measured, totalized, and reported by the person, by more than the following percentages, and the error is not the result of an intentional misrepresentation:

From 7/1/1983 through 12/31/1989	15%
From 1/1/1990 through 12/31/1999	10%
From 1/1/2000 through 12/31/2009	8%

The quantity of water a responsible party reports in an annual report as having been withdrawn, delivered, received, transported, recharged, replenished, stored, recovered, or used during a year shall not deviate from the quantity of water actually withdrawn, delivered, received, transported, recharged, replenished, stored, recovered, or used by the responsible party during the year unless both of the following apply:

1. The deviation is 10 percent or less.
2. The deviation is not the result of an intentional act of misrepresentation by the responsible party.

R12-15-1004. Filing of an annual report required by A.R.S. § 45-467 or 45-632 Annual Reports Filed on behalf Behalf of the a responsible party Responsible Party

- A.** A responsible party ~~shall be is~~ liable for any fines, penalties, or other sanctions resulting from or attributable to the filing or ~~contents~~ content of an annual report ~~required by A.R.S. §§ 45-467 or 45-632, notwithstanding that the annual report was filed for on behalf of~~ the responsible party by an irrigation district pursuant to A.R.S. § 45-632(D), or by another person in a form acceptable to the Director.

Notices of Final Rulemaking

- B. If a responsible party has not filed an annual report required by A.R.S. § 45-467 or 45-632 for a calendar year, and the Department receives an annual report for that calendar year purportedly filed on behalf of the responsible party by an irrigation district pursuant to A.R.S. § 45-632(D), or by another person in a form acceptable to the Director, there shall be a rebuttable presumption that the annual report was filed with the responsible party's knowledge, consent, and authorization.

R12-15-1006. Reporting requirements Requirements for holders Holders of recovery well permits Recovery Well Permits

A person who holds responsible party recovering water during a year pursuant to a recovery well permit shall include in the annual report required by A.R.S. § 45-815(B), the following additional information:

1. The A.R.S. § 45-875.01 the names of any persons, other than non-irrigation customers of cities, towns, private water companies and irrigation districts, to whom the responsible party delivered the recovered water was delivered during the year; the quantity of recovered water delivered to each such person named; and the uses to which the recovered water was applied.
2. If the recovered and delivered water included commingled groundwater, decreed or appropriative surface water other than spill water spillwater, central Arizona project water, effluent or spill water spillwater, the responsible party shall include in the annual report an estimate of the quantity of each type of water which was delivered to each person named in the annual report or put to a specific use by the responsible party.

R12-15-1008. Information required Required to maintain Maintain an operating flexibility account Operating Flexibility Account

A. A responsible party who withdraws, receives, or uses groundwater during a calendar year pursuant to an irrigation grandfathered right, including any in lieu water received pursuant to a groundwater savings facility permit issued pursuant to A.R.S. § 45-812.01, shall include the following information for the calendar year in an annual report filed pursuant to A.R.S. § 45-467 or 45-632:

1. The quantity of groundwater withdrawn from each well;
2. The quantity of groundwater withdrawn and delivered to another person for irrigation purposes;
3. The quantity of groundwater received from a city, town, private water company, or irrigation district, including any in lieu water received pursuant to a groundwater savings facility permit issued pursuant to A.R.S. § 45-812.01;
4. The quantity of groundwater received from a person other than a city, town, private water company, or irrigation district, including any in lieu water received pursuant to a groundwater savings facility permit issued pursuant to A.R.S. § 45-812.01;
5. The quantity of effluent received;
6. The quantity of decreed or appropriative surface water received, other than normal flow and spill water spillwater;
7. The quantity of normal flow received;
8. The quantity of spill water spillwater received;
9. The quantity of tailwater used;
10. The quantity of tailwater delivered in accordance with the provisions of R12-15-1010(A), and the farm or irrigation district to which the tailwater was delivered;
11. The quantity of central Arizona project water received;
12. The quantity of any other surface water received which has and not been accounted for pursuant to subsections (6) through (11) of this subsection;
13. The number of surface water right acres in the farm to which the irrigation grandfathered right is appurtenant;
14. The quantity of water used for the legal irrigation of acres in the farm to which irrigation grandfathered rights are not appurtenant, except that if the responsible party may omit omits this information, and it shall be presumed the Director shall presume that the total amount of water received or used for the irrigation of the farm was applied to acres to which irrigation grandfathered rights are appurtenant;
15. Such Any other information as the Director may reasonably require to accomplish the management goals of the applicable active management area.

B. A water deliverer shall include the following information for an accounting period in an annual account filed pursuant to A.R.S. § 45-458 A.R.S. § 45-468:

1. The quantity of groundwater delivered to each farm, including any in lieu water delivered pursuant to a groundwater savings facility permit issued pursuant to A.R.S. § 45-812.01;
2. The quantity of normal flow delivered to each farm;
3. The quantity of spill water spillwater delivered to each farm;
4. The quantity of decreed or appropriative surface water, other than normal flow and spill water spillwater, delivered to each farm;
5. The quantity of central Arizona project water delivered to each farm;
6. The quantity of decreed or appropriative surface water, other than normal flow and spill water spillwater, delivered for use within the service area of the water deliverer, including all farm and non-farm deliveries;

Notices of Final Rulemaking

7. The number of surface water right acres within the service area of the water deliverer;
8. The quantity of effluent delivered to each farm.
89. ~~Such~~ Any other information as the Director may reasonably require to accomplish the purposes of A.R.S. § 45-468.

R12-15-1009. Credits to ~~operating flexibility account~~ Operating Flexibility Account

- A. Except as provided in subsection (B) of this ~~rule~~ Section and in R12-15-1010, if the total amount of water from all sources ~~other than spillwater~~ used by a farm for irrigation purposes in a calendar year is less than the farm's maximum annual groundwater allotment for the year, the Director shall register the difference ~~shall be registered~~ as a credit to the farm's operating flexibility account.
- B. If a farm is within the service area of a water deliverer, the Director shall reduce the credit as calculated pursuant to subsection (A) of this ~~rule~~ Section by an amount equal to the difference between the farm's pro rata share of the total quantity of decreed or appropriative surface water, other than normal flow or ~~spill water~~ spillwater, delivered by the water deliverer during the year for use within its service area, and the quantity of ~~such~~ water actually received by the farm during the year. The Director shall determine the farm's pro rata share ~~of such water shall be determined~~ by dividing the number of surface water right acres in the farm that are within the service area of the water deliverer by the total number of surface water right acres within the service area of the water deliverer, and multiplying the quotient by the total ~~amount of such water~~ quantity of decreed or appropriative surface water, other than normal flow or spillwater, delivered by the water deliverer during the year for use within its service area.

R12-15-1010. ~~Operating flexibility account; tailwater~~ Flexibility Account; Tailwater

- A. ~~For purposes of~~ When calculating credits or debits to ~~the a farm's~~ operating flexibility account; for a year, the Director shall exclude from the total amount of water used on the farm during that year the amount of any tailwater that originated on the farm and that was delivered by a person from the farm to another farm or to an irrigation district for irrigation purposes during a calendar ~~the year shall not be considered as having been used for the irrigation of the farm on which the tailwater originated, provided and to the extent that if all of the following apply:~~
 1. ~~The Director has approved, prior~~ Prior to January 1 of the ~~calendar~~ year in which the deliveries of tailwater take place, the Director approves a written plan to measure and record the tailwater deliveries. The plan shall include:
 - a. ~~A~~ The installation and use of a totalizing water measuring device ~~to be installed and used in such a manner as to enable a reporting of that will record~~ tailwater deliveries with no greater than a ~~ten~~ 10 percent margin of error;
 - b. ~~The procedures by which~~ Procedures for keeping accurate records of the tailwater deliveries ~~will be kept.~~
 - c. ~~The manner in which~~ A description of how the tailwater deliveries will be ~~made, and delivered.~~
 - d. ~~The~~ An identification of the farm or irrigation district to which the tailwater will be delivered.
 2. The person has measured, recorded, and delivered the tailwater in ~~full~~ accordance with the plan as approved ~~pursuant to subsection (1) of this~~ under subsection (A)(1) of this Section.
 3. The tailwater was ~~directly~~ delivered directly from the farm on which it originated to:
 - a. A specified farm ~~and was that~~ used the tailwater for the legal irrigation of irrigation acres or surface water right acres on that farm, or
 - b. A specified irrigation district ~~and was used that~~ delivered the tailwater for the legal irrigation of irrigation acres or surface water right acres within that district.
- B. A person who delivers tailwater in accordance with subsection (A) of this ~~rule~~ Section, and a person who directly receives and uses ~~such the~~ tailwater pursuant to subsection (A)(3)(a) of this ~~rule~~ Section, shall account for and report the tailwater; ~~for reporting purposes, as if it were comprised of a mixture of groundwater, decreed and appropriative surface water other than normal flow, central Arizona project water, spill water~~ spillwater, other surface water, and effluent, as applicable, in the same proportions as ~~such water~~ those types of water comprise the total amount of water other than normal flow received or withdrawn for irrigation use during the calendar year on the farm on which the tailwater originated.
- C. A person who uses tailwater ~~which that~~ has not been delivered and accounted for as provided in subsections (A) and (B) of this ~~rule~~ Section may credit against the person's use of groundwater in a calendar year the amount of ~~such the~~ tailwater used during the calendar year if the use of such tailwater would cause a debit to be incurred. The credit shall be applied only against the person's operating flexibility account debits ~~which that~~ otherwise would have been incurred that year and shall not be used to discharge debits from prior years or accumulate credits for future years. For purposes of calculating credits to the person's operating flexibility account, ~~such the~~ Director shall treat tailwater ~~shall be treated~~ as groundwater, unless reported otherwise according to its source.
- D. No change

R12-15-1011. Statement of ~~operating flexibility account~~ Operating Flexibility Account

- ~~A.~~ The operating flexibility account for each farm shall be established with a balance of zero on the first day of the first year in which the person entitled to use groundwater pursuant to the irrigation grandfathered right is required to comply with the first irrigation water duty established by the Director pursuant to A.R.S. Title 45, Chapter 2, Article 9.
- ~~B.A.~~ The Director shall annually issue ~~annually~~ to ~~the each~~ owner or user of an irrigation grandfathered right for which a current annual report has been filed a statement of the operating flexibility account setting forth the status of the operating flexibility account for the farm, based on the information submitted in the annual report filed for the right.

Notices of Final Rulemaking

~~EB.~~ Upon a motion or on the initiative of the Director, the Director may amend a statement of operating flexibility account at any time to correct clerical mistakes or to adjust the balance of the account based on information submitted in an amended or late annual report. The Director shall give written notice of any amendments made pursuant to this subsection to the person to whom the statement of operating flexibility account was issued.

~~D.~~ A statement of operating flexibility account or an amendment to a statement of operating flexibility account may be appealed as provided by A.R.S. § 45-405.

R12-15-1014. Late filing Filing or payment Payment of Fees; extension Extension and late payment of fees Penalties

A. No change

B. Except as provided in subsection (C) of this rule Section, groundwater withdrawal fees and ~~stored water long-term storage credit recovery fees~~ are ~~shall be deemed to be paid~~ at the time the fees are hand-delivered to any Department office, or at the time the envelope in which they are mailed is postmarked.

C. If any groundwater withdrawal fees or ~~stored water long-term storage credit~~ recovery fees are ~~not paid in cash in the first instance and the~~ with a negotiable instrument by which they are paid that is not honored and paid upon the Department's initial demand by the Department, the fees are ~~shall be deemed to be paid~~ at the time the Department actually receives the fees in cash or when the negotiable instrument by which they are paid is subsequently is honored and paid to the Department.

D. If an annual account or an annual report which is filed on or before ~~March 31~~ the date required by the applicable statute is found by the Director to be incomplete, the Director shall notify the responsible party of the inadequacies and give allow the responsible party 30 days from the date of the notice to provide the missing information in a form prescribed by the Director. If the ~~necessary~~ responsible party does not provide the missing information is not timely provided within 30 days from the date of the notice, late penalties as provided in under A.R.S. §§ 45-437, 45-632(K), 45-655(C), or 45-815(D) 45-875.01, 45-876.01, 45-877.01, 45-878.01 or 45-1004 shall begin to accrue on the 31st day following the notice of inadequacy and the date of the notice. The Director shall not recommend to a court, pursuant to A.R.S. §§ 45-634(C), 45-635, 45-817(6), and 45-818 45-881.01, 45-882.01, 45-1062 or 45-1063, that civil penalties be imposed through the first 30 days following the date of the notice of inadequacy. However, if the inadequacy included the failure to pay all groundwater withdrawal fees due or all ~~stored water long-term storage credit~~ recovery fees due, the late penalties as provided in under A.R.S. §§ 45-614(E) or 45-814(D) 45-874.01 shall, except as provided in subsection (E) of this rule, begin to accrue on April 1, except as provided in subsection (E) of this Section.

E. A ~~person~~ responsible party required to file an annual account or annual report for a year may request a 30-day extension of the first day of accrual of the late penalties provided in under A.R.S. §§ 45-437, 45-614(E), 45-632(K), 45-655(C), 45-814(D), and 45-815(D) 45-874.01, 45-875.01, 45-876.01, 45-877.01, 45-878.01 or 45-1004 and of the civil penalties that the Director may recommend that a court impose pursuant to A.R.S. §§ 45-634(C), 45-635, 45-817(C) and 45-818 45-881.01, 45-882.01, 45-1062 or 45-1063. The request shall be filed no later than ~~March 31~~ the date the annual account or annual report is required to be filed under the applicable statute. The Director may shall grant a request for a 30-day extension if good cause is shown. If the Director grants the request is granted, and the person making the request is not subsequently found to have presented false or misleading information to the Director, the late penalties and civil penalties shall begin to accrue on ~~May 1~~ the first day after the 30-day extension period, except that if the Director finds that the person making the request presented false or misleading information to the Director and the Director relied on that information in granting the request, the late penalties and civil penalties shall begin to accrue as if the request was not granted. The Director shall not grant an extension to a ~~person~~ responsible party who, in the preceding calendar year, was granted an extension in the preceding calendar year and who subsequently failed to file a complete annual account or annual report and pay all groundwater withdrawal fees due and all ~~stored water long-term storage credit~~ recovery fees due within the 30-day extension period.

R12-15-1016. Spillwater Reporting by Water Deliverers

A water deliverer that delivers spillwater during a year shall include the following information in the annual account or annual report submitted by the water deliverer for that year:

1. The total quantity of spillwater delivered for non-irrigation uses during the year.
2. The total quantity of spillwater delivered for irrigation uses during the year.
3. Any other information the Director may reasonably require to determine whether the water qualifies as spillwater under R12-15-1001(10).

R12-15-1017. Maintenance and Filing of Annual Reports Required by A.R.S. § 45-343

A community water system required to file an annual report under A.R.S. § 45-343 shall maintain the report on a calendar year basis and shall file the report with the Director no later than June 1 of each year for the preceding calendar year.

ARTICLE 11. INSPECTIONS AND AUDITS

R12-15-1101. Inspections

- A. For the purpose of this rule, “inspection” means an entry by the Director at reasonable times onto private or public property for any of the following purposes:
1. To obtain factual data or access to records required to be kept under A.R.S. §§ 45-632, ~~45-655, 45-815, or 45-864~~, or 45-879.01, or 45-1004.
 2. To inspect a well or another facility for the withdrawal, transportation, use, measurement, or recharge of groundwater under A.R.S. § 45-633; ~~or~~
 3. To inspect ~~an underground or indirect storage and recovery project, a well, or another facility for the recovery or use of stored water under A.R.S. §§ 45-816 or 45-865; or a facility that is used for the purpose of water storage, stored water recovery, or stored water use under A.R.S. § 45-880.01(A).~~
 4. To inspect a body of water under A.R.S. § 45-135 or to ascertain compliance with A.R.S. Title 45, Chapter 1, Article 3; ~~or~~
 5. To inspect or to obtain factual data or access to records pursuant to any Section of A.R.S. Title 45 that requires the Director to adopt rules for conducting inspections, examining records, and obtaining warrants.
 6. To inspect facilities used for the withdrawal, diversion, or use of water pursuant to a water exchange under A.R.S. § 45-1061.
- B. No change
C. No change
D. No change
E. No change
F. No change
G. No change
H. No change
I. The Director shall comply with the requirements of A.R.S. § 41-1009 when conducting inspections under this Section.