

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. 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 9. HEALTH SERVICES

CHAPTER 6. COMMUNICABLE DISEASES

PREAMBLE

- 1. Sections Affected**

R9-6-701	Amend
Table 1	Amend
Table 2	Amend
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

General authority: A.R.S. §§ 15-872(A), 36-104(3), 36-136(A)(7), and 36-136(F)
Specific authority: A.R.S. §§ 15-872, 36-136(H)(1), and 36-672
- 3. The effective date of the rules:**

March 17, 2000
- 4. A list of all previous notices appearing in the Register addressing the proposed rule:**

Notice of Rulemaking Docket Opening: 4 AAR 639, March 6, 1998
Notice of Proposed Rulemaking: 5 AAR 2975, September 3, 1999
- 5. The name and address of agency personnel with whom persons may communicate regarding the rule:**

Name:	Linda Faris Hepatitis Prevention Coordinator
Address:	Arizona Department of Health Services Bureau of Epidemiology and Disease Control Services 3815 N. Black Canyon Highway Phoenix, Arizona 85015
Telephone:	(602) 230-5858
Fax:	(602) 263-4961
E-mail:	lfaris@hs.state.az.us
or	
Name:	Kathleen Phillips Rules Administrator
Address:	Arizona Department of Health Services 1740 W. Adams, Rm. 410 Phoenix, Arizona 85007
Telephone:	(602) 542-1264
Fax:	(602) 542-1289
E-mail:	kphilli@hs.state.az.us

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

The Arizona Department of Health Services (Department) rules concerning vaccine preventable diseases are located in Title 9, Chapter 6, Article 7, of the Arizona Administrative Code. The Department is amending R9-6-701, Required Immunizations for Child Care or School Entry, by increasing the age requirements for the hepatitis B immunization series and the second Measles, Mumps, and Rubella (MMR) immunization.

Currently, the hepatitis B series and second MMR immunization are required for children entering childcare or school, up through the 1st grade. The proposed amendment will add requirements for children entering 2nd and 7th grades to receive a hepatitis B series and a second MMR. The Department proposes to phase in immunization requirements in an increment of 2 grade levels every year so that by 2005 all children in kindergarten through 12th grade, including the children entering from other states or countries, will be immunized. The Department is amending Tables 1 and 2 to include the additional immunization requirements in the schedules.

The proposed rules require that children be immunized according to the following time-line: all children entering kindergarten through 2nd grade and 7th grade by September 1, 2000; all children in kindergarten through 3rd grade and 7th and 8th grades by September 1, 2001; all children in kindergarten through 4th grade and 7th through 9th grades by September 1, 2002; all children in kindergarten through 5th grade and 7th through 10th grades by September 1, 2003; all children in kindergarten through 11th grade by September 1, 2004; and all children in kindergarten through 12th grade by September 1, 2005.

In the November 22, 1996 issue of the Morbidity and Mortality Weekly Report (Report) "Immunizations of Adolescents," the Centers for Disease Control and Prevention published recommendations by the Advisory Committee on Immunization Practices (ACIP) for improving vaccination services for children 11 through 12 years old. The Report stated that adolescents need to be protected by hepatitis B vaccination before they begin high risk behaviors. Adolescents are largely unvaccinated and are susceptible to the hepatitis B virus. The Report also stated that a catch-up strategy for previously unvaccinated children would result in a more rapid decline in the incidence of hepatitis B virus infection.

In the Report, ACIP also reiterated its 1989 recommendation for a 2-dose measles vaccination schedule for students in primary schools, secondary schools, and colleges and universities. The Report stated that primary vaccine failure was considered the principal contributing factor in the measles outbreaks during the 1980s and that a 2-dose measles vaccination schedule would provide protection to at least 98% of persons vaccinated. ACIP has recommended in the Report that all states take immediate steps to ensure that all school-aged children be vaccinated with 2 doses of MMR by 2001. Due to current outbreaks of measles in Arizona, the Department has made a priority to require a 2nd dose of MMR to the school-aged children.

Despite these findings and recommendations, the Department cannot immunize all the children lacking hepatitis B immunizations and second dose of MMR at one time because of lack of adequate financial and human resources within the state's public and private health care infrastructure. Therefore, the Department has planned to phase in the requirements of 2-year cohorts at a time so that all children in Arizona will receive their 3-dose hepatitis B and 2-dose MMR vaccines within 5 years.

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

Morbidity and Mortality Weekly Report (MMWR) "Immunization of Adolescents," November 22, 1996, Vol. 45, No. RR-13. Contact: Linda Faris at Arizona Department of Health Services, 3815 N. Black Canyon Hwy., Phoenix, Arizona 85015.

Morbidity and Mortality Weekly Report (MMWR) "Measles, Mumps, and Rubella – Vaccine Use and Strategies for Elimination of Measles, Rubella, and Congenital Rubella Syndrome and Control of Mumps," May 22, 1998, Vol. 47, No. RR-8. Contact: Linda Faris at Arizona Department of Health Services, 3815 N. Black Canyon Hwy., Phoenix, Arizona 85015.

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

Not applicable

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

As used in this summary, "minimal" economic impact means less than \$1,000 per year, "moderate" means between \$1,000 and \$10,000 per year, and "substantial" means greater than \$10,000 per year.

The Department's cost for the preparation of the rule package is moderate and includes writing and printing drafts, consulting stakeholders, attending public hearings, and copying and mailing materials. The Department's implementation cost for the initial 5-year catch-up period is substantial for purchasing vaccine for a portion of underinsured children not covered by federal funds. The Department's cost will decrease after the catch-up period due to decreased staff time to investigate suspected cases of vaccine preventable diseases and decreased amounts of vaccine purchase.

The estimated cost to the County Public Health Services for initial 5-year catch-up period is substantial. The counties will incur substantial cost for additional staffing, substantial cost for purchase of vaccine administration supplies, and

minimal cost for printing educational materials. The counties' cost will decrease after the catch-up period due to decreased staff time to investigate suspected cases of vaccine preventable disease cases and to administer vaccinations.

The estimated cost to the Secretary of State's office is minimal, reflecting staff time to publish the amendments. The estimated cost to the Governor's Regulatory Review Council is minimal, reflecting staff time to review and approve the amendments.

The estimated cost for Department of Education (DOE) is moderate. DOE will incur cost for additional time for school nurses to assess student immunization records.

Cost to the federal government is substantial, through the "Vaccines for Children" (VFC) and other federal programs, which supply the funds to purchase vaccine to vaccinate uninsured, underinsured, Medicaid, and Native American children.

Small businesses that will be affected by the amendments include private health care providers including private physicians and clinics. Private health care providers will incur moderate expenses for additional supplies and staff time to administer immunizations. However, the cost will be offset by substantial revenues received from clinic and vaccine administration fees and insurance reimbursement.

Large businesses that will be affected by the amendments include vaccine manufacturers and health care payers. Vaccine manufacturers will receive substantial revenue due to an increased demand for vaccine. Health care payers include Arizona Health Care Cost Containment System (AHCCCS) contracted health plans and private insurance/health plans. AHCCCS contracted health plans will incur substantial costs for administration fees paid to contracted physicians. Private insurance/health plans will incur substantial costs for the reimbursement of vaccine purchases for non-VFC eligible children and administration fees to private health care providers. Health care payers will realize substantial savings through reduction of medical care costs for vaccine preventable diseases.

The cost to each parent will be minimal, mainly comprised of lost work time for some parents to take their children to be immunized. Few parents will have to pay "out of pocket" expense since children who are underinsured for vaccinations are covered by federal or state funds. Given the large number of children to be immunized, however, the cost to parents as a group will be substantial. Society at large will substantially benefit by a reduction of illness and death from vaccine preventable diseases.

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

None

11. A summary of the principal comments and the agency response to them:

COMMENT: The Department did not receive any written comments. All 4 speakers who commented during 3 public hearings, held in Tucson, Phoenix, and Flagstaff, spoke in favor of the rule amendment. One of the speakers encouraged the Department to inform schools about the rule changes no later than February 2000.

RESPONSE: The Department has already begun informing school nurses, school nurse supervisors, the school-based school linked council, the Department of Education, county health departments, and other concerning parties about the pending rule changes.

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. Incorporation by reference and their location in the rules:

Not applicable

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

No

15. The full text of the rule follows:

TITLE 9. HEALTH SERVICES

**CHAPTER 6. DEPARTMENT OF HEALTH SERVICES
COMMUNICABLE DISEASES**

ARTICLE 7. VACCINE-PREVENTABLE DISEASES

Section

- R9-6-701. Required Immunizations for Child Care or School Entry
- Table 1. Immunization Requirements for Child Care or School Entry
- Table 2. Catch-Up Immunization Schedule for Child Care or School Entry

ARTICLE 7. VACCINE-PREVENTABLE DISEASES

R9-6-701. Required Immunizations for Child Care or School Entry

A. Except as permitted in R9-6-705:

1. Before entry in a school, or no later than 15 days following entry in a child care, a child, an individual more than 18 years of age, or an emancipated person shall be immunized against each of the following diseases:
 - a. Diphtheria,
 - b. Tetanus,
 - c. Hepatitis B,
 - d. Pertussis,
 - e. Poliomyelitis,
 - f. Measles (rubeola),
 - g. Mumps,
 - h. Rubella (German Measles), and
 - i. *Haemophilus influenzae* type b.
2. A child aged 2 through 5 years old in child care in Maricopa County shall be immunized against the hepatitis A virus.

B. A child, an individual more than 18 years of age, or an emancipated person shall be immunized in accordance with the schedule in ~~Tables~~ Table 1 or 2. The Department or a school administrator may exempt a child, an individual more than 18 years of age, or an emancipated person from immunizations as authorized by A.R.S. § 15-873 or A.R.S. § 36-883(C).

C. A child, an individual more than 18 years of age, or an emancipated person who is entering a school and has not received a second dose of MMR or has not finished the 3-dose Hep B series specified in Table 1 or Table 2, shall be immunized with a 2nd dose of MMR and the remaining doses of Hep B series, as applicable, according to the following:

1. Kindergarten through 2nd grade and 7th grade, by September 1, 2000;
2. Kindergarten through 3rd grade and 7th and 8th grades, by September 1, 2001;
3. Kindergarten through 4th grade and 7th through 9th grades, by September 1, 2002;
4. Kindergarten through 5th grade and 7th through 10th grades, by September 1, 2003;
5. Kindergarten through 11th grade, by September 1, 2004; and
6. Kindergarten through 12th grade, by September 1, 2005.

Table 1. Immunization Requirements for Child Care or School Entry

Age at Entry	Number of Doses Vaccine Required	Special Notes
<2 months	1 Hep B	(See Note 1)
2 through 3 months	1 DTP, DTaP or DT 1 OPV or IPV 1 Hib 1 Hep B	(See Note 1)
4 through 5 months	2 DTP, DTaP or DT 2 OPV or IPV 2 Hib 2 Hep B	(See Note 1)
6 through 11 months	3 DTP, DTaP or DT 2 OPV or IPV 3 Hib 3 Hep B	(See Note 2 for a child 7 months through 59 months of age.) (See Note 1)
12 through 14 months	3 DTP, DTaP or DT 3 OPV or IPV 1- 4 Hib 1 MMR 3 Hep B	(See Note 2) (See Note 3) (See Note 1)

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15 through 59 months	4 DTP, DTaP or DT 3 OPV or IPV 1-4 Hib 1-2 MMR 3 Hep B	(See Note 2) (See Note 3) (See Note 1)
2 through 5 years (Only required for Maricopa County child care)	2 Hep A	(See Note 4)
4 through 6 years	4 DTP, DTaP or DT 3 OPV or IPV 2 MMR 3 Hep B	A child shall receive a 5th dose if the 4th dose was received before the 4th birthday. (See Note 5) (See Note 3) A child entering child care or kindergarten school shall receive a 2nd dose 1 month or more after the date of the 1st dose. A child initially entering school at the 1st grade level who has not already received a 2nd dose shall receive a 2nd dose 1 month or more after the date of the 1st dose. (See Note 1) A child entering child care or kindergarten school shall receive the Hep B series <u>according to Note 1</u> . A child initially entering school at the 1st grade level who has not already received the Hep B series shall receive the Hep B series.
7 years or older	4 DTP, DTaP or any combination of DTP/DT/Td 3 OPV or IPV 1-2 MMR 3 Hep B	A child shall receive a 4th dose of Td before school entry if the 3rd dose of diphtheria-tetanus containing vaccine was received before the 4th birthday. A child or an individual more than 18 years of age shall receive a Td dose if 10 years or more have passed since the date of the last dose. (See Note 5) (See Note 3) (See Note 1) A child entering school at the kindergarten level shall receive the Hep B series <u>according to Note 1</u> . A child initially entering school at the 1st grade level who has not already received the Hep B series shall receive the Hep B series.

- 1 A child shall receive the 1st dose of Hep B before kindergarten, ~~or 1st, 2nd, or 7th~~ grade entry, or no later than 15 days following child care entry. A child shall receive the 2nd dose of Hep B 4 weeks or more after the date of the 1st dose. A child who is 6 months of age or older shall receive the 3rd dose 2-5 months after the date of the 2nd dose and 4 months or more after the date of the 1st dose. A child in a grade other than listed above shall receive the Hep B immunization series in accordance with the time-line specified in R9-6-701(C).
- 2 A child 0 through 2 months old shall receive the 3-dose Hib series when the child is 2, 4, and 6 months old, with a 4th dose when the child is 12-15 months old. See Table 2, footnote 2, for a child who receives the 1st dose of Hib at 3 months of age or older.
- 3 A child who is 12 months of age or older, or an individual more than 18 years of age, shall receive measles, mumps, and rubella vaccines as individual antigens or as combined MMR vaccine. A child or an individual more than 18 years of age shall receive the 1st dose of MMR before school entry, or no later than 15 days following child care entry. A child aged 4 ~~years of age or older through 6 years old~~ who is entering child care, kindergarten, ~~or 1st, 2nd, or 7th~~ grade shall receive a 2nd dose 1 month or more after the date of the first dose. A child in any other grade shall receive the 2nd MMR in accordance with the time-line specified in R9-6-701(C).
- 4 A child 2 through 5 years old shall receive the 1st dose of hepatitis A vaccine no later than 15 days following child care entry in Maricopa County, in accordance with A.A.C. R9-5-305(C). A child shall receive a 2nd dose 6 months following the date of the first dose. If 6 months or more have passed since the date of the 1st dose, a child shall receive the 2nd dose no later than 15 days after entry. These rules apply to any child 2 through 5 years old who is entering or has already entered child care in Maricopa County on the effective date of these rules.

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5 A child shall receive a 4th dose of OPV or IPV for school entry if the 3rd dose was received before the 4th birthday. OPV or IPV is not required for individuals more than 18 years of age for school entry.

Table 2. Catch-Up Immunization Schedule for Child Care or School Entry

Vaccine	Dose	Time Intervals
1. DTP - Diphtheria, Tetanus, and Pertussis		
a. For A Child Less Than 7 Years Of Age: DTP or any combination of DTP, DTaP, and DT	1st	A child shall receive the 1st dose before school entry, or no later than 15 days following child care entry.
	2nd	If 4 weeks or more have passed since the date of the 1st dose, a child shall receive the 2nd dose before school entry, or no later than 15 days following child care entry.
	3rd	If 4 weeks or more have passed since the date of the 2nd dose, a child shall receive the 3rd dose before school entry, or no later than 15 days following child care entry.
	4th	If 6 months or more have passed since the date of the 3rd dose, a child shall receive the 4th dose before school entry, or no later than 15 days following child care entry.
	5th or more	If a child received the 4th dose before the child's 4th birthday, the child shall receive a 5th dose before school entry, or no later than 15 days following child care entry. If a child received the 4th dose after the child's 4th birthday, the child shall receive a dose of Td 10 years after the date of the 4th dose.
b. For A Child Aged 7 Years and Older, or An Individual More Than 18 Years of Age: Td - Tetanus Diphtheria (Pertussis not required.)	1st	Before school entry.
	2nd	If 4 weeks or more have passed since the date of the 1st dose, a child or an individual more than 18 years of age shall receive the 2nd dose before school entry.
	3rd	If 6 months or more have passed since the date of the 2nd dose, a child or an individual more than 18 years of age shall receive the 3rd dose before school entry. A child or individual more than 18 years of shall receive a dose of Td 10 years after the date of the 3rd dose.
2. OPV or IPV - Polio (See Note 1 below.)	1st	A child shall receive the 1st dose before school entry, or no later than 15 days following child care entry.
	2nd	If 4 weeks or more have passed since the date of the 1st dose, a child shall receive the 2nd dose before school entry, or no later than 15 days following child care entry.
	3rd	For a child who has received 2 doses of IPV, OPV, or 1 dose of each, if 4 weeks or more have passed since the date of the 2nd dose, the child shall receive the 3rd dose of IPV or OPV before school entry, or no later than 15 days following child care entry.

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3. MMR - Measles, Mumps, Rubella (See Note 3 below.)	1st	A child who is 12 months of age or older, or an individual more than 18 years of age, shall receive the 1st dose before school entry, or no later than 15 days following child care entry.
	2nd	If 1 month or more have <u>has</u> passed since the date of the 1st dose, a child who is 4 years of age or older shall receive the 2nd dose before kindergarten <u>school</u> entry, or no later than 15 days following child care entry. A child initially entering school at the 1st grade level who has not already received a 2nd dose shall receive a 2nd dose.
4. Hib - Haemophilus influenzae type b (See Note 2 below.) (Not required for individuals aged 5 years and older.)	1	A child who is less than 5 years of age shall receive the vaccine before school entry, or no later than 15 days following child care entry.
5. Hep B - Hepatitis B (See Note 4 below.)	1st	A child shall receive the 1st dose before kindergarten <u>school</u> entry, or no later than 15 days following child care entry. A child initially entering school at the 1st grade level who has not already had the Hep B series shall also receive the Hep B series.
(See Note 4 below.)	2nd	If 4 weeks or more have passed since the date of the 1st dose, a child shall receive the 2nd dose before kindergarten or 1st grade <u>school</u> entry, or no later than 15 days following child care entry.
(See Note 4 below.)	3rd	If 2 months or more have passed since the date of the 2nd dose, and 4 months or more have passed since the date of the 1st dose, a child shall receive the 3rd dose, before kindergarten or 1st grade <u>school</u> entry, or no later than 15 days following child care entry.
6. Hep A - Hepatitis A Only required for Maricopa County child care	1st	A child who is 24 through 71 months of age shall receive the 1st dose no later than 15 days following child care entry.
	2nd	If 6 months or more have passed since the date of the 1st dose, a child shall receive the 2nd dose no later than 15 days following child care entry.

- 1 A child shall receive a 4th dose of OPV or IPV if the 3rd dose was received before the 4th birthday. OPV or IPV is not required for individuals more than 18 years of age for school entry.
- 2 A child 0 through 2 months old shall receive the 3-dose Hib series when the child is 2, 4, and 6 months old with a 4th dose when the child is 12-15 months old. A child 3 through 6 months old who is starting the Hib series shall receive 4 doses: 1 dose before entry, the 2nd dose 2 months after the date of the 1st dose, the 3rd dose 2 months after the date of the 2nd dose, and a 4th dose when 12-15 months old. A child 7 through 11 months old who is starting the Hib series shall receive 3 doses: 1 dose before entry, the 2nd dose two months after the date of the 1st dose, and a 3rd dose when 12-15 months old. A child 12 through 14 months old who is starting the Hib series shall receive 2 doses: 1 dose before entry, followed by a 2nd dose 2 months or more after the date of the 1st dose, but not before age 15 months. A child 15 through 59 months old who is starting the Hib series shall receive a single dose before entry and does not require another dose.
- 3 A child in kindergarten, 1st, 2nd, or 7th grade shall receive the 2nd MMR before entering school or no later than 15 days following child care entry. A child in any other grade shall receive the 2nd MMR in accordance with the time-line specified in R9-6-701(C).
- 4 A child in kindergarten, 1st, 2nd, or 7th grade shall receive the hepatitis B series before entering school or no later than 15 days following child care entry. A child in any other grade shall receive the hepatitis B series in accordance with the time-line specified in R9-6-701(C).

NOTICE OF FINAL RULEMAKING

TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 8. GREATER ARIZONA DEVELOPMENT AUTHORITY

PREAMBLE

<u>1. Sections Affected</u>	<u>Rulemaking Action</u>
R20-8-101	Amend
R20-8-102	Amend
R20-8-103	Amend
R20-8-104	Amend
Table A	Repeal
Table A	New Table
Table B	New Table

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

Authorizing statute: A.R.S. § 41-1554.04

Implementing statute: A.R.S. §§ 41-1554.04 and 41-1554.05

3. The effective date of the rules:

March 14, 2000

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

Notice of Rulemaking Docket Opening: 5 A.A.R. 4011, October 22, 1999

Notice of Proposed Rulemaking: 5 A.A.R. 4408, November 26, 1999

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

Name: Tom Belshe, Executive Director

Address: Greater Arizona Development Authority
3800 North Central Avenue, Suite 1650
Phoenix, Arizona 85012

Telephoner: (602) 280-8121

Fax: (602) 280-8145

6. An explanation of the rule, including the agency's reasons for amending the rule:

During its 1997 session, the Arizona State Legislature established the Greater Arizona Development Authority for the purpose of making funds available to provide technical assistance to infrastructure projects of political subdivisions, Indian tribes, and special districts, and financial assistance for infrastructure projects of political subdivisions, Indian tribes, and special districts. The proposed rule amendments accomplish the following:

1. Create two distinct accounts within the Technical Assistance Program and the prioritization criteria for those two accounts.
2. Prohibit a community that has already received financial assistance for a specific project from afterwards receiving technical assistance for that same project.
3. Prohibit a community that has an open technical assistance contract with the Authority from receiving further technical assistance until that contract is closed.
4. Create an incentive for eligible applicants who have not yet applied or been awarded technical assistance.

One of the newly created accounts within the Technical Assistance Program, with the proposed name of Project Development Account, is designed to assist applicants with infrastructure projects in the early stages of development. This account would be used to provide technical assistance to an applicant that is deciding on the feasibility of a certain project. Market studies, feasibility studies, capital improvement plans, and development fee studies are examples of the types of technical assistance that would be provided through the Project Development Account. The priority criteria for this account would not include points for evidence of a permanent funding source or voter authorization because the technical assistance is intended to be exploratory in nature.

The second account, with the proposed name of Project Assistance Account, would be designed to assist applicants with infrastructure projects in later stages of development. This account would be used to provide technical assistance to an applicant that is moving an infrastructure project to a point where the project can be funded and commenced. Architectural design, engineering, and development of RFPs for specific consultation are examples of the types of

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technical assistance that would be provided through the Project Development Account. The awards made from this account would be based on the existing prioritization criteria.

A.R.S. § 41-1554.04 provides that the Authority shall establish application forms for technical assistance, a procedure to review and approve or disapprove applications for technical assistance, criteria by which technical assistance will be awarded, and a means to prioritize applications for technical assistance. A.R.S. § 41-1554.05(C) provides that the Authority shall establish an application process and method of determining the allocation of technical assistance in accordance with A.R.S. § 41-1554.04. These proposed amendments will strengthen the process for awarding technical assistance by providing a more uniform and consistent method for prioritizing technical assistance applications, while not unduly penalizing applications with projects in the early stages of development.

Tables A and B contain the proposed point systems for prioritization of technical assistance applications made to the Authority. The point system will provide the Authority with a mechanism for awarding technical assistance as well as the ability to transfer award monies to the next highest ranking application if, for any reason, an applicant who receives a technical assistance award is not able to use that award. The point system also provides a mechanism for prioritizing two applications that receive the same point score. It should be noted that, in certain instances, the point system uses a range of points for scoring a particular priority criterion, as opposed to using a set point value for scoring the criterion. These point ranges are necessary for the following reasons:

1. The types of infrastructure projects that the Authority was designed to foster are highly diverse. Creating set point scores requires very specific prioritization criteria. Determining the specific criteria necessary to prioritize the variety of projects that are reviewed by the Authority would create an unnecessarily complicated point system.
2. The Authority has only finished two rounds of technical assistance. These proposed rules are a product of several meetings with stakeholders concerning the outcome of the first two rounds of technical assistance. The proposed rules target the shortcomings of the initial rulemaking and it is the intent of the Authority to continue revising the application prioritization process so that the process is as objective as possible.

By prohibiting technical assistance for a project that has already received a GADA financial assistance loan, GADA will ensure that any technical assistance provided will be used for the development of infrastructure projects and not as "stop gap" financing. The new rule changes will also help create an incentive for new communities to use the Technical Assistance Program.

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

None

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:

The rule does not diminish a previous grant of authority to a political subdivision of this state.

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

The impact is expected to be positive. While small business and consumers may have user rates and fees increased to pay for the new infrastructure financed by the Greater Arizona Development Authority, the net effect is expected to be positive for two reasons:

1. The projects will be developed more quickly with GADA participation, thereby accelerating the benefits to the local community.
2. The Authority will provide financial support and technical assistance to local communities for infrastructure development.

Because of the wide range of possible projects with varying local impacts, it is difficult to estimate or generalize about the potential economic impact of the Authority. It can be said that the Authority's beneficial contribution will be in the acceleration of the development of necessary projects. In some cases, the acceleration may be two years, in other cases, longer. This allows the community to begin utilizing this benefit at an earlier date to improve the economic well being of its residents and improve the overall quality of life.

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

Minor stylistic and grammatical changes were made at the request of G.R.R.C. staff. The word "account" was substituted for the word "fund" so that the rules are consistent with A.R.S. § 41-1554.03(C).

11. A summary of the principal comments and the agency response to them:

No written public comment was received before the close of record on December 30, 1999.

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 promulgated as an emergency rule?

No

15. The full text of the rules follows:

TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 8. GREATER ARIZONA DEVELOPMENT AUTHORITY

ARTICLE 1. TECHNICAL ASSISTANCE

Section

R20-8-101. Definitions

R20-8-102. Application Process

R20-8-103. Eligibility Criteria

R20-8-104. Priority; Approval and Disapproval; Protest

~~Table A. Priority Criteria~~ Priority Criteria – Project Development Account

~~Table B. Priority Criteria~~ Priority Criteria – Project Assistance Account

ARTICLE 1. TECHNICAL ASSISTANCE

R20-8-101. Definitions

In addition to the definitions prescribed in A.R.S. § 41-1554, the following definitions apply in this Article:

1. “Administratively complete” means that an applicant has completed the application for technical assistance and provided all of the required information.
2. “Applicant” means a political subdivision, special district, or Indian tribe that applies to the Authority for technical assistance.
3. “Authority” means the Greater Arizona Development Authority.
4. “Board” means the board of directors of the Authority.
5. “Economic impact summary” means an economic analysis that establishes the economic context for a project based on information provided by the applicant.
6. “Economic overview” means an economic analysis that establishes the economic context for a project based on public data and information provided by the applicant.
7. “Infrastructure” means any facility located in this state for public use owned by a political subdivision, special district or Indian tribe that retains responsibility for its operation and maintenance.
8. “Project” means the whole, or any distinguishable segment or segments, of publicly owned infrastructure for which technical assistance is being requested or provided.
9. “Project Assistance Account” means an account within the Technical Assistance Program of the Authority designed to provide technical assistance for eligible infrastructure projects that are in the final phases of project development.
10. “Project Development Account” means an account within the Technical Assistance Program of the Authority designed to provide technical assistance to eligible infrastructure projects that are in the early or exploratory phases of project development.
- ~~9~~11. “Staff” means the Executive Director and the Finance Director of the Authority.
- ~~10~~12. “Technical assistance round” means a period of time established by the Board during which applications for technical assistance are sent to potential applicants, returned to the Authority, analyzed by Staff, and submitted to the Board for approval or disapproval.

R20-8-102. Application Process

- A. The Board shall annually establish a due date by which applications for technical assistance shall be submitted for each technical assistance round, and the number of technical assistance rounds to be held in a given state fiscal year.
- B. The Authority shall send solicitation letters to potential applicants at least 60 days before applications are due. Other interested persons may submit requests to the Authority to be placed on a mailing list to be utilized by the Authority in sending out solicitation letters.
- C. An applicant shall provide the following information to the Authority by the established due date for such applications on a form provided by the Authority:
 1. Contact information for the applicant, including name, address, and telephone number;
 2. A description of the type of technical assistance being requested and an estimate of the cost of the technical assistance;
 3. A detailed description of the project;
 4. A summary of the anticipated economic impact the project will have on the community as estimated by the applicant;

5. The estimated starting date, completion date, and projected cost of the infrastructure project for which the technical assistance is being requested;
 6. The projected sources and uses of funds for the infrastructure project, including public and private in-kind contributions; ~~and~~
 7. A list of professional and outside service providers who have worked with the applicant on any part of the project; and
 8. An indication of whether the application is for monies from the Project Development Account or the Project Assistance Account.
- D. In addition to the application required in subsection (C), an applicant shall provide the following information to the Authority by the established due date for such applications:
1. A planning document specific to the locality of the project for which the technical assistance is being requested that includes the project, such as a capital improvement plan, local strategic plan, or similar planning document or evidence that the project has been discussed in meetings or in study sessions of the governing body of the applicant;
 2. If the project is listed on the project priority list of the Water Infrastructure Finance Authority or on the Department of Transportation's Five-Year State Plan, a document evidencing this fact;
 3. A resolution from the governing body of the applicant stating the following:
 - a. The project is in the best interests of the residents;
 - b. The estimated economic impact on the community; and
 - c. The commitment of local funds, if applicable; and
 4. The applicant's most recent financial statements.
- E. Staff shall analyze each application received on or prior to the due date for applications for technical assistance to determine whether the application is administratively complete and whether an applicant meets the eligibility criteria prescribed in R20-8-103. Applications for technical assistance which are determined to be both administratively complete and eligible for technical assistance under R20-8-103 shall be submitted to the Board for prioritization and possible funding. Applications which are either not administratively complete or do not meet the criteria in R20-8-103 shall not be submitted to the Board

R20-8-103. Eligibility Criteria

To be eligible to receive technical assistance, an applicant shall satisfy the following criteria:

1. The applicant is a political subdivision, Indian tribe, or special district;
2. The technical assistance requested is for the development or financing of an infrastructure project;
3. The application is administratively complete;
4. The applicant provides evidence that the project has public support;
5. The applicant provides evidence that the project is part of an adopted comprehensive plan, for example, a capital improvement plan, a local strategic plan, or similar planning document or evidence that the project has been discussed in meetings or in study sessions of the governing body of the applicant;
6. The applicant has the capacity to provide managerial support to the project; ~~and~~
7. The cost of the technical assistance does not exceed 10% of the total cost of the final project; and
8. The applicant does not have an open agreement for technical assistance with the Authority; and
9. The applicant is not requesting technical assistance for a project that has already received funds from the Financial Assistance Program.

R20-8-104. Priority; Approval and Disapproval; Protest

- A. The Authority shall request the Department of Commerce prepare an economic overview for each of the projects eligible for technical assistance that establishes the economic context for the project.
- B. During each technical assistance round, the Board shall determine the order and priority of infrastructure projects, for both the Project Development Account and the Project Assistance Account, for which an eligible application for technical assistance has been received. For the Project Development Account, the Board shall use a scale of 75 points maximum for all applications based on the criteria in Table A. For the Project Assistance Account, the Board shall use a scale consisting of 95 points maximum for tribal applications and a scale consisting of 100 points maximum for all other applications. ~~others~~ Application scores shall then be prioritized based on a percentage of the points received to total points possible.
- C. Applications for monies from the Project Development Account with tied scores shall be prioritized by comparing the scores that each application received in Table A under the following categories in ~~descending~~ order of importance:
1. Evidence of local support for the project;
 - ~~2.~~ ~~Evidence of a permanent funding source for the project;~~
 - ~~2.3.~~ Evidence of the project's impact on the community; and
 - ~~3.4.~~ Evidence of sufficient financial and managerial capacity to operate and maintain the project.
- D. The prioritization under subsection (C) is as follows:
1. The tied application with the higher score under subsection (C)(1) shall have priority over other applications;

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2. If the tied applications have the same score under subsection (C)(1), the application with the higher score under subsection (C)(2) shall have priority over the other applications;
 3. If the tied applications have the same score under subsections (C)(1) and (C)(2), the application with the higher score under subsection (C)(3) shall have priority over the other applications;
 4. ~~If the tied applications have the same score under subsections (C)(1), (C)(2) and (C)(3), the application with the higher score under subsection (C)(4) shall have priority over the other applications;~~
 - 4.5. If the tied applications have the same score under subsections (C)(1), (C)(2), and (C)(3) ~~and (C)(4)~~, the Board shall determine the priority of the applications.
- E.** Applications for monies from the Project Assistance Account with tied scores shall be prioritized by comparing the scores that each application received in Table B under the following categories in descending order of importance:
1. Evidence of local support for the project;
 2. Evidence of a permanent funding source for the project;
 3. Evidence of the project's impact on the community; and
 4. Evidence of sufficient financial and managerial capacity to operate and maintain the project.
- F.** The prioritization under subsection (E) is as follows:
1. The tied application with the higher score under subsection (E)(1) shall have priority over other applications;
 2. If the tied applications have the same score under subsection (E)(1), the application with the higher score under subsection (E)(2) shall have priority over the other applications;
 3. If the tied applications have the same score under subsections (E)(1) and (E)(2), the application with the higher score under subsection (E)(3) shall have priority over the other applications;
 4. If the tied applications have the same score under subsections (E)(1), (E)(2) and (E)(3), the application with the higher score under subsection (E)(4) shall have priority over the other applications;
 5. If the tied applications have the same score under subsections (E)(1), (E)(2), (E)(3) and (E)(4), the Board shall determine the priority of the applications.
- EG.** The Board shall approve or disapprove each eligible application for technical assistance based upon the priority list and available funding for technical assistance. The Board may fund all or a portion of a technical assistance request.
- FH.** The Authority shall mail the Board's written determination to each applicant within 90 days after the date that all applications for technical assistance are due.
- GI.** For each approved project, the Authority shall establish a date by which the commitment of the Authority to provide technical assistance expires. The Authority shall not provide technical assistance for an approved project if the applicant does not complete all agreements with the Authority on or before that date.
- HJ.** The Authority shall bypass a project within a technical assistance round and offer funding to the next highest-ranking project if the project is not ready to proceed within the next 6-month period after the award date.
- IK.** An applicant whose project for technical assistance is disapproved may file a protest with the Board as follows:
1. The applicant shall submit its reasons for protesting the decision of the Board, in writing, within 20 days of the date of the Board's written determination, in a letter addressed to the Chairperson of the Board, with a copy to the Executive Director of the Authority.
 2. The Authority shall review the substance of the protest and respond, in writing, by mail, to the applicant, within 30 days. Staff shall distribute a copy of the response to the Board.
 3. Upon receipt of the Authority's written response, the applicant may request an opportunity to make a direct presentation to the Board. Staff shall schedule the presentation for the next regular Board meeting.
 4. Following the applicant's presentation, the Board shall decide whether to review the applicant's request for technical assistance. Within 30 days after the presentation, the Board shall, in writing, notify the applicant of its final decision regarding the applicant's request for technical assistance.

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Table A. Priority Criteria

Priority Criteria		Point Total
1. Evidence of local support for the project based on the following:		35 points
The project is included in the General Plan, Capital Improvement Plan or other similar planning document of the applicant or has been discussed in meetings or study sessions of the applicant's governing board.	Up to 15 points	
The project has public/private partnerships that provide financial or in-kind services.	Up to 10 points	
The project has received a resolution of support from the governing board of the applicant.	5 points	
The project has received voter authorization.*	5 points	
2. Evidence of the project's impact on the community based on the following:		30 points
An economic overview prepared by the Department of Commerce.	Up to 10 points	
The economic impact summary as prepared and submitted by the applicant.	Up to 10 points	
The project addresses health, safety and welfare issues.	Up to 10 points	
3. Evidence of a permanent funding source for the project:		20 points
The project is a likely candidate for a GADA Financial Assistance loan.	Up to 10 points	
A revenue stream has been identified to pay for the project.	5 points	
A funding source has been identified for the project.	5 points	
4. Evidence of sufficient financial and managerial capacity to operate and maintain the project.	Up to 15 points	15 points
Maximum Point Total		95/100 points

* State law does not require tribal governments to obtain voter authorization for infrastructure projects, therefore, technical applications received from tribal governments will be based on a 95 point scale as described in R20-8-104(B) and (C).

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Table A. Priority Criteria - Project Development Account

<u>Priority Criteria - Project Development Account</u>		<u>Point Total</u>
<u>1. Evidence of local support for the project based on the following:</u>		<u>30 points</u>
<u>The project is included in the General Plan, Capital Improvement Plan, or other similar planning document of the applicant or has been discussed in meetings or study sessions of the applicant's governing board.</u>	<u>Up to 15 points</u>	
<u>The project has public/private partnerships that will provide financial or in-kind services.</u>	<u>Up to 10 points</u>	
<u>The project has received a resolution of support from the governing board of the applicant.</u>	<u>5 points</u>	
<u>2. Evidence of the project's impact on the community based on the following:</u>		<u>30 points</u>
<u>An economic impact summary as prepared and submitted by the applicant.</u>	<u>Up to 10 points</u>	
<u>The project addresses health, safety, and welfare issues.</u>	<u>Up to 10 points</u>	
<u>An economic overview prepared by the Department of Commerce.</u>	<u>Up to 5 points</u>	
<u>The applicant has not previously received funding from the GADA Technical Assistance Program.</u>	<u>5 points</u>	
<u>3. Evidence of sufficient financial and managerial capacity to operate and maintain the project.</u>		<u>15 points</u>
<u>Maximum Point Total</u>		<u>75 points</u>

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Table B. Priority Criteria - Project Assistance Account

Priority Criteria - Project Assistance Account		Point Total
<u>1. Evidence of local support for the project based on the following:</u>		<u>35 points</u>
<u>The project is included in the General Plan, Capital Improvement Plan, or other similar planning document of the applicant or has been discussed in meetings or study sessions of the applicant's governing board.</u>	<u>Up to 15 points</u>	
<u>The project has public/private partnerships that provide financial or in-kind services.</u>	<u>Up to 10 points</u>	
<u>The project has received a resolution of support from the governing board of the applicant.</u>	<u>5 points</u>	
<u>The project has received voter authorization.*</u>	<u>5 points</u>	
<u>2. Evidence of the project's impact on the community based on the following:</u>		<u>30 points</u>
<u>An economic impact summary as prepared and submitted by the applicant.</u>	<u>Up to 10 points</u>	
<u>The project addresses health, safety, and welfare issues.</u>	<u>Up to 10 points</u>	
<u>An economic overview prepared by the Department of Commerce</u>	<u>Up to 5 points</u>	
<u>The applicant has not previously received funding from the GADA Technical Assistance program.</u>	<u>5 points</u>	
<u>3. Evidence of a permanent funding source for the project:</u>		<u>20 points</u>
<u>The project is a likely candidate for a GADA Financial Assistance loan.</u>	<u>Up to 10 points</u>	
<u>A revenue stream has been identified to pay for the project.</u>	<u>5 points</u>	
<u>A funding source has been identified for the project.</u>	<u>5 points</u>	
<u>4. Evidence of sufficient financial and managerial capacity to operate and maintain the project.</u>		<u>15 points</u>
<u>Maximum Point Total</u>		<u>95/100 points</u>

* State law does not require tribal governments to obtain voter authorization for infrastructure projects, therefore, technical applications received from tribal governments will be based on an adjusted 95-point scale, as described in R20-8-104(B).