

# NOTICES OF SUPPLEMENTAL PROPOSED RULEMAKING

After an agency has filed a Notice of Proposed Rulemaking with the Secretary of State's Office for *Register* publication and filing and the agency decides to prepare a Notice of Supplemental Proposed Rulemaking for submission to the Office, the Secretary of State shall publish the Notice under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.). Publication of the Notice of Supplemental Proposed Rulemaking shall appear in the *Register* before holding any oral proceedings (A.R.S. § 41-1022).

## NOTICE OF SUPPLEMENTAL PROPOSED RULEMAKING

### TITLE 9. HEALTH SERVICES

#### CHAPTER 1. DEPARTMENT OF HEALTH SERVICES - ADMINISTRATION

##### PREAMBLE

**1. Register citation and date for the original Notice of Proposed Rulemaking:**

6 A.A.R. 10, March 3, 2000

**2. Sections Affected**

R9-1-412

**Rulemaking Action**

Amend

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

Authorizing statutes: A.R.S. §§ 36-132(A) and 36-136(F)

Implementing statutes: A.R.S. §§ 36-405(A) and 36-406

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

Name: Tom Thliveris

Address: Department of Health Services  
Assurance and Licensure Services  
1647 E. Morten Avenue, Suite 110  
Phoenix, Arizona 85020

Telephone: (602) 674-4360

Fax: (602) 861-0463

or

Name: Kathleen Phillips, Rules Administrator

Address: Department of Health Services  
1740 W. Adams, Room 102  
Phoenix, Arizona 85007

Telephone: (602) 542-1264

Fax: (602) 542-1090

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

R9-1-412 incorporates by reference physical plant health and safety codes and standards including, the Uniform Building, Uniform Mechanical Code, Uniform Plumbing Code, Guidelines for Design and Construction of Hospital and Healthcare Facilities, National Fire Codes, American National Standard Accessible and Usable Building and Facilities, and Uniform Fire Code. The Department refers to the codes and standards in R9-1-412 in Title 9, specifically in Chapter 5, Child Care Facilities; Chapter 8, Food, Recreational and Institutional Sanitation; Chapter 9, Health Care Institutions: Establishment, Modification; Chapter 10, Health Care Institutions: Licensure; Chapter 14, Laboratories; and Chapter 20, Behavioral Health Service Agencies: Licensure. In order to have requirements that reflect current industry standards and to maintain consistency with the codes and standards currently enforced by local jurisdictions, the Department is amending the rule to incorporate by reference in R9-1-412 the most current national

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codes and standards.

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

Not applicable

**7. An explanation of the substantial change which resulted in this supplemental notice:**

Several changes were made to ensure that accurate and current information is included in the rule, including:

The address in subsection (A)(3) was incorrectly amended. Because the current rules contain the correct address, the amendment to the address in subsection (A)(3) has been deleted.

The term “and appendixes” was added to the documents listed in subsections (A)(4) and (A)(5) to more accurately reflect the documents incorporated by reference.

The outdated name of the publishing organization in subsection (A)(6) was deleted and the current name was added.

The outdated address of the publishing organization in subsection (A)(7) was deleted and the current address was added.

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

The current rule incorporates by reference specific publications of national codes and standards that establish physical plant requirements, including the Uniform Building Code, the Uniform Mechanical Code, the Uniform Plumbing Code, Guidelines for Design and Construction of Hospital and Healthcare Facilities, the National Fire Code, the American National Standard Accessible and Usable Buildings and Facilities, and the Uniform Fire Code. The national organizations responsible for these codes and standards periodically review, revise, and republish the codes and standards in an effort to ensure greater safety and lower costs. The proposed rule amends the listed publications to ensure that the most current national codes and standards are incorporated by reference. The most current national codes and standards include changes in the requirements and a corresponding economic impact for the construction and modification of health care institutions and the installation of plumbing in food service establishments. The most current national codes and standards do not include any changes or economic impact for Child Care Facilities, Laboratories, and Behavioral Health Services Agencies. Local jurisdictions are using the most current national codes and standards.

The Department and local governments

Although amending the rule to incorporate by reference the most current national codes and standards will result in both a cost savings for and increased costs to the Department, the net effect will be a moderate increase in costs of approximately \$1800. Because local jurisdictions and industry professionals are using the most current national codes and standards, the Department’s use of the most current national codes and standards will contribute to increased consistency and coordination and result in a minimal cost savings to the Department and local jurisdictions. Local fire departments may also realize substantial decreased costs as a result of fewer false alarms at affected institutions due to the application of new technology and fire detection devices required in the most current national codes and standards.

Health care institutions

Over the past 20 years, fire code requirements in the national codes and standards have shifted from the use of specific building materials to contain fires to the use of sprinkler systems to suppress fires. As a result the fire code now allows the use of materials that are not fire-rated and less costly. However, the fire code requirements for an electric door connected to an emergency generator will increase the installation cost of the electric door by approximately \$200 per electric door.

The most current national codes and standards incorporated by reference in the proposed rule are more focused on preventive maintenance rather than replacement of materials. It is estimated that the use of protective plates on a nursing care institution’s interior doors will increase the life of a door by three years, a cost savings of approximately \$100 per door annually. In addition, allowing a nursing care institution to use battery-operated smoke detectors instead of hardwired smoke detectors in resident rooms will yield a savings of approximately \$138 per smoke detector and will encourage the use of a resident’s own bedding and furnishings instead of fire-rated institutional furnishings.

The proposed rule will decrease construction costs for health care institutions. The most current national codes and

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standards allow some interior corridors to be constructed with material that is not fire-rated and require fewer fire dampers, fire-rated doors, and lower-cost gypsum wall board resulting in decreased costs for interior corridors. The change in the most current national codes and standards requirements results in approximately a 25% decrease in the costs of gypsum wall board, \$600 decrease for each toilet room, \$250 decrease for each room for ventilation, and \$300 decrease for each interior door.

Food service establishments

Plumbing code requirements in the most current national codes and standards establish standards for the production and installation of reverse osmosis drinking water units in food service establishments that many manufacturers already meet or exceed. A manufacturer who does not currently comply with the most current plumbing code requirements will incur increased costs of approximately \$500 to install a reverse osmosis drinking water unit in a food service establishment in compliance with the plumbing code requirements in the most current national code and standards.

**10. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Tom Thliveris  
Address: Department of Health Services  
Assurance and Licensure Services  
1647 East Morten, Suite 110  
Phoenix, Arizona 85020  
Telephone: (602) 674-4360  
Telephone: (602) 861-0463

or

Name: Kathleen Phillips, Rules Administrator  
Address: Department of Health Services  
1740 W. Adams, Room 102  
Phoenix, Arizona 85007  
Telephone: (602) 542-1264  
Fax: (602) 542-1090

**11. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

No oral proceeding is scheduled. Under A.R.S. § 41-1023(C), an oral proceeding will be scheduled if a written request is submitted to one of the persons identified in paragraph 4 within 30 days of the publication of this notice. Written comments on the proposed rules or economic impact statement may be submitted to the persons specified in paragraph 4 until the close of record, which is scheduled for 5:00 p.m. on July 28, 2000.

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

None

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

American National Standard Accessible and Usable Buildings and Facilities, ANSI A117.1, 1998 edition, in R9-1-412(A)(6)

Guidelines for Design and Construction of Hospital and Health Care Facilities and appendixes, 1996-97 edition, in R9-1-412(A)(4)

Uniform Mechanical Code and appendixes, 1997 edition, in R9-1-412(A)(2)

Uniform Plumbing Code and appendixes, 1997 edition, in R9-1-412(A)(3)

National Fire Code and appendixes - 1999 edition, Volumes 1 through 12 and 1999 Supplement Part 1 and Part 2, in R9-1-412(A)(5)

Uniform Building Code and appendixes, 1997 edition, Volumes 1 through 3, in R9-1-412(A)(1)

Uniform Fire Codes and appendixes, 1997 edition, Volumes 1 and 2, in R9-1-412(A)(7)

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**13. The full text of the rule follows:**

**TITLE 9. HEALTH SERVICES**

**CHAPTER 1. DEPARTMENT OF HEALTH SERVICES - ADMINISTRATION**

**ARTICLE 4. CODES AND STANDARDS REFERENCED**

Section

R9-1-412. Physical Plant Health and Safety Codes and Standards

**ARTICLE 4. CODES AND STANDARDS REFERENCED**

**R9-1-412. Physical Plant Health and Safety Codes and Standards**

- A. When this Section is referenced in a rule contained in Title 9, the following physical plant health and safety codes and standards are incorporated by reference and on file with the Department and the Office of Secretary of State; ~~and This incorporation by reference contains no future additions or amendments or editions shall apply.~~
1. Uniform Building Code ~~and appendixes~~ - ~~1994~~1997 edition, Volumes 1 through 3; published by the International Conference of Building Officials, 5360 Workman Mill Road, Whittier, ~~California CA~~ 90601-2298 (formerly R9-1-412(A)).
  2. Uniform Mechanical Code ~~and appendixes~~ - ~~1994~~1997 edition; published by the International Conference of Building Officials; 5360 Workman Mill Road, Whittier, ~~California CA~~ 90601-2298 (formerly R9-1-412(C)).
  3. Uniform Plumbing Code ~~and appendixes~~ - ~~1994~~1997 edition; published by the International Association of Plumbing and Mechanical Officials, 20001 South Walnut Drive, Walnut, CA 91789-2825 (formerly R9-1-412(D)).
  4. Guidelines for ~~Design and Construction and Equipment~~ of Hospital and ~~Medical Health Care~~ Facilities ~~and appendixes~~, ~~1992-93~~1996-97 edition; published by The American Institute of Architects Press, 1735 New York Avenue, N.W., Washington, D.C. 20006 (formerly R9-1-412(F)).
  5. National Fire Codes ~~and appendixes~~ - ~~1995~~1999 ~~editions~~ edition, Volumes 1 through 12 and ~~1995~~1999 Supplement Part 1 and Part 2, published by the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269-9101 (formerly R9-1-412(G) and includes the former R9-1-412(B), Life Safety Code, NFPA 101 and the former R9-1-412(E), National Electrical Code, NFPA 70).
  6. American National Standard Accessible and Usable Buildings and Facilities, ANSI A117.1 - ~~1992~~1998 edition; published by ~~Council of American Building Officials~~ International Code Council, 5203 Leesburg Pike, #708, Falls Church, VA 22041 (formerly R9-1-412(H)).
  7. Uniform Fire Code ~~and appendixes~~ - ~~1994~~1997 edition, Volumes 1 and 2; published by the International Fire Code Institute, ~~9300 Jollyville Road, Suite 105, Austin, TX 78759-7455~~5360 Workman Mill Road, Whittier, CA 90601-2298 (formerly R9-1-412(I)).
- B. ~~A person shall not be subject to~~ The Department shall not assess any penalty or fee specified in the physical plant health and safety codes and standards that are incorporated by reference in this Section.