

NOTICES OF PROPOSED RULEMAKING

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

Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for adoption, amendment, or repeal of any rule. A.R.S. §§ 41-1013 and 41-1022.

NOTICE OF PROPOSED RULEMAKING

TITLE 7. EDUCATION

CHAPTER 1. STATE BOARD OF DIRECTORS FOR COMMUNITY COLLEGES OF ARIZONA

PREAMBLE

- 1. Sections Affected**
R7-1-709
- Rulemaking Action**
Amend
- 2. The specific authority for the rulemaking, including both the authorizing statute and the statutes the rules are implementing:**
Authorizing statute: A.R.S. § 15-1425(1)
Implementing statute: A.R.S. § 15-1425(1)
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**
Notice of Rulemaking Docket Opening: 6 A.A.R. 3654, September 22, 2000
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Thomas J. Saad
Address: State Board of Directors for Community Colleges of Arizona
3225 North Central Ave., Suite 1220
Phoenix, Arizona 85012
Telephone: (602) 255-4037
Fax: (602) 279-3464
- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**
Provides guidelines whereby community colleges can offer credit courses and programs to high school students at high school campuses during the day time hours. Prescribes the minimum qualifications for; students who enroll in college level courses; faculty who teach the courses; and, textbooks and grading.
- 6. A reference to any study that the agency proposes to rely on 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 materials:**
None
- 7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable

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

The proposed rule will not adversely impact small business or consumers.

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

Name: Thomas J. Saad
Address: 3225 North Central Ave., Suite 1220
Phoenix, Arizona 85012
Telephone: (602) 938-5163
Fax: (602) 279-3464

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

Oral Proceedings are scheduled as follows:

Date: November 17, 2000
Time: 1:00 p.m.
Location: Pima County Community College District
Community Campus, 401 Bonita
Tucson, Arizona

11. Any other matters prescribed by statute that are applicable to the specific agency:

None

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

None

13. Full text of the rules follows:

TITLE 7. EDUCATION

ARTICLE 7. INSTRUCTION, FACULTY AND STAFF

Section
R7-1-709. Community College Classes Offered in Conjunction with High Schools

ARTICLE 7. INSTRUCTION, FACULTY AND STAFF

R7-1-709. Community College Classes Offered in Conjunction with High Schools

With the approval of the District Governing Board, courses may be offered by community colleges in conjunction with high schools for the purpose of offering community college instruction to high school students at the high school during the school day under the following circumstances:

1. The community college District Governing Board and the governing board of the high school shall enter into a contract or intergovernmental agreement which shall, at a minimum, include the following provisions:
 - a. All high school students must be currently enrolled for at least 4 high school credits in addition to the college course or courses except that high school seniors who satisfy high school graduation requirements with fewer than four high school credits shall be exempt from this provision.
 - b. The financial considerations between the community college and the high school, including the manner in which the college tuition is to be paid by or on behalf of each student, shall be clearly stated.
 - c. All students in the college course must be enrolled for college credit or high school advanced placement or honors designation.
- 1-2. Students shall have been admitted to the community college under the provisions of R7-1-301.C. -- Student Admissions, and All students shall satisfy the prerequisites for the course as published in the college catalog and comply with college policies regarding student placement in courses.
- 2-3. Courses may be offered at the high school campus provided the courses have been evaluated and approved through the official college curriculum approval process, are transferable to an Arizona public university or applicable to an established community college occupational degree or certificate program.
- 3-4. Courses shall use college-approved textbooks, syllabuses, course outlines, and grading standards, all of which are applicable to the courses when taught at the community college campus.

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- 4-5. Each faculty member shall have a valid community college teaching certificate in the field being taught and shall have been selected and evaluated by the college using the same procedure and criteria that are used at the community college campus.
- 5-6. Each college district shall annually, by September 1, provide a report to the State Board of community college courses offered in conjunction with high schools during the previous academic year. This report shall list the locations at which the courses were offered, the discipline areas of the courses, and the aggregate student enrollment.

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TITLE 9. HEALTH SERVICES

CHAPTER 16. DEPARTMENT OF HEALTH SERVICES - OCCUPATIONAL LICENSING

PREAMBLE

1. Sections Affected

	<u>Rulemaking Action</u>
R9-16-401	Repeal
R9-16-401	New
R9-16-402	Repeal
R9-16-402	New
R9-16-403	New
R9-16-404	New
R9-16-405	Repeal
R9-16-405	New
R9-16-406	Repeal
R9-16-406	New
R9-16-407	Repeal
R9-16-407	New
R9-16-408	Repeal
R9-16-408	New
R9-16-409	Repeal
R9-16-410	Repeal
R9-16-411	Repeal
R9-16-412	Repeal
R9-16-413	Repeal
R9-16-414	Repeal

2. 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. §§ 36-104(3) and 36-136(F)

Implementing statutes: A.R.S. § 36-136.01(A) through (G)

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

Notice of Rulemaking Docket Opening: 6 A.A.R. 2305, June 23, 2000

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

Name: Will Humble, Office Chief, Office of Environmental Health

Address: 3815 North Black Canyon Highway
Phoenix, Arizona 85015

Telephone: (602) 230-5941

Fax: (602) 230-5933

E-Mail: whumble@hs.state.az.us

OR

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Name: Kathleen Phillips, Rules Administrator
Address: 1740 West Adams Street
Phoenix, Arizona 85007
Telephone: (602) 542-1264
Fax: (602) 542-1090
E-Mail: kphilli@hs.state.az.us

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

The Governor's Regulatory Review Council approved a 5-Year Review Report (Report) for Registration of Sanitarians on January 9, 1996. The proposed rules will address the issues identified in the Report and update the rules as needed to reflect current industry practice and Council policy. All of the language in R9-16-401 is being repealed and replaced with new definitions. R9-16-402 is being repealed and replaced with time-frame rules. The new language in R9-16-403 provides an individual with procedures for applying for the Professional Examination Service Registration of Sanitarians exam. The new language in R9-16-404 describes the requirements for Registration as a Sanitarian. The proposed language in R9-16-405 details how a registered sanitarian renews registration and provides procedures when registration has lapsed. The proposed language in R9-16-406 requires registered sanitarians to notify the Council when a name or address change has occurred. The proposed language in R9-16-407 provides criteria and procedures for suspending the registration of a registered sanitarian. Finally, R9-16-408 states the classification of a registered sanitarian and the authority of a registered sanitarian. The remaining Sections, R9-16-409 through R9-16-414, are repealed because these rules exceed the Council's statutory authority or are not appropriate for rulemaking.

6. A reference to any study that the agency relied 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:

No study is available or was relied upon.

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

Not applicable

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

The Council is proposing new rules for Registration of Sanitarians that reflect current industry practice and Council policy. Other issues identified in a 5-Year-Review Report, approved by GRRC on January 9, 1996, are also being addressed in the rulemaking.

Cost Bearers

The persons directly affected by the rules are individuals for registration in Arizona, registered sanitarians, the Council, local health departments, public health service districts, food service employers, individuals working in these institutions, and the public.

Currently, R9-16-407(B) requires an individual pay an exam fee of \$40. Administering the exam for individuals costs the Council \$110. The Council is proposing to increase the exam fee to cover the cost of administering the exam according to A.R.S. § 36-136.01(C). The Council will bear administrative costs of tracking the information received from individuals and enforcing the rules. Because the Council meets quarterly, the time provided for approval of registration in the time-frame table is a longer period of time which may cause delayed employment for a sanitarian. Most individuals are employed with a local county health department. Therefore, depending on the employment status of the individual at the time the exam is taken, the effect may be minimal to moderate.

Because there is not any statutory authority for reciprocity, individuals will pay an exam fee and these monies will go into the general fund.

Beneficiaries

The proposed rules will have a positive impact on state revenues. The state will benefit from no longer subsidizing sanitarian registration exams. The Council administers approximately 80 exams per year. Therefore, the general fund will receive approximately \$5,600 annually.

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Private persons and consumers will benefit from suffering fewer foodborne illnesses and other environmentally transmitted diseases because only trained and competent registered sanitarians will be inspecting food establishments, swimming pools and spas, hotel and motels, bottled water facilities, and public schools. Trained and competent inspectors are more likely to find and correct sanitary problems that can transmit disease.

As R9-16-408(C) is currently written, it limits individuals who do not pass an exam to 3 exams over a 5 year period. The proposed rule eliminates this restriction. An individual who does not pass the exam will benefit from the new rule because the individual will have the opportunity to sit for additional exams. When an individual passes the exam, the individual should benefit by increased wages in obtaining registration.

Local health departments and public health service districts will benefit from employing competent staff. Employers in the food service industry will also benefit from being regulated only by competent individuals. The state benefits from the proposed rule by ensuring that local health departments and public health service districts employ competent staff.

Local health departments may benefit from a larger pool of individuals that are qualified and registered as a sanitarian. The proposed rules do not substantially change registration qualification requirements, and no significant change in employment is expected from this proposed rule.

No costs to small business are expected. Employers in the small business food service industry will benefit from being regulated only by competent individuals who are registered sanitarians.

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

Name: Will Humble, Office Chief, Office of Environmental Health

Address: 3815 North Black Canyon Highway
Phoenix, Arizona 85008

Telephone: (602) 230-5941

Fax: (602) 230-5933

E-Mail: whumble@hs.state.az.us

OR

Name: Kathleen Phillips, Rules Administrator

Address: 1740 West Adams Street
Phoenix, Arizona 85007

Telephone: (602) 542-1264

Fax: (602) 542-1090

E-Mail: kphilli@hs.state.az.us

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

Date: October 31, 2000

Time: 1:00 p.m.

Location: Arizona Department of Health Services, 1740 West Adams Street, Phoenix, Arizona, 4th Floor
Conference Rooms A and B

Nature: Oral Proceeding and Adoption of Rules

Close of Record: October 31, 2000 at 5:00 p.m.

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

Not applicable

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

Not applicable

13. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

CHAPTER 16. DEPARTMENT OF HEALTH SERVICES - OCCUPATIONAL LICENSING

ARTICLE 4. REGISTRATION OF SANITARIANS

Sections

R9-16-401.	Legal Authority <u>Repealed</u>
R9-16-401.	Definitions
R9-16-402.	Definitions <u>Repealed</u>
R9-16-402.	Time-frames
R9-16-403.	Exam
R9-16-404.	Registration
R9-16-405.	Reciprocity <u>Repealed</u>
R9-16-405.	Annual Registration Renewal
R9-16-406.	Application for Registration <u>Repealed</u>
R9-16-406.	Change of Name or Address
R9-16-407.	Fees <u>Repealed</u>
R9-16-407.	Suspension or Revocation
R9-16-408.	Examination <u>Repealed</u>
R9-16-408.	Authority of Sanitarian
R9-16-409.	Registered Sanitarians, examples of duties <u>Repealed</u>
R9-16-410.	Denial of Application for Registration <u>Repealed</u>
R9-16-411.	Suspension and Revocation of Registration <u>Repealed</u>
R9-16-412.	Re-registration <u>Repealed</u>
R9-16-413.	Continuing Education <u>Repealed</u>
R9-16-414.	Violations <u>Repealed</u>

ARTICLE 4. REGISTRATION OF SANITARIANS

~~R9-16-401.~~ ~~Legal Authority Repealed~~

~~The Sanitarians' Council, a component of the Arizona Department of Health Services, pursuant to the authority granted in A.R.S. § 36-136.01, hereby adopts the following Regulations for the registration of sanitarians.~~

~~R9-16-401.~~ ~~Definitions~~

~~In Article 4, unless the context otherwise requires:~~

- ~~1. "Application packet" means a Council approved application form and the documentation necessary to establish an individual's qualifications for registration.~~
- ~~2. "Billet" means an individual's military job position, description, and number.~~
- ~~3. "Contact hour" means 60 minutes of participation in continuing education activities.~~
- ~~4. "Continuing education activities" means college or institute courses, seminars, lectures, conferences, and workshops or programmed learning courses related to sanitarian practice.~~
- ~~5. "Continuing education unit" means 10 contact hours of continuing education activities.~~
- ~~6. "Council" means the Sanitarians Council established under A.R.S. § 136.01(A).~~
- ~~7. "Course" means an organized subject matter in which instruction is offered within a given period of time and for which credit toward graduation or certification is given.~~
- ~~8. "Environmental health" means the well-being of humans that is affected or influenced by external conditions including: bacteria and viruses; transmitted diseases; hygiene; housing; and contamination of food, air, water, or soil.~~
- ~~9. "Full-time military duty" means active duty in any branch of the United States military.~~
- ~~10. "Good standing" means:
 - ~~a. The registration of a sanitarian is current;~~
 - ~~b. The sanitarian is not presently subject to any disciplinary action, consent order, or settlement agreement; and~~
 - ~~c. No disciplinary action, consent order, or settlement agreement is pending against the sanitarian.~~~~

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11. "Natural Sciences" means courses that include air pollution, anatomy, bacteriology, biochemistry, biology, botany, biophysics, biostatistics, cell physiology, chemical engineering, chemistry, community health, ecology, embryology, endocrinology, entomology, environmental health, environmental diseases, environmental law, epidemiology, food bacteriology, dairy sciences, genetics, geophysics, geology, hazardous waste, herpetology, histology, hydrogeology, hydrology, ichthyology, industrial hygiene, infectious diseases, limnology, microbiology, molecular biology, occupational safety, ornithology, parasitology, pathology, pharmacy, physics, physiology, plant taxonomy, public health, public health law, radiological health, sanitary engineering, sewage sanitation, soil science, toxicology, vector control, veterinary science, virology, or zoology.
12. "Person" has the same meaning as in A.R.S. § 1-215(27).
13. "Registered" means the approval issued by the Council to an individual who meets the requirements in A.R.S. § 36-136.01 and this Article.
14. "Sanitarian aide" means an individual employed in environmental health and is supervised by a registered sanitarian according to A.R.S. § 36-136.01 (F)(1) and this Article.

R9-16-402. Definitions Repealed

In Article 4, unless the context otherwise requires:

- a. "Continuing education unit" means ten contact hours of participation in an organized continuing education experience under responsible sponsorship, capable direction and qualified instruction. One contact hour is the equivalent of 50 minutes of classroom study.
- b. "Council" means the Sanitarians' Council established by the Director.
- e. "Department" means the Department of Health Services.
- d. "Director" means Director of the Department.
- e. "Registered sanitarian" means a sanitarian registered in accordance with provisions of A.R.S. § 36136.01.
- f. "Sanitarian aide" means a person who performs specific environmental sanitation activities under the supervision of a registered sanitarian pursuant to R9-16-409(B)(6) and R9-16-409(C). A high school education or its equivalent shall be the minimum educational qualifications for the sanitarian aide.
- g. "Sanitarian in training" means a person who:
 - i. Possesses the necessary education or experience required to become eligible for registration as a sanitarian in Arizona; and
 - ii. Has submitted evidence that he has been accepted to work in the field of environmental health by a health department, school, government agency or by private industry; and
 - iii. Has filed an application with the Council for registration as a sanitarian.
- h. "Training agency" means an institution, governmental agency, private business enterprise, or association which conducts a course or program of instruction which will qualify for continuing education credit pursuant to R9-16-413(E).

R9-16-402. Time-frames

- A.** In computing time-frames, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period does not include a Saturday, Sunday, or official state holiday. The period runs until the end of the next day which is not a Saturday, Sunday, or official state holiday.
- B.** The overall time-frame described in A.R.S. § 41-1072(2) for each type of approval granted by the Council is set forth in Table 1.
- C.** The administrative completeness review time-frame described in A.R.S. § 41-1072(1) for each type of approval granted by the Council is set forth in Table 1.
 1. The administrative completeness review time-frame begins:
 - a. When the Council receives an application packet required in R9-16-403 for approval to take the written sanitarian exam;
 - b. When the individual sits for the exam; or
 - c. When the Council receives an annual renewal form for approval of annual registration renewal.
 2. If the application packet is incomplete, the Council shall send a deficiency notice to the individual describing the missing document or incomplete information. The administrative completeness review time-frame and the overall time-frame are suspended from the postmark date of the notice until the date the Council receives a complete application packet from the individual. The time for the individual to respond to a deficiency notice begins to run on the postmark date of the deficiency notice.
 - a. The individual shall submit to the Council the information or the documentation listed in the deficiency notice within the time period specified in Table 1 for responding to a deficiency notice.
 - b. If the individual fails to provide the information or the documentation listed in the deficiency notice within the time period specified in Table 1, the Council shall consider the application packet withdrawn. The Council shall send the individual a notice of withdrawal and return the application packet to the individual.

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3. If the application packet is complete, the Council shall send a written notice of administrative completeness to the individual. The written notice shall include an approval to take an exam. If the Council grants a registration or approval during the time provided to access administrative completeness, the Council shall not issue a separate written notice of administrative completeness.
- D.** The substantive review time-frame described in A.R.S. § 41-1072(3) is set forth in Table 1 and begins to run on the post-mark date of the notice of administrative completeness.
 1. During the substantive review time-frame, the Council may make 1 comprehensive written request for additional information or documentation. The individual shall submit the additional information or documentation within the time period specified in Table 1. The time-frame for the Council to complete the substantive review of the application packet is suspended from the postmark date of the comprehensive written request for additional information or documentation until the Council receives the additional information or documentation.
 2. The Council shall send a written notice to the individual:
 - a. Approving the individual to take an exam; or
 - b. Granting a registration to an individual who meets the qualifications and requirements in A.R.S. § 36-136.01 and this Article.
 - c. Denying a registration to an individual who fails to meet the qualifications and requirements in A.R.S. § 36-136.01 and this Article.
 3. The notice of denial shall meet the requirements of A.R.S. § 41-1076.
 - a. The individual may request a hearing by filing a written request with the Council within 30 days of the postmark date of the Council's order of denial.
 - b. The Council shall conduct hearings in accordance with A.R.S. Title 41, Chapter 6, Article 10.
 4. If an individual fails to provide the information or documentation identified in the comprehensive written request within the time specified in Table 1, the Council shall consider the application withdrawn.
 5. An individual who does not wish to have an application withdrawn shall mail a written request to the Council within 10 days of the postmark date of the notice.

Table 1. Time-frames

<u>Type of Approval</u>	<u>Statutory Authority</u>	<u>Overall Time-frame</u>	<u>Administrative Completeness Time-frame</u>	<u>Time to Respond to Deficiency Notice</u>	<u>Substantive Review Time-frame</u>	<u>Time to Respond to Comprehensive Written Request</u>
<u>Exam (R9-16-403)</u>	<u>A.R.S. § 36-136.01(B)</u>	<u>60</u>	<u>30</u>	<u>30</u>	<u>30</u>	<u>120</u>
<u>Registration (R9-16-404)</u>	<u>A.R.S. § 36-136.01(B)</u>	<u>150</u>	<u>30</u>	<u>30</u>	<u>120</u>	<u>120</u>
<u>Annual Registration Renewal (R9-16-405)</u>	<u>A.R.S. § 36-136.01(C)</u>	<u>60</u>	<u>45</u>	<u>30</u>	<u>15</u>	<u>30</u>

R9-16-403. Exam

- A.** The Council shall provide an exam at least 4 times per calendar year.
- B.** An individual meeting any 1 of the requirements of A.R.S. § 36-136.01(F) is eligible to sit for an exam.
- C.** At least 60 days before an exam, an individual applying to sit for the exam shall:
 1. Submit an application form to the Council that contains:
 - a. The individual's full name and all former names;
 - b. The individual's current address and telephone number;
 - c. The individual's social security number;
 - d. If qualifying under A.R.S. § 36-136.01(F)(1) for experience:
 - i. The name of the individual's employer;
 - ii. The individual's position;
 - iii. The months and years of employment; and
 - iv. The name and telephone number of each individual who supervised the individual during the employment;

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- e. If qualifying under A.R.S. § 36-136.01(F)(2) for military duty:
 - i. The individual's billet;
 - ii. The months and years in billet; and
 - iii. The name and telephone number of each individual who supervised the individual during full-time military duty.
 - f. If qualifying under A.R.S. § 36-136.01(F)(3) for education in natural sciences:
 - i. The name and address of the college or university attended;
 - ii. The months and years of attendance;
 - iii. Any degree obtained;
 - iv. Each course in natural sciences completed with a grade of C or better;
 - g. Whether the individual has taken a sanitarians exam in the United States, including each date and results of each exam;
 - h. Whether the individual has previously filed an application for registration as a sanitarian in Arizona and date of application;
 - i. If the individual is currently registered, licensed, or certified or has been registered, licensed, or certified in another state or jurisdiction, the registration, license or certificate number, current registration, license, or certificate status, name, address, and type of facility where the individual served;
 - j. Whether the individual has had an application for a registration, license, or certificate denied or rejected by any state licensing authority including the:
 - i. Reason for denial or rejection;
 - ii. Date of the denial or rejection; and
 - iii. Name and address of the professional licensing agency that denied or rejected the application;
 - k. Whether the individual has ever had a registration, license, or certificate suspended or revoked by any state licensing authority or entered into a consent agreement with a state licensing authority including the following:
 - i. Reason for suspension or revocation;
 - ii. Date of the suspension or revocation; and
 - iii. Name and address of the professional licensing agency that suspended or revoked the registration, license, or certificate;
 - l. Whether the individual has ever been arrested, pled guilty to, or been convicted of, or entered into a plea of no contest to a felony or misdemeanor, that is related to the practice of sanitarians including the:
 - i. Charged felony or misdemeanor;
 - ii. Date of conviction;
 - iii. Court having jurisdiction over the felony or misdemeanor;
 - iv. Probation officer's name, address, and telephone number, if applicable;
 - v. Notice of expungement, if applicable; and
 - vi. Notice of restoration of civil rights, if applicable;
 - m. Whether the individual has ever been named in a civil/malpractice case relating to employment as a sanitarian, and an explanation of the circumstances;
 - n. The individual's current employer, including address, type of position, and dates of employment, if applicable; and
 - o. A sworn statement verifying the truthfulness of the information provided.
2. If qualifying under A.R.S. § 36-136.01(F)(1), arrange to have a letter from each individual who supervised the individual verifying at least 5 years of employment related to environmental health.
 3. If qualifying under A.R.S. § 36-136.01(F)(2), arrange to have a letter from each individual who supervised the individual verifying at least 5 years of full-time military duty in environmental health;
 4. If qualifying under A.R.S. § 36-136.01(F)(3), arrange to have an official college transcript provided from the college or university to the Council;
 5. Submit the required application fee in A.R.S. § 36-136.01(C); and
 6. Submit an exam fee of \$110 payable to the Treasurer of the State of Arizona.
- D.** An individual who fails the exam shall meet the requirements in R9-16-403(B) and R9-16-403(C) to sit for another exam.
- E.** The Council may fail an individual if the Council determines that cheating, fraud, deception, or improper conduct occurred on the part of the individual before or during the exam, or in connection with the application.
1. An individual has 30 days from the date of receipt of the failure notice to file a request for hearing with the Council for any of the reasons listed in R9-16-403(E).
 2. Hearings shall be conducted according to A.R.S. Title 41, Chapter 6, Article 10.

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R9-16-404. Registration

- A. An individual is eligible for registration if the individual scores at least 70% on the exam.
- B. The Council may deny registration of an individual if the Council determines that cheating, fraud, deception, or improper conduct occurred on the part of the individual before or during the exam, or in connection with an application, or for any reason.
 - 1. The Council shall notify an individual, in writing, for denying registration.
 - 2. An individual has 30 days from the date of receipt of this notice to file a request for hearing with the Council.
 - 3. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10.

~~R9-16-405. Reciprocity Repealed~~

- ~~A. The Council will issue a registration certificate without examination to an applicant who holds a current and valid certificate issued under laws or a voluntary certification program of any other state, territory or the District of Columbia, provided:
 - ~~1. The out-of-state certificate was issued as the result of successfully passing an examination developed by an examination service used by the Council for use by state or other governmental sanitarian registration agencies within the ten year period next preceding the date of application for current Arizona registration and;~~
 - ~~2. The applicant meets the requirements of A.R.S. § 36-136.01(G).~~~~
- ~~B. The Council may also issue a registration certificate without examination to an applicant who meets the requirements of A.R.S. § 36-136.01(G), if the examination which was successfully passed was substantially equivalent to the examination described in R9-16-408(B), but was taken prior to the ten year period preceding application, if proof of completion of ten contact hours of continuing education courses per year for the previous three years, is provided with the application. The continuing education courses used as the basis for registration through reciprocity must be substantially related to the field of environmental health.~~

R9-16-405. Annual Registration Renewal

- A. A registered sanitarian shall obtain 1 continuing education unit for renewal.
 - 1. A sanitarian registered between January 1 and June 30 shall comply with the requirements of this Section.
 - 2. A sanitarian registered between July 1 and December 31 is exempt from this Section in the 1st year of registration.
- B. A maximum of 1 continuing education unit may be accrued during any 1 calendar year for carryover in the following calendar year.
- C. A registered sanitarian shall submit an application for registration renewal on a form provided by the Council with the fee required in A.R.S. § 36-136.01(C), on or before February 15th. The individual shall sign and provide the following information on the application:
 - 1. The individual's full name and current address;
 - 2. Whether the individual has ever had a registration, license, or certificate suspended or revoked by any state licensing authority or entered into a consent agreement with a state licensing authority including the following:
 - a. Reason for suspension or revocation;
 - b. Date of the suspension or revocation; and
 - c. Name and address of the professional licensing agency that suspended or revoked the registration, license, or certificate;
 - 3. Whether the individual has been arrested, pled guilty to, or been convicted of, or entered into a plea of no contest to a felony or misdemeanor, that is related to the practice of sanitarians since last registered in Arizona or in another state including the:
 - a. Charged felony or misdemeanor;
 - b. Date of conviction;
 - c. Court having jurisdiction over the felony or misdemeanor;
 - d. Probation officer's name, address, and telephone number, if applicable;
 - e. Notice of expungement, if applicable; and
 - f. Notice of restoration of civil rights, if applicable;
 - 4. Whether the individual has ever been named in a civil/malpractice case relating to employment as a registered sanitarian, and an explanation of the circumstances surrounding the matter, if such has occurred;
 - 5. A sworn statement verifying the truthfulness of the information provided.
- D. The registered sanitarian shall provide a copy of the certificate issued for 1 continuing education unit during the current calendar year.
- E. If a registered sanitarian does not apply for annual renewal registration on or before February 15th, the sanitarian's certificate lapses. The sanitarian shall submit a new application for registration as required in R9-16-403(B) and (C).
- F. An individual denied a certificate may request a hearing to appeal the decision by filing the request, in writing, with the Council, no later than 30 days after receipt of the notice.

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R9-16-406. Application for Registration Repealed

- ~~A. Application forms for registration as a registered sanitarian can be obtained from the Department.~~
- ~~B. The application fee and the completed application forms must be received by the Department at least 30 days before the date fixed for the examination or for consideration by the Council when registration without examination is involved.~~
- ~~C. An affirmative vote by at least three members of the Council will be required to approve any registration.~~

R9-16-406. Change of Name or Address

- ~~A. A registered sanitarian shall notify the Council, in writing, within 30 days from the date of the sanitarian's name change.~~
- ~~B. A registered sanitarian shall notify the Council, in writing, within 30 days from the date of the sanitarian's mailing address change.~~

R9-16-407. Fees Repealed

- ~~A. All fees shall be made payable to the State of Arizona Sanitarians Fund.~~
- ~~B. A fee of \$40.00 shall accompany each application for initial registration as a sanitarian by examination or reciprocity. Where examination is required, this fee is non-returnable.~~
- ~~C. A fee of \$10.00 shall be submitted with a completed application form for the annual renewal of a registration certificate. Annual renewal fees are due and payable on December first. A published list of registered sanitarians will be issued on February 15. The names of those who have not paid the renewal fee prior to January first will be omitted from the published list. Reinstatement after a period of delinquency of 12 months or more shall be subject to the filing of a new application for registration, to the passing of a written examination, and to the payment of the \$40.00 application fee.~~

R9-16-407. Suspension or Revocation

- ~~A. A registration of a sanitarian may be suspended or revoked if the Council determines there is reasonable cause that the sanitarian committed any of the following acts:
 - ~~1. Been arrested, pled guilty to, been convicted of, or entered into a plea of no contest to a felony or misdemeanor that is related to the practice of sanitarians including the:
 - ~~a. Charged felony or misdemeanor;~~
 - ~~b. Date of conviction;~~
 - ~~c. Court having jurisdiction over the felony or misdemeanor;~~
 - ~~d. Probation officer's name, address, and telephone number, if applicable;~~
 - ~~e. Notice of expungement, if applicable; and~~
 - ~~f. Notice of restoration of civil rights, if applicable;~~~~
 - ~~2. Committed a crime related to activities as a registered sanitarian;~~
 - ~~3. Aided, abetted, or conspired with an unregistered person to evade provisions of this Article;~~
 - ~~4. Allowed an unregistered person to use the registered sanitarian's registration; or~~
 - ~~5. Violated the rules of this Article.~~~~
- ~~B. Upon examination of the evidence, the Council may, with or without stipulations, suspend or revoke the registration of a sanitarian. The Council shall notify the sanitarian, local health departments, and public health service districts that registration has been suspended or revoked by certified mail. The notice shall state all conditions for suspension or revocation.~~
- ~~C. A sanitarian whose registration has been suspended or revoked has 30 days from the date of receipt of the notice to request a hearing with the Council. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10.~~

R9-16-408. Examination Repealed

- ~~A. Only persons who meet the requirements set forth in A.R.S. § 36-136.01, Subsection G, shall be eligible for admission to examination for registration as a sanitarian.~~
- ~~B. Examinations for registration as a sanitarian will be administered not less than twice each calendar year, at such times and places in this State as may be specified by the Council. Such examinations will be written and will include such applicable subjects pertinent to the qualifications of a registered sanitarian as the Council may prescribe. The examination papers will not disclose the name of any applicant but will be identified by a number assigned by the Department. The preparation of the examination will be the responsibility of the Council, provided that the Council may at its discretion use material prepared by recognized examination agencies.~~
- ~~C. A person will not be registered if he fails to meet the minimum grade requirements for examination specified by the Council. If an applicant fails to meet such minimum grade requirements in his first examination, he may be re-examined at a regularly scheduled examination upon resubmitting his application accompanied by the prescribed fees, provided that no more than two re-examinations may be administered to any person in any four-year period.~~
- ~~D. The examination papers, and records pertaining thereto, will be filed with the Department and retained for at least four years.~~

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R9-16-408. Authority of Sanitarian

A. A registered sanitarian shall:

1. Act under 9 A.A.C. 8, Articles 1, 2, 3, 5, 6, 7, 8, 9, and 13;
2. Act under 9 A.A.C. 17, Article 2;
3. Sign inspection reports under 9 A.A.C. 8, Articles 1, 2, 3, 5, 6, 7, 8, 9, 13 and 9 A.A.C. 17, Article 2; and
4. Sign all inspection reports conducted by a sanitarian aide.

B. A sanitarian aide is not authorized under the provisions of R9-16-408(A).

R9-16-409. Registered sanitarian; examples of duties Repealed

A. ~~There is one class of sanitarian for registration purposes. This shall not be construed to prevent further classification by an employer of registered sanitarians for personnel administration purposes. A registered sanitarian may plan, organize, manage, implement and evaluate one or more program areas comprising the field of environmental health. Environmental program areas include, but are not limited to: food, beverage, and lodging sanitation; housing, water supply sanitation; land use; solid, liquid and hazardous waste disposal; insect, rodent and vermin control; epidemiology; accident prevention; swimming pool and public bathing facility sanitation; radiation safety; air and water quality; noise pollution; and institutional and industrial hygiene. In performing these activities, a registered sanitarian is involved in sanitation related community education, investigation, consultation, review of construction plans, collecting of samples, interpreting laboratory data, enforcement actions and development of regulations.~~

~~1. All registered sanitarians must be proficient in the following general duties:~~

- ~~a. Development and execution of one or more phases, or one or more activities, of an environmental health program.~~
- ~~b. Performance of responsible environmental health work in a health department, school, government agency or in private industry.~~
- ~~c. Conduct of investigations of potential environmental health problems and the preparation of suitable recommendations for their solutions.~~
- ~~d. Submission of reports of duties performed including evaluations and recommendations for improvement of programs.~~

~~2. A registered sanitarian may also:~~

- ~~a. Prepare and present environmental health information for teaching public health concepts.~~
- ~~b. Promote improvement in environmental health practice and enforcement of State laws and local ordinances through skillful presentation of facts to the public.~~
- ~~c. Supervise other registered sanitarians or sanitarian aides.~~

B. ~~The requirement of A.R.S. § 36-136.01 for registration do not apply to:~~

- ~~1. Any person teaching, lecturing or engaging in research in environmental health but only insofar as such activities are performed for academic purposes.~~
- ~~2. Any person who is a sanitary engineer, public health engineer, public health engineering assistant or registered professional engineer except when they are working as a sanitarian.~~
- ~~3. Any public health officer or public health department director pursuant to A.R.S. §§ 36-163 or 36-184.~~
- ~~4. Any person who holds an Arizona license to practice medicine and surgery or veterinary medicine.~~
- ~~5. Laboratory personnel when performing or supervising the performance of sanitation related laboratory functions.~~
- ~~6. Any person employed in environmental sanitation by a State or local governmental agency whose duties are restricted to inspection of one of the following:~~
 - ~~a. Air pollution control~~
 - ~~b. Barber shops~~
 - ~~c. Bedding~~
 - ~~d. Bees and honey~~
 - ~~e. Cosmetology shops~~
 - ~~f. Eggs~~
 - ~~g. Foster homes~~
 - ~~h. Grading, sampling and labeling of dairy products~~
 - ~~i. Grain warehouses~~
 - ~~j. Meat~~
 - ~~k. Pesticide applications~~
 - ~~l. Plumbing~~
 - ~~m. Public and semi-public bathing places~~
 - ~~n. Produce~~
 - ~~o. Septic tank installations~~

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7. A sanitarian in training for a period not to exceed one year. This exception does not apply to persons whose duties include a combination of those listed in R9-16-409(B)(6) or one of those listed in R9-16-409(B)(6) in combination with other duties related to environmental sanitation.

~~C. Sanitarian aides and sanitarians in training shall be directly supervised by a registered sanitarian in accordance with the following provisions:~~

- ~~1. No approval or disapproval for operation of a permitted establishment or regulated facility shall be granted.~~
- ~~2. All inspection reports shall be reviewed and co-signed by a registered sanitarian.~~
- ~~3. Permission to operate a regulated establishment shall be decided by the registered sanitarian reviewing the inspection reports.~~

R9-16-410. Denial of application for registration Repealed

~~A. The Council may deny an application for registration if the applicant has:~~

- ~~1. Made a false statement of fact in the application; or~~
- ~~2. Been convicted of a crime relating to the qualifications or activities as a registered sanitarian, unless clear and convincing evidence of completion of a rehabilitative course of therapy is presented; or~~
- ~~3. Committed an act of fraud or negligence resulting in a revocation or denial of an application for registration, within the past three years, unless clear and convincing evidence of retraining or other appropriate rehabilitation such as community service work is presented; or~~
- ~~4. Omitted the required information; or~~
- ~~5. Failed the examination or failed to qualify for the examination; or~~
- ~~6. Failed to obtain continuing education as required by R9-16-405(B) or R9-16-413.~~

~~B. Upon denial of an application for registration under this rule, the Council shall notify the applicant that the application is denied, stating:~~

- ~~1. The reason(s) for denial; and~~
- ~~2. That the applicant has the right to a hearing if written request for hearing is filed with the Director within the 15 days after service of the notice of denial. Service of notice of denial shall be made by certified mail, return receipt requested, addressed to the applicant at the latest address filed by the applicant in writing with the Council.~~

~~C. The Administrative Procedures Act (A.R.S. § 41-1001 et seq.) and the Department rules of practice and procedures (R9-1-111 et seq.) will govern all hearings required by this Article.~~

R9-16-411. Suspension and revocation of registration Repealed

~~A. The Council may recommend to the Director that disciplinary action be taken against the holder of a certificate or registration who commits any of the following acts:~~

- ~~1. Fraud or misrepresentation in obtaining a certificate, whether in the application or qualification examination;~~
- ~~2. Gross negligence, bribery or incompetence in the practice of the profession;~~
- ~~3. Aiding, abetting or knowingly conspiring with an unregistered person to evade provisions of this Article.~~
- ~~4. Allowing one's registration to be used by an unregistered person or acting as agent, partner, or associate of an unregistered person with intent to evade provisions of this Article.~~
- ~~5. Violating the rules of this Article.~~
- ~~6. Committing a crime related to activities as a registered sanitarian.~~

~~B. If a majority of the quorum of the Council find the holder of a certificate or registration has violated any of the provisions of R9-16-411(A), the Council may recommend to the Director, in writing, that the sanitarian be placed on probation, or the certificate be suspended or revoked.~~

~~C. The Council will notify the sanitarian of any such disciplinary recommendation by certified mail, return receipt requested, addressed to the sanitarian at the latest address filed by the sanitarian in writing with the Council.~~

~~D. If the Director decides to take disciplinary action against any sanitarian in accordance with the provisions of R9-16-411(B), there shall be a hearing conducted according to the provisions set forth in rule R9-1-101 et seq., unless waived in writing by the sanitarian.~~

~~E. Any orders for probation, suspension, or revocation imposed by the Director shall stipulate all requirements necessary to restore the sanitarian to regular status.~~

~~F. The Director shall immediately notify each county or city health department in the State of the suspension or revocation of a certificate or of the reissuance of a suspended or revoked certificate.~~

~~G. Decisions of the Director shall be subject to judicial review pursuant to A.R.S. Title 12, Chapter 7, Article 6.~~

R9-16-412. Re-registration Repealed

~~A. A sanitarian whose registration has been suspended for a period of time shall automatically be re-registered at termination of the period of suspension if all stipulations in the order of suspension have been met. If the period of suspension extends from one calendar year into the next, then the procedure for renewal as described in R9-16-407(C) shall be followed.~~

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B. A sanitarian who has had his or her registration revoked may apply to the Council for re-registration as a sanitarian. The application shall include substantial evidence that the sanitarian has completed a rehabilitative training course or therapy, or that the basis for revocation has been otherwise removed.

R9-16-413. Continuing education Repealed

- A.** Each registered sanitarian must complete at least one continuing education unit per calendar year to be eligible to apply for renewal of registration as a sanitarian. A maximum of one continuing education unit may be accrued during any one calendar year for carryover use during the following calendar year.
- B.** The continuing education unit must meet the following minimum criteria in order for credit to be given by the Council:
1. It is a course of study directly related to the responsibilities of a sanitarian in carrying out administrative, educational, investigational or technical duties in the field of environmental health;
 2. It must have a specific, written objective(s) which describes expected outcomes for the participant.
 3. It must be presented by a college or university accredited by an agency approved by the Council on Post-Secondary Accreditation or by a knowledgeable person(s) who has specialized training and experience in the subject being covered in the program.
 4. It must last at least one contact hour.
 5. It must utilize a mechanism to validate participation. This may include, but is not limited to, earned credits or verification of attendance.
 6. It incorporates course evaluation procedures for measuring the effectiveness of the program.
- C.** The Council may defer the continuing education requirement to allow certificate holders to practice if the applicant is able to show good cause why the continuing education requirements could not be timely met. The request for deferral must be enclosed with the application for renewal. The deferred contact hours must be completed during the year for which the license is issued. No more than one consecutive year of deferred continuing education shall be granted by the Council.
- D.** Certificates or other documentation of attendance or completion of continuing education activity must be submitted with each renewal application unless a deferral is requested:
1. A copy of a certificate or other documentation must have the subject or subject matter covered, the date or dates of attendance, the location of the activity, the number of contact hours completed while in attendance and signature of the registrant.
 2. It is the responsibility of the registered sanitarian to assure that required evidence of compliance with the continuing education requirements is submitted to the Council on forms provided by the Council.
 3. If a registered sanitarian attends a continuing education course which has not been approved by the Council, the registered sanitarian may request, at the time of registration renewal or before, that the course be approved for continuing education credit. For the Council to consider a request from a registered sanitarian to receive continuing education credit, the registered sanitarian must submit documentation to the Council which indicates that the course meets the requirements of this rule.
 4. The Council shall act on all requests for renewal of registration or approval of continuing education courses received from registered sanitarians under this rule within sixty days of receipt.
- E.** A training agency may apply to the Council for recognition of its courses as continuing education for registered sanitarians. Eligibility for specific continuing education units or fractions thereof will be determined by the Council in accordance with the criteria set forth in Subsection B. of this Section.

R9-16-414. Violations Repealed

Any person or agency who violates any provision of this Article is subject to the penalties provided by A.R.S. § 36-140.

NOTICE OF PROPOSED RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 24. DEPARTMENT OF HEALTH SERVICES

ARIZONA MEDICALLY UNDERSERVED AREA MEDICAL HEALTH SERVICES

PREAMBLE

1. Sections Affected

R9-24-101
R9-24-102
R9-24-111
R9-24-112
R9-24-113

Rulemaking Action

New Section
New Section
Repeal
Repeal
Repeal

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Article 2	Amend
R9-24-201	Repeal
R9-24-201	New Section
R9-24-202	Repeal
R9-24-202	New Section
R9-24-203	Repeal
R9-24-203	New Section
R9-24-204	Repeal
R9-24-204	New Section
R9-24-205	Repeal
R9-24-301	Renumber
R9-24-301	New Section
R9-24-302	Renumber
R9-24-302	Amend

2. 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), 36-136(F), and 36-2352

Implementing statutes: A.R.S. §§ 36-2352 and 36-2354

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

Notice of Rulemaking Docket Opening: 5 A.A.R. 4376, November 19, 1999

Notice of Rulemaking Docket Opening: 6 A.A.R. 1033, March 17, 2000

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

Name: Doug Hirano, Bureau Chief

Address: Arizona Department of Health Services
Bureau of Health Systems Development
1740 West Adams, Room 302
Phoenix, Arizona 85007

Telephone: (602) 542-1219

Fax: (602) 542-2011

E-Mail: dhirano@hs.state.az.us

OR

Name: Kathleen Phillips, Rules Administrator

Address: Arizona Department of Health Services
Office of Administrative Rules
1740 West Adams, Room 102
Phoenix, Arizona 85007

Telephone: (602) 542-1264

Fax: (602) 542-1090

E-Mail: kphilli@hs.state.az.us

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

A.R.S. § 36-2352 requires the Director of the Arizona Department of Health Services to designate medically underserved areas in the state ("Arizona medically underserved areas"). 9 A.A.C. 24, Articles 1 and 2 implement the statute by providing the criteria under which the Director makes the designation. The Director designates these areas according to federal designation as a health professional shortage area or using an index that measures the availability of services based on number of providers, the area's geographic location, the percentage of population living at or below a designated poverty level, the health needs of the area as determined by a number of factors, and other factors that may be indicative of medically underserved areas. The current rules are outdated and unnecessarily complicated and no longer fully comply with A.R.S. § 36-2352. The proposed rulemaking will bring the rules into compliance with A.R.S. § 36-2352, update the process and criteria used in designating Arizona medically underserved areas, clarify the rules, and bring the rules into compliance with current rulemaking format and style requirements.

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A.R.S. §§ 36-2353 and 36-2354 authorize the Department to assist Arizona medically underserved areas to recruit coordinating medical providers and to establish the functions of coordinating medical providers. Article 3 establishes these functions. The Department is amending Article 3 to conform to current rulemaking format and style requirements and to clarify the rule.

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

None

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

Not applicable

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

In 1994, the legislature completely changed the statutory criteria for designation of Arizona medically underserved areas (AzMUAs) so that a federally designated health professional shortage area (HPSA) receives automatic designation and the Department is required to designate other Arizona medically underserved areas by using an index to measure a set of indicators listed in the statute. The Department changed its program in 1994 to make the designation process consistent with the changes in statutory authority, but never changed its rules to reflect the new process. Thus, although the proposed rules for Articles 1 and 2 are a significant departure from the published rules, they do not deviate substantially from the Department's practice since 1994.

This economic impact summary thus focuses on the actual changes in Articles 1 and 2 resulting from this rulemaking, not the changes resulting from the change in agency practice that occurred in 1994 as a result of legislation. The proposed rules are designed to be consistent with current statutory authority, the *Administrative Procedure Act*, and current rulemaking format and style requirements.

The proposed rules for Articles 1 and 2 change the Department program by including all primary care areas in the primary care index (PCI) used to designate AzMUAs; adjusting the point scales for many of the criteria included in the PCI; setting the cut-off mark for AzMUA designation as a point score or percentage, whichever results in designation of more AzMUAs, rather than as a percentage alone; recognizing that Indian reservations do not have automatic HPSA designation; and adding time-frames and a deadline for the request for a primary care area boundary change.

The proposed rules for Article 3 add a definitions Section for the Article, clarify the existing rule, and conform the existing rule to current rulemaking format and style requirements.

The Department will incur a moderate cost for staff time to write, review, and process the rules through promulgation. The Department anticipates that the changes in the rules themselves will result in either no or a minimal additional burden on the Department. With the exception of the changes described above, the proposed rules reflect the current Department procedure. The Department anticipates that the changes will not result in any more staff time and resulting burden to the Department than does the current procedure.

The Office of the Secretary of State and the Governor's Regulatory Review Council will also bear minimal-to-moderate costs from the rulemaking process.

The Department does not anticipate that any other person will be directly burdened by the proposed rules.

It is possible that 1 or more primary care areas may lose AzMUA designation and that 1 or more primary care areas may be newly designated as AzMUAs as a result of the changes. Any primary care area that lost AzMUA designation as a result of the changes would potentially incur substantial costs, albeit indirectly, due to that loss of status. Likewise, any primary care area that became an AzMUA as a result of the changes would potentially be substantially benefited by that status, as would its residents, actual or prospective.

Areas that are designated AzMUAs potentially benefit substantially from that designation. The benefits are indirect, however, because persons within an AzMUA have to apply for the benefits that are available to areas with AzMUA status. For example, AzMUAs are eligible for funding from the Department for programs related to primary health care services and construction projects and are eligible for placement of physicians serving obligations under the Arizona Medical Student Loan Program (AMSLP). Being an AzMUA also makes an area eligible for health crisis fund monies if basic health services are unforeseeably disrupted and eligible for assistance in recruiting a coordinating medical provider (although this has never occurred). Finally, AzMUA status is a prerequisite for eligibility to establish a health service district under A.R.S. Title 48, Chapter 16, Article 1.

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Residents of AzMUAs that receive public funds or receive placement of AMSLP physicians benefit from expanded access to primary health care services at discounted rates. Also, primary care providers in private practice who agree to practice in rural AzMUAs are eligible for the rural private primary care provider loan repayment program (RPPC-PLRP).

Even prospective residents of AzMUAs potentially benefit substantially from the designation. For example, the AMSLP gives preference to students who are committed to serve in AzMUAs, and the University of Arizona College of Medicine gives priority to applicants who are willing to practice in AzMUAs.

The Department anticipates that the changes in the designation process will result in few changes in the areas designated as AzMUAs. The Department ran a primary care index using both the current methodology and the methodology proposed in the rule change. The result was that, out of 123 total primary care areas, 1 primary care area that would have been designated as an AzMUA using the current methodology would not be designated as an AzMUA under the proposed methodology, while 3 primary care areas that would not have been designated as AzMUAs using the current methodology would be designated as AzMUAs under the proposed methodology. Otherwise, the lists were identical. It is important to note that this is no more variation than the Department experiences year to year using the current methodology.

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

Name: Doug Hirano, Bureau Chief
Address: Arizona Department of Health Services
Bureau of Health Systems Development
1740 West Adams, Room 302
Phoenix, Arizona 85007
Telephone: (602) 542-1219
Fax: (602) 542-2011
E-Mail: dhirano@hs.state.az.us

OR

Name: Kathleen Phillips, Rules Administrator
Address: Arizona Department of Health Services
Office of Administrative Rules
1740 West Adams, Room 102
Phoenix, Arizona 85007
Telephone: (602) 542-1264
Fax: (602) 542-1090
E-Mail: kphilli@hs.state.az.us

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

The Department has scheduled the following oral proceeding:

Date: October 23, 2000
Time: 10:00 a.m.
Location: Conference Rooms A and B
Arizona Department of Health Services
1740 West Adams
Phoenix, Arizona 85007
Nature: Oral Proceeding

Written comments on the proposed rulemaking or the preliminary summary of the economic, small business, and consumer impact may be submitted until the close of record, October 23, 2000, at 5:00 p.m., to either individual listed in questions 4 and 9.

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

Not applicable

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

R9-24-201: Ambulatory Care Access Project, United Hospital Fund of New York, *Final Code Specifications for: "Ambulatory Care Sensitive" Conditions, "Referral Sensitive" Surgical and Medical Conditions, "Marker" Conditions* (July 30, 1991).

13. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

CHAPTER 24. DEPARTMENT OF HEALTH SERVICES

ARIZONA MEDICALLY UNDERSERVED AREA ~~MEDICAL~~ HEALTH SERVICES

ARTICLE 1. GENERAL

Sections

R9-24-101.	Reserved <u>Definitions</u>
R9-24-102.	Reserved <u>Time-frames</u>
R9-24-103.	Reserved
R9-24-104.	Reserved
R9-24-105.	Reserved
R9-24-106.	Reserved
R9-24-107.	Reserved
R9-24-108.	Reserved
R9-24-109.	Reserved
R9-24-110.	Reserved
R9-24-111.	Legal Authority <u>Repealed</u>
R9-24-112.	Designation <u>Repealed</u>
R9-24-113.	Definitions <u>Repealed</u>

ARTICLE 2. ~~CRITERIA~~ ARIZONA MEDICALLY UNDERSERVED AREAS

Sections

R9-24-201.	Geographic Units <u>Repealed</u>
<u>R9-24-201.</u>	<u>Definitions</u>
R9-24-202.	Out-of-state Resources <u>Repealed</u>
<u>R9-24-202.</u>	<u>Arizona Medically Underserved Area Designation</u>
R9-24-203.	Base Criteria <u>Repealed</u>
<u>R9-24-203.</u>	<u>Primary Care Index</u>
R9-24-204.	Supplementary Criteria <u>Repealed</u>
<u>R9-24-204.</u>	<u>Primary Care Area Designation</u>
R9-24-205.	Excluded Areas <u>Repealed</u>

ARTICLE 3. COORDINATING MEDICAL PROVIDERS

Sections

<u>R9-24-301.</u>	<u>Definitions</u>
R9-24-301 <u>R9-24-302.</u>	<u>Functions</u>

ARTICLE 1. GENERAL

R9-24-101. Reserved Definitions

In this Chapter, unless otherwise specified:

1. "Arizona medically underserved area" means a primary care area that is designated by the Secretary of United States Department of Health and Human Services as a health professional shortage area or that is designated by the Department using the methodology described in A.A.C. R9-24-203.
2. "Days" means calendar days, excluding the day of the act, event, or default from which a designated period of time begins to run and excluding the last day of the period if it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day that is not a Saturday, a Sunday, or a legal holiday.

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3. “Department” means the Arizona Department of Health Services.
4. “Health professional shortage area” means a geographic region designated by the Secretary of the United States Department of Health and Human Services under 42 U.S.C. § 254e as a primary medical care health professional shortage area.
5. “Nurse practitioner” has the same meaning as “registered nurse practitioner” in A.R.S. § 32-1601.
6. “Physician” has the same meaning as in A.R.S. § 36-2351.
7. “Physician assistant” has the same meaning as in A.R.S. § 32-2501.
8. “Primary care area” means a geographic region designated as a primary care area by the Department under A.A.C. R9-24-204.

R9-24-102. Reserved Time-frames

- A.** The overall time-frame described in A.R.S. § 41-1072 for a request for boundary change under A.A.C. R9-24-204 is 90 days. The person requesting a boundary change and the Department may agree in writing to extend the substantive review time-frame and the overall time-frame. An extension of the substantive review time-frame and the overall time-frame may not exceed 25% of the overall time-frame.
- B.** The administrative completeness review time-frame described in A.R.S. § 41-1072 for a request for boundary change under A.A.C. R9-24-204 is 30 days and begins on the date that the Department receives a request for boundary change.
1. The Department shall mail a notice of administrative completeness or deficiencies to the person requesting a boundary change within the administrative completeness review time-frame.
 - a. A notice of deficiencies shall list each deficiency and the information and documentation needed to complete the request for boundary change.
 - b. If the Department issues a notice of deficiencies within the administrative completeness review time-frame, the administrative completeness review time-frame and the overall time-frame are suspended from the date that the notice is issued until the date that the Department receives the missing information from the person requesting a boundary change.
 - c. If the person requesting a boundary change fails to submit to the Department all of the information and documents listed in the notice of deficiencies within 30 days from the date that the Department mailed the notice of deficiencies, the Department shall consider the request for boundary change withdrawn.
 2. If the Department issues an approval to the person requesting a boundary change during the administrative completeness review time-frame, the Department shall not issue a separate written notice of administrative completeness.
- C.** The substantive review time-frame described in A.R.S. § 41-1072 is 60 days and begins on the date of the notice of administrative completeness.
1. The Department shall mail written notification of approval or denial of the request for boundary change to the person requesting a boundary change within the substantive review time-frame.
 2. During the substantive review time-frame, the Department may make 1 comprehensive written request for additional information, unless the Department and the person requesting a boundary change have agreed in writing to allow the Department to submit supplemental requests for information.
 3. If the Department issues a comprehensive written request or a supplemental request for information, the substantive review time-frame and the overall time-frame shall be suspended from the date that the Department issues the request until the date that the Department receives all of the information requested. If the person requesting a boundary change fails to submit to the Department all of the information and documents listed in the comprehensive written request or supplemental request for information within 30 days from the date that the Department mailed the comprehensive written request or supplemental request for information, the Department shall deem the request for boundary change withdrawn.
 4. The Department shall approve a request for boundary change under A.A.C. R9-24-204 unless the Department determines that the resulting primary care area would not comply with A.A.C. R9-24-204(A).

R9-24-111. Legal Authority Repealed

The Arizona Department of Health Services, pursuant to the authority granted in Title 36, Chapter 24, particularly A.R.S. § 36-2352 and 36-2353, hereby adopts the Regulations in this Chapter.

R9-24-112. Designation Repealed

Pursuant to A. R. S. § 36-2352, the Department shall periodically designate medically underserved areas as part of the State Health Plan. Such designations shall be made in conjunction with authorized local agencies as defined in A.R.S. § 36-401, or their successor organizations. The Director, as empowered by A.R.S. § 36-124, may confer and cooperate with any or all other persons, organizations, or government agencies that have an interest in public health problems and needs in preparing and administering the State Health Plan, including the designation of medically underserved areas.

R9-24-113. Definitions Repealed

In Articles 1, 2 and 3 of this Chapter, unless the context otherwise requires:

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1. "Clinical laboratory" means a laboratory licensed pursuant to Title 36, Chapter 4.1, a laboratory of a hospital licensed by the State, or a laboratory which is operated by the Federal government.
2. "Civilian population" means the total resident population excluding active duty military personnel. Dependents of active duty military personnel are included in the civilian population.
3. "Coordinating medical provider" means a physician or group of physicians, or any combination thereof which has entered into an agreement with a county, incorporated city or town, health service district or the Department to supervise the medical care offered at a medical clinic.
4. "Current" means most recently available data.
5. "Direction" means authoritative policy or procedural guidance for the accomplishment of a function or activity.
6. "Director" means Director of the Department of Health Services.
7. "Full time equivalent primary care physician" means a primary care physician who spends at least 40 hours per week providing direct patient care or services, including related administrative duties, diagnosis and treatment and training provided to interns, residents, nurse practitioners, physician assistants, students and trainees while providing direct patient care and services. Each nurse practitioner or physician assistant providing at least 40 hours per week of direct patient care is considered equal to .5 full time equivalent primary care physician.
8. "General hospital" means a hospital which provides inpatient services, diagnostic and therapeutic, for a wide variety of medical conditions, both surgical and nonsurgical.
9. "Governing board" means the board of directors of health service district to be established pursuant to A.R.S. § 36-2368.
10. "Hospital" means a health care institution licensed as a hospital pursuant to Title 36, Chapter 4, or an institution performing similar functions which is operated by the Federal government.
11. "Infant death" means the death of a live born infant prior to the age of one year.
12. "Medical clinic" means a facility, whether mobile or stationary, which provides ambulatory medical care in a medically underserved area through the employment of physicians, nurses, physicians' assistants, nurse practitioners or other health care technical and paraprofessional personnel.
13. "Nurse practitioner" means a registered nurse certified by the Arizona State Board of Nursing to function in the extended role pursuant to Title 32, Chapter 15.
14. "Pharmacist" means a person registered as a pharmacist pursuant to Title 32, Chapter 18, or a person practicing as a pharmacist in a Federal health care institution.
15. "Pharmacy" means an establishment where prescription orders are compounded and dispensed by or under the direct supervision of a registered pharmacist and which is registered pursuant to Title 32, Chapter 18, or which performs similar functions as a Federally operated facility.
16. "Physician" means a person licensed pursuant to Title 32, Chapter 13 or 17, and shall include nonresident practitioners holding area permits pursuant to A.R.S. §§ 32-1426.01 or 32-1823.02, or a person practicing as a physician in a Federal institution.
17. "Physician assistant" means any person certified by the Joint Board of Medical Examiners and Osteopathic Examiners in Medicine and Surgery as a physician's assistant.
18. "Premature birth" means the live birth of an infant weighing 2500 grams (5 1/2 pounds) or less at birth.
19. "Primary care physician" means a general practitioner, family practitioner, internist, obstetrician, obstetrician-gynecologist, or pediatrician.
20. "Registered nurse" means a person licensed pursuant to Title 32, Chapter 15, or a person practicing as a registered nurse in a Federal health care institution.
21. "Supervision" means direct overseeing and inspection of the act of accomplishing a function or activity.
22. "Visit" means a physician-patient encounter involving direct service to the patient excluding phone visits.

ARTICLE 2. CRITERIA ARIZONA MEDICALLY UNDERSERVED AREAS

R9-24-201. Geographic Units Repealed

- A.** Geographic units in this Section apply to R9-24-203, Base Criteria, and R9-24-204, Supplementary Criteria, for the purpose of designating medically underserved areas. The geographic units are the Fort Apache, Hopi, Navajo, Papago and San Carlos Indian reservations and each of the counties, with the following modifications:
1. County boundaries are modified to exclude areas within the five Indian reservations listed above.
 2. Each of the Indian reservations listed above will be considered for designation in its entirety except the Navajo. The Navajo Reservation shall be divided along county lines, and each of the three resulting areas shall be considered individually for designation.
 3. The Hopi-Navajo Joint Use Area is included in the Navajo Reservation and excluded from the Hopi Reservation.
 4. The Gila Bend Indian Reservation in Maricopa County is included in the Papago Reservation and excluded from Maricopa County.

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5. ~~The Gila River Indian Reservation in Maricopa County, Census Tract 6232, is included with Pinal County and excluded from Maricopa County.~~
- B.** ~~For counties other than Pima and Maricopa, the only areas to be considered for designation are entire counties, modified along Indian reservation lines as described above, minus each community or group of closely located communities which have civilian populations of 5,000 or more and which have 100 percent or more of their estimated demand met for primary care physicians.~~
- C.** The following groups of 1970 U.S. Census Tracts in Maricopa County are considered separately for designation:
1. ~~Census Tracts 405, the Wickenburg Division.~~
 2. ~~Census Tracts 506 and 507, the Buckeye Division.~~
 3. ~~Census Tract 7233, the Gila Bend Division, less the Indian reservation areas allocated to the Papago.~~
 4. ~~Census Tracts 608-614, 715-719, 820-822 and 932-931, Sun City, Luke Air Force Base, Avondale, and vicinity.~~
 5. ~~Census Tracts 303, 1036-1047 and 1052-1063, north central Maricopa County, including portions of north Phoenix.~~
 6. ~~Census Tracts 101, 202, 304, 1032-1035, 1048-1051, 1079-1083, 1110-1113, 1137, 2168-2183 and 3184-3186, north-east Maricopa County, including Scottsdale and portions of northeast Phoenix.~~
 7. ~~Census Tracts 1068-1073, 1090-1103, 1120-1128 and 1144-1147, the west Phoenix and Glendale area.~~
 8. ~~Census Tracts 1064-1067, 1074-1078, 1084-1089, 1104-1109, 1114-1119, 1129-1136, 1138-1143 and 1148-1151, central Phoenix.~~
 9. ~~Census Tracts 1152-1167, south Phoenix and vicinity.~~
 10. ~~Census Tracts 3187-3200, Tempe and vicinity.~~
 11. ~~Census Tracts 4201-4226 and 5227-5231, southeast Maricopa County, including Mesa.~~
- D.** ~~In addition to the Papago Reservation, the following groups of 1975 U.S. Census Tracts in Pima County are considered separately for designation:~~
1. ~~Census Tracts 4403-4405, the Marana Division.~~
 2. ~~Census Tracts 4603-4606 and 4705-4707, the Catalina Division.~~
 3. ~~Census Tracts 4016-4019, the Tanque Verde Division.~~
 4. ~~Census Tract 4102, the Benson Highway Division.~~
 5. ~~Census Tracts 4302 and 4303, the Arivaca Division.~~
 6. ~~Census Tracts 4900 and 5000, western Pima County, including Ajo.~~
 7. ~~The balance of the county, representing the Tucson metropolitan area.~~

R9-24-201. Definitions

In this Article, unless otherwise specified:

1. “Ambulatory care sensitive conditions” means the illnesses listed as ambulatory care sensitive conditions in Ambulatory Care Access Project, United Hospital Fund of New York, Final Code Specifications for “Ambulatory Care Sensitive” Conditions, “Referral Sensitive” Surgical and Medical Conditions, “Marker” Conditions (July 30, 1991), which is incorporated by reference, on file with the Department and the Office of the Secretary of State, and available from United Hospital Fund, 350 Fifth Avenue, 23rd Floor, New York, NY 10118-2399. This incorporation by reference contains no future editions or amendments.
2. “Birth life expectancy” means the average life span at the time of birth as published in the most recent United States Life Tables by the National Center for Health Statistics.
3. “Family unit” means:
 - a. A group of individuals residing together who are related by birth, marriage, or adoption; or
 - b. An individual who does not reside with any individual to whom the individual is related by birth, marriage, or adoption.
4. “Full-time” means providing primary care services for at least 40 hours during the 7-day period between Sunday at 12:01 a.m. and Saturday at 12:00 a.m.
5. “Hospital” has the same meaning as in A.R.S. § 36-2351.
6. “HPSA” means health professional shortage area.
7. “Low weight birth” means live birth of an infant weighing less than 2,500 grams or 5 pounds, 8 ounces.
8. “Mobility limitation” has the same meaning as in the most recent decennial census published by the United States Census Bureau.
9. “Office of Vital Records” means the office of the Department that prepares, publishes, and disseminates vital records as defined in A.R.S. § 36-301.
10. “Population” means the total of permanent residents, according to the most recent decennial census published by the United States Census Bureau or according to the most recent Population Estimates for Arizona’s Counties and Incorporated Places published by the Arizona Department of Economic Security.
11. “Poverty level” means the annual income for a family unit of a particular size in the poverty guidelines updated annually in the Federal Register by the United States Department of Health and Human Services.

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12. “Primary care index” means the document in which the Department designates primary care areas as medically underserved by using the methodology described in A.A.C. R9-24-203.
13. “Primary care provider” means a physician, physician assistant, or nurse practitioner providing direct patient care in general or family practice, general internal medicine, pediatrics, or obstetrics and gynecology.
14. “Primary care services” means health care provided by a primary care provider.
15. “Self-care limitation” has the same meaning as in the most recent decennial census published by the United States Census Bureau.
16. “Work disability” has the same meaning as in the most recent decennial census published by the United States Census Bureau.

R9-24-202. Out-of-state Resources Repealed

In designating medically underserved areas, the Department may take into account resources located outside the State which are accessible to Arizona residents and which fall within the limits established by individual criteria and standards described in R9-24-203 and R9-24-204.

R9-24-202. Arizona Medically Underserved Area Designation

The Department shall designate as Arizona medically underserved areas those primary care areas designated as HPSAs by the Secretary of Health and Human Services and those primary care areas identified as medically underserved by the primary care index described in A.A.C. R9-24-203.

R9-24-203. Base Criteria Repealed

- ~~A. All areas are considered for designation first on the basis of percent demand met for primary care physicians.~~
- ~~B. An area having 85 percent or less of its estimated demand met for primary care physicians shall be designated as medically underserved by the Department.~~
- ~~C. The method utilized to determine percent demand met is as follows:
 1. ~~Data required:
 - a. ~~Population subgroups—age by sex civilian population breakdown for each area to be considered.~~
 - b. ~~Subgroup utilization rates—age by sex breakdown for average annual visits to all physicians.~~
 - c. ~~Percents primary care visits—percent of total visits made to primary care physicians.~~
 - d. ~~Primary care physician productivity—average annual number of visits per full time equivalent primary care physician.~~
 - e. ~~Primary care physicians—total full time equivalents for each area to be considered. The Department may take into account local information regarding practices restricted to specific population subgroups, age and health status of physicians, stated intent of local physicians regarding expansion or reduction of practices, and other relevant factors when computing the full time equivalent primary care physician total for each area.~~~~
 2. ~~Computation of percent demand met:
 - a. ~~Compute total visits for the area’s population. Multiply each population subgroup in the area by the subgroup utilization rate. Add the age/sex specific products to obtain total visits for the area.
 - i. ~~Total Visits = Sum of (Population Subgroup x Subgroup Utilization Rate).~~~~
 - b. ~~Compute primary care visits for the area’s population. Multiply total visits by percent primary care visits.
 - i. ~~Primary Care Visits = Total Visits x Percent Primary Care Visits.~~~~
 - c. ~~Compute demand for full time equivalent primary care physicians. Divide primary care visits by primary care physician productivity.
 - i. ~~Demand Primary Care Visits/Primary Care Physician Productivity.~~~~
 - d. ~~Compute percent demand met for primary care physicians. Divide total full time equivalent primary care physicians for the area by demand, and multiply times 100.
 - i. ~~Percent Demand Met = (Primary Care Physicians/Demand) x 100.~~~~~~~~

R9-24-203. Primary Care Index

- ~~A. Using the criteria in subsection (B), the Department shall generate a primary care index to designate primary care areas as Arizona medically underserved areas.
 1. ~~The Department shall calculate the value for each criterion as described in subsection (B).
 - a. ~~After calculating the value for each criterion, the Department shall determine the points to be assigned to each value as shown in Table 1.~~
 - b. ~~The total score for each primary care area is the sum of:
 - i. ~~The points that the primary care area received for each criterion.~~
 - ii. ~~The supplementary criteria score, and~~
 - iii. ~~Any additional points for the sole provider or no provider score.~~~~~~~~

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2. The Department shall designate as Arizona medically underserved areas those primary care areas that score within the top 25% or that have point totals greater than or equal to 55, whichever results in the designation of more Arizona medically underserved areas.
- B.** The primary care index shall include a score for each of the following criteria for each primary care area:
1. Population-to-primary-care-provider ratio, determined by dividing the population of the primary care area by the number of primary care providers in the primary care area, using population figures from the most recent decennial census published by the United States Census Bureau and the most recent Population Estimates for Arizona's Counties and Incorporated Places published by the Arizona Department of Economic Security and primary care provider data from the Board of Medical Examiners, the Board of Osteopathic Examiners, the Arizona State Board of Nursing, and the Joint Board on the Regulation of Physician Assistants, and counting 1 full-time physician as 1.0 and 1 full-time physician assistant or nurse practitioner as .8;
 2. Travel distance to the nearest primary care provider, determined by estimating the distance in miles from the center of the most densely populated area to the nearest primary care provider by the most direct street route;
 3. Composite transportation score, determined by:
 - a. Compiling data on the following 6 indicators using the most recent decennial census published by the United States Census Bureau:
 - i. Percentage of population with annual incomes below 100% of the poverty level;
 - ii. Percentage of population over 65 years of age;
 - iii. Percentage of population under 14 years of age;
 - iv. Percentage of population that has a work disability, mobility limitation, or self-care limitation;
 - v. Percentage of population without a vehicle; and
 - vi. The noncommercial-vehicle-to-population ratio;
 - b. Calculating the statewide average value for each of the 6 indicators;
 - c. Dividing the value of each indicator for each primary care area by the statewide average value for that indicator;
 - d. Multiplying the figure calculated under subsection (B)(3)(c) for each indicator by 100; and
 - e. Averaging the 6 indicator values for each primary care area;
 4. Percentage of population with annual incomes at less than 200% of the poverty level, as reported in the most recent decennial census published by the United States Census Bureau;
 5. Percentage of population with annual incomes between 100% and 200% of the poverty level, as reported in the most recent decennial census published by the United States Census Bureau;
 6. Percentage of births uninsured, determined from the percentage of Office of Vital Records birth records reporting payment source as "self-pay" or "unknown";
 7. Ambulatory care sensitive condition hospital admissions, based on the number of hospital admissions for ambulatory care sensitive conditions per 1000 resident individuals aged 65 years or younger, determined from hospital discharge record data provided by the Bureau of Public Health Statistics;
 8. Percentage of low weight births, determined from data provided by the Office of Vital Records;
 9. Sum of the percentage of births for which the mothers reported having no prenatal care or commencing prenatal care in the 2nd or 3rd trimester and the percentage of births for which the mothers reported having 4 or fewer prenatal care visits, determined from data provided by the Office of Vital Records;
 10. Percentage of deaths at ages younger than the birth life expectancy, determined from the birth life expectancy and data provided by the Office of Vital Records;
 11. Number of infant mortalities per 1000 live births, determined from data provided by the Office of Vital Records;
 12. The supplementary criteria score, determined by assigning 2 points for each of the following indicators:
 - a. Percentage of minority population higher than the statewide average for all counties, determined from data in the most recent decennial census published by the United States Census Bureau;
 - b. Percentage of elderly population higher than the statewide average for all counties, determined from data in the most recent Population Estimates for Arizona's Counties and Incorporated Places published by the Arizona Department of Economic Security and from data in the most recent decennial census published by the United States Census Bureau; and
 - c. Average annual unemployment rate higher than the average annual statewide rate, determined from data in the most recent annual report issued by the Arizona Department of Economic Security; and
 13. The sole provider or no provider score, determined by assigning 5 points if the primary care area has only 1.0 or less than 1.0 primary care provider, counting 1 full-time physician as 1.0 and 1 full-time physician assistant or nurse practitioner as .8.
- C.** The Department shall generate a primary care index every 12 months to determine Arizona medically underserved area designations. The Department shall withdraw designation, continue designation, or designate a new Arizona medically underserved area based on the criteria in subsections (A) and (B). The Department shall publish and keep on file a list of current Arizona medically underserved areas.

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Table 1. Primary Care Index Scoring

<u>CRITERIA</u>	<u>VALUE RANGE</u>	<u>POINTS</u>
<u>Population-to-primary-care-provider ratio</u>	< 2000:1 2001:1 to 2500:1 2501:1 to 3000:1 3001:1 to 3500:1 3501:1 to 4000:1 > 4000:1 or no provider	0 2 4 6 8 10
<u>Travel distance to nearest primary care provider</u>	< 15.0 miles 15.1-25.0 miles 25.1-35.0 miles 35.1-45.0 miles 45.1-55.0 miles > 55.0 miles	0 2 4 6 8 10
<u>Composite transportation score</u>	10 highest scores 11th-20th highest scores 21st-30th highest scores 31st-40th highest scores 41st-50th highest scores below 50th highest score	10 8 6 4 2 0
<u>Percentage of population with annual income less than 200% of poverty level</u>	< 15.0% 15.1-25.0% 25.1-35.0% 35.1-45.0% 45.1-55.0% >55.0%	0 2 4 6 8 10
<u>Percentage of population with annual income between 100% and 200% of poverty level</u>	< 10.0% 10.1-15.0% 15.1-20.0% 20.1-25.0% 25.1-30.0% > 30.0%	0 2 4 6 8 10
<u>Percentage of uninsured births</u>	< 6.0% 6.1-10.0% 10.1-14.0% 14.1-18.0% 18.1-22.0% >22.0%	0 2 4 6 8 10
<u>Ambulatory care sensitive condition hospital admissions</u>	< 8.0 8.1-12.0 12.1-16.0 16.1-20.0 20.1-24.0 ≥ 24.0	0 2 4 6 8 10
<u>Percentage of low weight births</u>	< 6.0% 6.1-8.0% 8.1-10.0% 10.1-12.0% 12.1-14.0% >14.0%	0 2 4 6 8 10

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<u>Sum of percentage of births with no prenatal care or prenatal care begun in 2nd or 3rd trimester and percentage of births with prenatal care visits < 4</u>	< 15.0%	<u>0</u>
	15.1-25.0%	<u>2</u>
	25.1-35.0%	<u>4</u>
	35.1-45.0%	<u>6</u>
	45.1-55.0%	<u>8</u>
	>55.0%	<u>10</u>
<u>Percentage of deaths at ages younger than birth life expectancy</u>	< 40.0%	<u>0</u>
	40.1-50.0%	<u>2</u>
	50.1-60.0%	<u>4</u>
	60.1-70.0%	<u>6</u>
	70.1-80.0%	<u>8</u>
	>80.0%	<u>10</u>
<u>Number of infant mortalities per 1000 live births</u>	< 4.0	<u>0</u>
	4.1-6.0	<u>2</u>
	6.1-8.0	<u>4</u>
	8.1-10.0	<u>6</u>
	10.1-12.0	<u>8</u>
	>12.0	<u>10</u>
<u>Supplementary criteria score</u>	<u>1 Criterion</u>	<u>2</u>
	<u>2 Criteria</u>	<u>4</u>
	<u>3 Criteria</u>	<u>6</u>
<u>Sole provider or no provider score</u>	<u>primary care provider < 1.0</u>	<u>5</u>

~~R9-24-204: Supplementary Criteria Repealed~~

- ~~A. Areas which do not meet the primary care physician percent demand met standard described in R9-24-123 but which obtain percent demand met scores from 86 percent through 99 percent shall be designated if they qualify according to the supplementary criteria described in this Section. Supplementary criteria are to be used solely for the purpose of designating medically underserved areas; they do not constitute standards for evaluating the delivery of medical services.~~
- ~~B. An area eligible for consideration for designation according to the supplementary criteria shall be designated medically underserved by the Department if it obtains a score of 6 points or more. Scores are determined by assigning points to the area for qualifying according to specific criteria. Points to be assigned are listed below:~~

POINTS	CRITERIA
2	Infant Mortality Rate
2	Accidental Death Rate
2	Motor Vehicle Accident Rate (involving injury or death)
2	Emergency Services
2	Emergency Transportation
1	Premature Birth Rate
1	Availability of Pharmacists and/or Pharmacy Services
1	Availability of Nurses
1	Availability of Hospital Facilities
1	Availability of Clinical Laboratory Services
1	Scheduled, Routine Patient Transportation Services

~~C. Definitions, standards and method of determination for the eleven supplementary criteria follow:~~

- ~~1. "Infant mortality rate".~~
 - ~~a. An area having an infant mortality rate greater than the current state or national rate, whichever is less, shall receive two points toward designation.~~
 - ~~b. Computation of infant mortality rate.~~
 - ~~i. Infant mortality rate = (Infant deaths/live births) x 1000.~~
 - ~~ii. Infant deaths and live births in the above equation are composed of data from the most recent five years for which both infant death and live birth information are available by place of residence.~~
 - ~~iii. The infant mortality rate is computed to the nearest tenth.~~

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- iv. Infant mortality rates shall be computed for each Indian reservation area to be considered for separate designation, and for counties modified by Indian reservation boundaries. Rates for subareas within Maricopa and Pima Counties shall be the county rates except when the numbers of infant deaths and live births in subareas are sufficiently large that the addition of five infant mortality rate no greater than 5 percent.
2. "Accidental death rate".
- a. An area having an accidental death rate greater than the current state or national rate, whichever is less, shall receive two points toward designation.
 - b. Computation of accidental death rate.
 - i. $\text{Accidental death rate} = (\text{Accidental deaths} / \text{total population}) \times 100,000$.
 - ii. Accidental deaths shall be aggregated by location of accident, not by residence of deceased.
 - iii. The accidental death rate is computed to the nearest tenth.
 - iv. Accidental deaths in the above equation are composed of data from the most recent five years for which both accidental death and total population data are available.
 - v. Because of data availability, rates may be computed only for counties and counties minus any of the following twelve communities which may be in that county: Kingman, Glendale, Phoenix, Mesa, Scottsdale, Tempe, Tucson, Flagstaff, Yuma, Douglas, Prescott and Chandler.
 - vi. Rates for counties modified by reservation boundaries shall be the county rate computed after removing data for any of the twelve communities which have 100 percent or more of their demand met for primary care physicians. Rates for Indian reservations shall be an aggregation of county rates minus all communities' rates for those counties in which the reservation is located. The county rates shall be aggregated by weighting each county rate by the proportion of the total reservation population which resides in the county.
3. "Rates for motor vehicle accidents involving injury or death".
- a. An area having a motor vehicle accident rate involving either injury or death greater than the current state or national rate, whichever is less, shall receive two points toward designation.
 - b. Computation of motor vehicle accident rate.
 - i. Using the following formula, two separate rates are computed: one for accidents involving injury, and the other for accidents involving death. Vehicle miles shall be identical for both computations.
 - ii. $\text{Rate} = (\text{Motor vehicle accidents} / \text{vehicle miles}) \times 100 \text{ million}$.
 - iii. Motor vehicle accidents in the above equation are composed of data from the most recent two years for which motor vehicle accidents involving injury, motor vehicle accidents involving death and vehicle mile data from each area are available.
 - iv. The motor vehicle accident rate is computed to the nearest tenth.
 - v. Because motor vehicle mile data are currently available only for counties, rates for counties modified by reservation boundaries shall be the county rates. Rates for Indian reservations shall be computed by aggregating the county rates for those counties in which the reservation is located and weighting each county rate by the proportion of the reservation population residing in that county.
4. "Emergency services".
- a. An area whose center of population is greater than 20 miles from the closest emergency services available on call shall receive two points towards designation.
 - b. For purposes of this criterion, emergency services include, but are not limited to, hospital emergency rooms, outpatient centers, police and fire rescue units, ambulances staffed by emergency personnel, and primary care physician, nurse practitioner or physician assistant offices, if these services are available on call and provided to the general public.
5. "Emergency transportation".
- a. An area whose center of populations is greater than 35 miles from the closest source of emergency transportation available on a 24 hour per day basis shall receive two points towards designation.
 - b. For purposes of this criterion, emergency transportation includes, but is not limited to, ambulances staffed by trained emergency personnel, police and fire department rescue units and air evacuation services if available on a 24 hour per day basis and provided to the general public.
6. "Premature birth rate".
- a. An area having a premature birth rate greater than the current state or national rate, whichever is less, shall receive one point towards designation.
 - b. Computation of premature birth rate.
 - i. $\text{Premature birth rate} = (\text{Premature births} / \text{live births}) \times 1000$.
 - ii. Premature births in the above equation are composed of data from the most recent five years for which both premature birth and live birth data are available by mothers' place of residence.
 - iii. The premature birth rate is computed to the nearest tenth.

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- iv. Premature birth rates shall be computed for each major Indian reservation and county modified by an Indian reservation. Rates for subareas within Maricopa and Pima Counties shall be the county or reservation rates, except when the number of premature births and live births in the subarea are sufficiently large that the addition of five premature births to the sum of premature births produces a change in the premature birth rate no greater than 5 percent.
- 7. "Availability of pharmacists and/or pharmacy services":
 - a. For purposes of this criterion, an urban area shall be defined as any of those areas listed under R9-24-121, Subsection C. Paragraphs 4-11 and Subsection D. Paragraph 7, and a rural area shall be defined as any other geographic area listed under R9-24-121.
 - b. An urban area whose center of population is greater than five miles from the closest active pharmacist or pharmacy services provided to the general public during regular business hours shall receive one point towards designation.
 - c. A rural area containing any community of 5,000 or more population, which community's center of population is greater than five miles from the closest active pharmacist or pharmacy services provided to the general public during regular business hours, shall receive one point towards designation. For rural areas containing no community of 5,000 or more the five mile standard shall be applied to the largest community within the area.
- 8. "Availability of registered nurses". An area which contains any location currently listed as a "Shortage Area Designated for Repayment for Service as a Registered Nurse" by the Federal government (42 CFR Part 57, Subpart D, and revisions) shall receive one point towards designation.
- 9. "Availability of general hospitals". An area whose center of population is greater than 55 miles from the nearest general hospital which provides emergency services to the general public shall receive one point towards designation.
- 10. "Availability of clinical laboratories". An area whose center of population is greater than 75 miles from the nearest clinical laboratory shall receive one point towards designation.
- 11. "Scheduled, routine patient transportation services":
 - a. An area which does not have available to it scheduled, routine patient transportation services at least twice weekly shall receive one point towards designation.
 - b. For purposes of this criterion, scheduled, routine patient transportation services includes any public or private transportation except taxi service which the general public may use for nonemergency travel to and from health care facilities within a 16-hour period. Transportation services provided by volunteer groups are included if their services are provided to all members of the general public who have no other means of travel to health facilities available to them.

R9-24-204. Primary Care Area Designation

- A.** The Department shall designate primary care areas within the state that meet the following criteria:
 - 1. Each primary care area shall not be smaller than the smallest unit of census geography used on the most recent decennial census published by the United States Census Bureau; and
 - 2. The boundaries of each primary care area shall be consistent with the utilization patterns of its population for primary care services, determined by considering:
 - a. Topography;
 - b. Social, cultural, and geopolitical boundaries;
 - c. Travel patterns for the geographic area; and
 - d. Data from local planning personnel, government officials, health organizations, primary care providers, and residents of the geographic area about the type, amount, and location of primary care services used by the population.
- B.** The Department shall consider the following additional factors in determining the boundaries of each primary care area:
 - 1. Boundaries of Indian Reservations; and
 - 2. Boundaries of HPSAs.
- C.** Local planning personnel, government officials, health organizations, primary care providers, or residents of a primary care area may submit to the Department a request to change the boundaries of a primary care area.
 - 1. The request shall be made in writing and shall include documentation to support the boundary change. The request shall be submitted by October 1 to be considered for inclusion in the designation process for the following calendar year.
 - 2. The time-frames for the request for change of boundaries are set forth in A.A.C. R9-24-102.

R9-24-205. Excluded Areas Repealed

Areas with a percent demand met score of 100 percent or greater and areas not qualifying according to the criteria described in R9-24-203 or R9-24-204 shall not be designated as medically underserved by the Department.

ARTICLE 3. COORDINATING MEDICAL PROVIDERS

R9-24-301. Definitions

In this Article, unless otherwise specified:

1. “CMP” means coordinating medical provider, as defined in A.R.S. § 36-2351.
2. “Medical clinic” has the same meaning as in A.R.S. § 36-2351.
3. “Medical personnel” means physicians, physician assistants, nurse practitioners, and nurses of a medical clinic.
4. “Nurse” means an individual licensed as a graduate, professional, or registered nurse or as a practical nurse under A.R.S. Title 32, Chapter 15.
5. “Support services” means drug prescription services, social services, and provision of durable medical equipment.

~~**R9-24-301**~~ **R9-24-302. Functions**

- A. ~~In addition to conforming to all other related Arizona statutory and regulatory requirements, the coordinating medical provider~~ A CMP shall:
1. ~~Be directly involved in planning for the delivery of medical services within the Arizona medically underserved area covered by the agreement.;~~
 2. ~~Assure~~ Ensure access to medical and support services, either directly or by referral, for the residents of the ~~medically underserved~~ Arizona medically underserved area.;
 3. ~~In conjunction with the nurse practitioners and physician assistants under his direction, develop~~ Develop written protocols ~~which outline that identify areas for in which nurse practitioners and physician assistants under the CMP’s supervision may use independent judgment on the part of the nurse practitioners and the physician assistants.;~~
 4. ~~Have final approval in the selection of nurse practitioners and physician assistants working under his direction~~ the CMP’s supervision.;
 5. ~~Have authority over and responsibility for the medical direction of all nurse practitioners and physician assistants under his direction~~ the CMP’s supervision.;
 6. ~~Arrange to evaluate~~ Evaluate medical care provided by nurse practitioners and physician assistants under ~~his direction~~ the CMP’s supervision through face-to-face contact at least ~~four times once per month~~ week.;
 7. ~~Recommend specific areas of medical education, including instruction in referral sources, and shall schedule coverage to allow for the continuing medical education of all nurse practitioners and physicians assistants under his direction~~ medical personnel at the medical clinic; and
 8. ~~Meet at least annually with the governing board~~ organization that owns and operates the medical clinic to evaluate the program and ~~to devise methods to maximize the efficiency and improve the quality of the medical care provided by the medical personnel of the medical clinic.~~
- B. ~~Nothing in these requirements is intended to contradict the minimum requirements for nurse practitioners, physician assistants and physicians required by Arizona law and regulation. These requirements may supplement the basic ones requirements of Arizona statutes and rules for licensure, but in no case are they~~ These requirements are not intended to reduce or eliminate ~~replace~~ other requirements of practice.

NOTICE OF PROPOSED RULEMAKING

TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS; SECURITIES REGULATION

CHAPTER 5. CORPORATION COMMISSION - TRANSPORTATION

PREAMBLE

1. Sections Affected

R14-5-201
R14-5-202
R14-5-203
R14-5-204
R14-5-205

Rulemaking Action

Amend
Amend
Amend
Amend
Amend

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

Authorizing statutes: A.R.S. §§ 40-202, 40-203, 40-321, 40-441, and 40-442 et seq.

Constitutional authority: Arizona Constitution, Article XV

Implementing statute: Not Applicable

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

Notice of Rulemaking Docket Opening: 6 A.A.R. 3117, August 18, 2000

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

Name: Robert J. Metli, Commission Counsel, Legal Division

Address: Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Telephone: (602) 542-3402

Fax: (602) 542-4870

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

1. Staff is proposing amendments to transportation rules R14-5-201, R14-5-202, R14-5-203, R14-5-204 and R14-5-205. The amendments will update the rules to incorporate the most recent amendments to the Code of Federal Regulations (CFR), Title 49, Parts 191, 192, 193, 195, 199 and Part 40.
2. The amended rules will permit pipeline operators and property owners a means of resolving building encroachments over pipelines (R14-5-202(F)) and within 3 foot clearance of air intake (R14-5-202(I)).
3. These proposed revision also includes a time-frame for removal of meter set assemblies and a format for filing required written reports of an incident at LNG facilities.

6. 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 Commission believes that by incorporating by reference Title 49 CFR Parts 40, 191-195 and 199, the rules will be consistent with current best practices and will enhance public safety which is in the best interest of all citizens in the State of Arizona.

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

Small Business Subject to the Rules: These rules do not change the responsibilities of master meter operators already established in 1970 by the adoption by the Commission of the Code of Federal Regulations, Title 49, Parts 191 and 192.

The new rules will have no effect upon consumers or users of the gas service provided by regulated public utilities as they presently are required to be in compliance with all standards, but, this will benefit consumers, users and the general public by maintaining a safe pipeline system.

The proposed rules are the least costly method for obtaining compliance with the long standing minimum safety standards. The rules do not impose additional standards. There is no less intrusive method.

8. 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: Terry Fronterhouse, Chief, Office of Pipeline Safety

Address: Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Telephone: (602) 542-7275

Fax: (602) 542-7254

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

Date: To be provided by Hearing Division pursuant to August 22, 2000, Open Meeting.

Time: To be provided by Hearing Division pursuant to August 22, 2000, Open Meeting.

Location: Corporation Commission Hearing Room
1200 West Washington Street
Phoenix, Arizona

Nature: Public Comment Hearing (oral and written comments accepted)

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

None

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

Title 49, Code of Federal Regulations (CFR), Parts 40, 191, 192, except I(2) of Appendix D to Part 192, 193, 195 (except 195.1(b)(2) and (3)) and 199. These regulations cover the minimum safety standards for construction and operation of gas and hazardous liquid pipelines. These regulations may be found at the Arizona Corporation Commission, Executive Secretaries Office and Utilities Division, Pipeline Safety Section, 1200 West Washington Street, Phoenix, Arizona 85007. These regulations are incorporated by reference in the amended rules at: R14-5-202 B., C., E.1., E.2., J., K., P., Q., R., R14-5-203 C.2., C.3., C.5., R14-5-204 A.1., A.2., and R14-5-205 B., G., J., K., O., and P.

12. The full text of the rules follows:

**TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND
ASSOCIATIONS; SECURITIES REGULATION**

CHAPTER 5. CORPORATION COMMISSION – TRANSPORTATION

ARTICLE 2. PIPELINE SAFETY

Sections

R14-5-201.	Definitions
R14-5-202.	Construction and Safety Standards
R14-5-203.	Pipeline Incident Reports and Investigations
R14-5-204.	Annual Reports
R14-5-205.	Master Meter System Operators

ARTICLE 2. PIPELINE SAFETY

R14-5-201. Definitions

As used in this Article:

1. “Abandon” means disconnecting the pipeline from all sources and supplies of gas, or hazardous liquids, purging the gas or hazardous liquids ~~within~~ from the pipeline being disconnected and capping all ends.
2. “Building” means any structure intended for supporting or sheltering any occupancy.
3. “Business District” means an area where the public congregate for economic, industrial, religious, education, health or recreational purposes and 2 or more buildings used for these purposes are located within 100 yards of each other.
4. “Commission” means the Arizona Corporation Commission.
5. “Intrastate pipeline” means all pipeline facilities referenced in ARS 40.441, included in the definition of “pipeline system” that are used to transport natural gas, Liquefied Natural Gas (“LNG”), other gas or hazardous liquids within Arizona, that are not used to transport gas or hazardous liquids in interstate or foreign commerce. This includes, without limitation, any equipment, facility, building or other property used or intended for use in transporting gas, LNG or hazardous liquids.
6. “Master meter system” means physical facilities for distributing gas within a definable area where the operator purchases metered gas from a public service corporation to provide gas service to 2 or more buildings other than at a single family residence.
7. “Operator” means a person that owns or operates a pipeline system or master meter system.
8. “Person” means any individual, firm, joint venture, partnership, corporation, association, cooperative association, joint stock association, trustee, receiver, assignee, personal representative, the state or any political subdivision thereof.

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9. "Pipeline system" means all parts of those physical facilities ~~that are used by public service corporations~~ through which natural gas, liquefied natural gas ("LNG"), other gases or hazardous liquids move in transportation including, but not limited to, pipes, compressor units, metering stations, regulator stations, delivery stations, holders and fabricated assemblies.
10. "Office of Pipeline Safety" means the Pipeline Safety personnel for the Commission.
11. "Sandy type soil" means sand no larger than "coarse" as defined by ASTM D-2487-83 (1983 Edition), incorporated herein by reference and on file with the Office of the Secretary of State.
12. "State" means the State of Arizona and all lands within its boundaries.
13. "Structure" means that which is built or constructed, an edifice or building of any kind or any piece of work artificially built or composed of parts joined together in some definite manner.
14. "Transport" or "transportation" of gas, LNG or hazardous liquids is means the gathering, transmission, distribution ~~and or~~ storage of gas, LNG or hazardous liquids by pipeline within the State.

R14-5-202. Construction and Safety Standards

- A. Applicability: This rule applies to the construction, reconstruction, repair, operation and maintenance of all intrastate natural gas, other gas, LNG and hazardous liquid pipeline systems, as described in ARS 40-441.
- B. Subject to the definitional changes in R14-5-201 and the revisions noted in subsection (C), the Commission adopts, incorporates, and approves as its own 49 CFR 40, 191, 192 except I (2) and (3) of Appendix D to Part 192, 193, 195, except 195.1(b)(2) and (3), and 199, revised as of ~~November 4, 1998~~ March 1, 2000 (and no future amendments), incorporated by reference, on file with the Office of the Secretary of State, and copies available from the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975.
- C. The above mentioned incorporated Parts of 49 CFR, except Parts 191, 193 Subpart A and 195 Subpart A and B, are revised as follows:
 1. Substitute "Commission" where "~~Office of Pipeline Safety, Administrator of the~~ Research and Special Programs Administration" or "Office of Pipeline Safety" (OPS) appear.
 2. Substitute "Office of Pipeline Safety, Arizona Corporation Commission, at its office in Phoenix, Arizona" where addresses for the Information Systems Resources Manager, Office of Pipeline Safety, Research and Special Programs Administration, Materials Transportation Bureau, U. S. Department of Transportation ~~or Office of Chief Counsel~~ appear.
- D. Operators of an intrastate pipeline will file with the Commission an Operation and Maintenance Plan (O & M), including an emergency plan, 30 days prior to placing a pipeline system into operation. Any changes in existing plans will be filed within 30 days of the effective date of the change.
- E. Operators of an intrastate pipeline transporting sour gas or oil are subject to industry standards addressing facilities handling hydrogen sulfide (H₂S). Standards adopted are:
 1. NACE ~~sStandard MR-01-75~~ MR-0175-99 (1980 1999 Revision); (and no future revisions), Standard mMaterials equipment Requirements-sSulfide sStress eCracking rResistant mMetallic mMaterial for oil field Oilfield eEquipment, incorporated by reference and no future amendments available from NACE International, P.O. Box 218340, Houston, Texas 77218-8340 and on file with the Office of the Secretary of State.
 2. API RP55 ~~(1981 1995 Edition); (and no future amendments),~~ API recommended practice for conducting oil and gas production operations involving hydrogen sulfide, incorporated by reference and no future amendments, copies are available from CSSINFO, 310 Miller Avenue, Ann Arbor, Michigan, 48103 and on file with the Office of the Secretary of State.
- F. Operators of an intrastate pipeline transporting LNG, hazardous liquid, natural gas or other gas will not construct any part of a hazardous liquid, LNG, natural gas or other gas pipeline system under a building. For building encroachments over a pipeline system, the operator ~~will discontinue service~~ may require the property owner to remove the building from over the pipeline or reimburse the operator the cost associated with relocating the pipeline system. The encroachment shall be resolved within 180 days of discovery, or the operator shall discontinue service to the pipeline system. When the encroachment cannot be resolved within the 180 days the operator will shall submit to the Office of Pipeline Safety within 90 days of discovery a written plan to resolve the encroachment. The Office of Pipeline Safety may then extend the 180 day requirement in order to allow the ratepayer and the operator to implement the written plan to resolve the encroachment.
- G. Operators of an intrastate pipeline transporting LNG, hazardous liquid, natural gas or other gas ~~pipeline system~~ will not construct any part of a pipeline system closer than 8 inches to any other underground structure. If the 8 inch clearance cannot be maintained from other underground structures, a sleeve, casing, or shielding shall be used.
- H. Operators of an intrastate pipeline transporting natural gas or other gas ~~pipeline system~~, that have regulators, meters, or regulation meter sets that have been out of service for 36 months will abandon those lines and cap all ends. This abandonment shall not exceed 6 months beyond the 36 months out service status.

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- I. Operators of an intrastate pipeline shall not install or operate a gas regulator that might release gas in its operation closer than 3 feet to a source of ignition, opening into a building, air intake into a building or to any electrical source not intrinsically safe. The three (3) foot clearance from a source of ignition will be measured from the vent or source of release (discharge port), not from the physical location of the meter set assembly. This subsection shall not be effective with respect to building permits which are issued and subdivisions which are platted prior to October 1, 2000. For encroachment within the required 3 foot clearance caused by an action of the property owner, occupant or a service provider, after the effective date of this rule the operator may require the property owner to resolve the encroachment or reimburse the operator the cost associated with relocating the pipeline system. The encroachment shall be resolved within 180 days of discovery or the operator shall discontinue service to the effected pipeline system. When the encroachment cannot be resolved within the 180 days the operator shall submit to the Office of Pipeline Safety within 90 days of discovery a written plan to resolve the encroachment. The Office of Pipeline Safety may then extend the 180 day requirement in order to allow the ratepayer and the operator to implement the written plan to resolve the encroachment.
- J. Operators of an intrastate pipeline ~~system~~ transporting LNG natural gas, other gases or hazardous liquid will utilize a cathodic protection system designed to protect the metallic pipeline in its entirety, in accordance with 49 CFR 192, Subpart I, ~~November 4, 1998~~ March 1, 2000 (and no future amendments), incorporated by reference, on file with the Office of the Secretary of State, and copies available from the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975 except I (2) and (3) of Appendix D to Part 192 shall not be utilized.
- K. Operators of an intrastate pipeline transporting natural gas or other gas ~~pipeline system~~ will not use solvent cement to join together plastic pipe manufactured from different materials unless the operator utilizes a joining procedure in accordance with the specifications of 49 CFR 192, Subpart F, ~~November 4, 1998~~ July 13, 1998 (and no future amendments), incorporated by reference, on file with the Office of the Secretary of State, and copies available from the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975.
- L. Operators of an intrastate pipeline transporting hazardous liquid, natural gas or other gas ~~pipeline system~~ will not install Acrylonitrile-Butadiene-Styrene (ABS) or aluminum pipe in their pipeline systems.
- M. Operators of an intrastate pipeline transporting hazardous liquid, natural gas or other gas ~~pipeline systems~~ will not install plastic pipe aboveground unless the plastic pipeline is protected by a metal casing, or equivalent, and approved by the Office of Pipeline Safety. Temporary aboveground plastic pipeline bypasses are permitted for up to sixty (60) days, provided that the plastic pipeline is protected and is under the direct supervision of the operator at all times.
- N. Operators of an intrastate pipeline transporting hazardous liquid, natural gas or other gas ~~pipeline system~~ that construct a pipeline system or any portion thereof using plastic pipe, will install, at a minimum, a 14-gauge coated or corrosion resistant, electrically conductive wire as a means of locating the pipe while it is underground. Tracer wire shall not be wrapped around the plastic pipe, tracer wire may be taped, or attached in some manner to the pipe provided that the adhesive or the attachment is not detrimental to the integrity of the pipe wall.
- O. Operators of an intrastate pipeline transporting natural gas or other gas pipeline system that construct an underground pipeline system using plastic pipe, will bury the installed pipe with a minimum of 6 inches of sandy type soil surrounding the pipe for bedding and shading, free of any rock or debris, unless otherwise protected and approved by the Office of Pipeline Safety.
- P. Operators of an intrastate pipeline transporting natural gas or other gas pipeline system that construct an underground pipeline system using plastic pipe will install the pipe with sufficient slack to allow for thermal expansion and contraction. In addition, all plastic pipe shall be marked CD or CE as required by ASTM D2513-95c (1995c Edition and no future editions), incorporated by reference, on file with the Office of the Secretary of State, and copies available from ASTM, 1916 Race Street, Philadelphia, Pennsylvania 19103-1187, for areas where the service temperature is above 100°F.
- Q. Operators of an intrastate pipeline system transporting hazardous liquid, natural gas or other gases shall qualify welding procedures and shall perform welding of steel pipelines in accordance with API Standard 1104. Each welder must be qualified in accordance with API Standard 1104. The qualification of welders delineated in 49 CFR 192, appendix C may be used for low stress level pipe.
- R. Operators of an intrastate pipeline transporting natural gas or other gas pipeline system shall survey and grade all detected leakage by the following guide: ASME Guide for Gas Transmission and Distribution Pipeline System, Guide Material, Appendix G-11-1983 except 4.4(c) (1983 Revision and no future revisions), incorporated by reference and on file with the Office of the Secretary of State and copies available from ASME, United Engineering Center, 345 East 47th Street, New York, N. Y. 10017. (“Should” as referenced in the Guide will be interpreted to mean “shall”). Leakage survey records shall identify in some manner each pipeline surveyed. Records shall be maintained to demonstrate that the required leakage survey has been conducted.
- S. All repair work performed on an existing intrastate pipeline transporting LNG, hazardous liquids, natural gas or other gas pipeline system will comply with the provisions of this Article.
- T. The Commission may waive compliance with any of the aforementioned parts upon a finding that such a waiver is in the interest of public and pipeline safety.

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- U. To ensure compliance with provisions of this rule the Commission or an authorized representative thereof may enter the premises of an operator of an intrastate pipeline to inspect and investigate the property, books, papers, business methods, and affairs that pertain to the pipeline system operation.
- V. All other Commission administrative rules are superseded to the extent they are in conflict with the pipeline safety provisions of this Article.

R14-5-203. Pipeline Incident Reports and Investigations

A. Applicability. This rule applies to all intrastate pipeline systems.

B. Required incident reports by telephone:

1. Operators of an intrastate pipeline transporting LNG, natural gas or other gas pipeline system will notify by telephone the Office of Pipeline Safety upon discovery of the occurrence of any of the following:
 - a. The release of natural gas, other gas or liquefied natural gas (LNG) from a pipeline or LNG facility, when any of the following results:
 - i. Death or personal injury requiring hospitalization.
 - ii. An explosion or fire not intentionally set by the operator.
 - iii. Property damage, including the value of the gas lost, estimated in excess of \$5,000.
 - b. Emergency transmission pipeline shutdown.
 - c. News media inquiry.
 - d. Overpressure of a pipeline system where a pipeline operating at less than 12 PSIG exceeds MAOP by 50%, where a pipeline operating between 12 PSIG and 60 PSIG exceeds MAOP by 6 PSIG or where a pipeline operating over 60 PSIG exceeds MAOP plus 10%.
 - e. Permanent or temporary discontinuance of gas service to a master meter system or when assisting with the isolation of any portion of a gas master meter system.
 - f. Emergency shutdown of a LNG process or storage facility.
2. Operators of an intrastate pipeline transporting hazardous liquid will notify by telephone the Office of Pipeline Safety upon discovery of the occurrence of any of the following:
 - a. Death or personal injury requiring hospitalization.
 - b. An explosion or fire not intentionally set by the operator.
 - c. Property damage estimated in excess of \$5,000.
 - d. Pollution of any land, stream, river, lake, reservoir, or other body of water that violates applicable environmental quality, water quality standards, causes a discoloration of the surface of the water or adjoining shoreline, or deposits sludge or emulsion beneath the surface of the water or upon adjoining shorelines.
 - e. News media inquiry.
3. Telephone incident reports will include the following information:
 - a. Name of the pipeline system operator,
 - b. Name of the reporting party,
 - c. Job title of the reporting party,
 - d. The reporting party's telephone number,
 - e. Location of the incident,
 - f. Time of the incident, and
 - g. Fatalities and injuries, if any.

C. Require written incident report:

1. Operators of an intrastate pipeline transporting natural gas, LNG or other gases will file a written incident report when an incident occurs involving a natural gas or other gas pipeline that results in any of the following:
 - a. An explosion or fire not intentionally set by the operator.
 - b. Injury to a person that results in 1 or more of the following:
 - i. Death.
 - ii. Loss of consciousness.
 - iii. Need for medical treatment requiring hospitalization.
 - c. Property damage, including the value of the lost gas, estimated in excess of \$5,000.
 - d. Emergency transmission pipeline shutdown.
 - e. Overpressure of a pipeline system where a pipeline operating at less than 12 PSIG exceeds MAOP by 50%, where a pipeline operating between 12 PSIG and 60 PSIG exceeds MAOP by 6 PSIG or where a pipeline operating over 60 PSIG exceeds MAOP plus 10%.
 - f. Emergency shutdown of a LNG process or storage facility.

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2. Written incident reports concerning natural gas or other gas pipeline systems will be in the following form:
 - a. RSPA F7100.1 - Distribution System: Incident Report, incorporated by reference and on file with the Office of the Secretary of State.
 - b. RSPA F7100.2 - Transmission and Gathering System: Incident Report, incorporated by reference and on file with the Office of the Secretary of State.
 - c. Written incident reports with respect to LNG facilities will be in an investigative form defining the incident and corrective action taken to prevent a reoccurrence.
 3. Operators of an intrastate pipeline transporting hazardous liquid will make a written incident report on DOT Form 7000-1, incorporated by reference and on file with the Office of the Secretary of State, when there is a release of hazardous liquid which results in any of the following:
 - a. An explosion or fire not intentionally set by the operator.
 - b. Injury to a person that results in 1 or more of the following:
 - i. Death.
 - ii. Loss of consciousness.
 - iii. Inability to leave the scene of the incident unassisted.
 - iv. Need for medical treatment.
 - v. Disability which interferes with a person's normal daily activities beyond the date of the incident.
 - c. The loss of 50 or more barrels of hazardous liquid or carbon dioxide.
 - d. The escape of more than 5 barrels a day of highly volatile liquids into the atmosphere.
 - e. Property damage estimated in excess of \$5,000.
 - f. News media inquiry.
 4. Written incident reports as required in this Section will be filed with the Office of Pipeline Safety, within the time specified below:
 - a. Natural gas, LNG or other gas - within 20 days after detection.
 - b. Hazardous liquids - within 15 days after detection.
 5. The Operators shall also file a copy of all DOT required written incident reports with the Information Resources Manager, Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.
 6. Operators of a natural gas or other gas pipeline system will request a clearance from the Office of Pipeline Safety prior to turning on or reinstating service to a master meter operator.
- D. Investigations by the Commission:**
1. The Office of Pipeline Safety will investigate the cause of incidents resulting in death or serious injury.
 2. Pursuant to an investigation under this rule, the Commission, or an authorized agent thereof, may:
 - a. Inspect all plant and facilities of a pipeline system.
 - b. Inspect all other property, books, papers, business methods, and affairs of a pipeline system.
 - c. Make inquiries and interview persons having knowledge of facts surrounding an incident.
 - d. Attend, as an observer, hearings and formal investigations concerning pipeline system operators.
 - e. Schedule and conduct a public hearing into an incident.
 3. The Commission may issue subpoenas to compel the production of records and the taking of testimony.
 4. Incidents not reported in accordance with the provisions of this rule will be investigated by the Office of Pipeline Safety.
 5. Incidents referred to in incomplete or inaccurate reports will be investigated by the Office of Pipeline Safety.
 6. Late filed incident reports will be accompanied by a letter of explanation. Incidents referred to in late filed reports may be investigated by the Office of Pipeline Safety.

R14-5-204. Annual Reports

- A. Except for operators of an intrastate pipeline transporting LNG ~~or~~ hazardous liquid, all other intrastate pipeline operators will file with the Office of Pipeline Safety, not later than March 15, for the preceding calendar year, the following appropriate report(s):
 1. RSPA F7100.1-1 (November 1985 Edition and no future editions) - "Annual Report for Calendar Year ~~1920~~___, Gas Distribution System" and "Instructions for Completing RSPA Form F7100.1-1, Annual Report for Calendar Year ~~1920~~___, Gas Distribution System", incorporated ~~herein~~ by reference, on file with the Office of the Secretary of State, and copies available from the Information Resources Manager, Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation, Room 8417, 400 Seventh Street, S.W., Washington, D.C. 20590.

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2. RSPA F7100.2-1 (November 1985 Edition and no future editions) - "Annual Report for Calendar Year ~~1920~~, Gas Transmission and Gathering Systems" and "Instructions for Completing Form RSPA F7100.2-1, Annual Report for Calendar Year ~~1920~~, Gas Transmission and Gathering Systems", incorporated ~~herein~~ by reference, on file with the Office of the Secretary of State, and copies available from the Information Resources Manager, Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation, Room 8417, 400 Seventh Street, S.W., Washington, D.C. 20590.
- B. The operator will also file a copy of all required annual reports by March 15 to the Information Resources Manager, Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street S.W., Washington, D.C. 20590-0001.

R14-5-205. Master Meter System Operators

- A. Applicability. This rule applies to the construction, reconstruction, repair, emergency procedures, operation and maintenance of all master meter systems, ~~as a condition of receiving service from public service corporations~~. Noncompliance with this rule by operators of a master meter system shall constitute grounds for termination of service by the public service corporation when informed in writing by the Office of Pipeline Safety. In case of an emergency, the Office of Pipeline Safety may give the public service corporation oral instructions to terminate service, with written confirmation to be furnished within 24 hours.
- B. Subject to the definitional changes in R14-5-201 and the revisions noted in subsection (C), the Commission adopts, incorporates, and approves as its own 49 CFR 191 and 192, revised as of ~~November 4, 1998~~ December 14, 1999 (and no future amendments), incorporated by reference, on file with the Office of the Secretary of State, and copies available from the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975.
- C. The above mentioned incorporated parts of 49 CFR, except Part 191, are revised as follows:
 1. Substitute "Commission" where "~~Office of Pipeline Safety, Administrator of the Research and Special Programs Administration~~", or "Office of Pipeline Safety" (OPS) appear.
 2. Substitute Office of "Pipeline Safety, Arizona Corporation Commission, at its office in Phoenix, Arizona" where addresses for the Information Resources Manager, Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation ~~or Office of Chief Counsel~~ appear.
- D. Operators of a master meter system will establish an Operation and Maintenance Plan (O & M) including an emergency plan. The plans must be maintained at the master meter system location.
- E. Operators of a master meter system will not construct any part of a natural gas or other gas system under a building or permit a building to be placed over a pipeline. Within 180 days of discovery of a building being located over a pipeline, the operator shall remove the building from over the pipeline, relocate the pipeline or discontinue the service to the pipeline located under the building.
- F. Operators of a master meter system will not install Acrylonitrile-Butadiene-Styrene (ABS) or aluminum pipe in their systems.
- G. Operators of a master meter system will not use solvent cement to join together plastic pipe manufactured from different materials unless the operator utilizes a joining procedure in accordance with the specifications of 49 CFR 192, Subpart F, ~~August 14, 1995~~ July 13, 1998 (and no future amendments), incorporated by reference, on file with the Office of the Secretary of State, and copies available from the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975.
- H. Operators of a master meter system that construct a pipeline or any portion thereof using plastic pipe will install, at a minimum, a 14-gauge coated or corrosion resistant, electrically conductive wire as a means of locating the pipe while it is underground. Tracer wire shall not be wrapped around the plastic pipe, tracer wire may be taped, or attached in some manner to the pipe provided that the adhesive or the attachment is not detrimental to the integrity of the pipe wall.
- I. Operators of a master meter system that construct an underground pipeline using plastic pipe, will bury the installed pipe with a minimum of 6 inches of sandy type soil surrounding the pipe for bedding and shading, free of any rock or debris, unless otherwise protected and approved by the Office of Pipeline Safety.
- J. Operators of a master meter system that construct an underground pipeline using plastic pipe will install the pipe with sufficient slack to allow for thermal expansion and contraction. In addition, all plastic pipe shall be marked CD as required by ASTM D2513-95c (1995c Edition and no future editions), incorporated by reference, on file with the Office of the Secretary of State and copies available from ASTM, 1916 Race Street, Philadelphia, Pennsylvania 19103-1187, for areas where the service temperature is above 100°F.
- K. Operators of a master meter gas system shall qualify welding procedures and shall perform welding of steel pipelines in accordance with API Standard 1104. Each welder must be qualified in accordance with API Standard 1104.
- L. All repair work performed on existing master meter systems will comply with the provisions of this Article.
- M. Operators of a master meter system will not construct any part of a natural gas or other gas system closer than 8 inches to any other underground structure.

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- N. Operators of a master meter system will file a Notice of Construction 30 days prior to commencement of the construction of any pipeline. The Notice will contain the following information:
 1. The dates of construction,
 2. The size and type of pipe to be used,
 3. The location of construction, and
 4. The Maximum Allowable Operating Pressure (MAOP).
- O. Operators of a master meter system will perform leakage surveys at intervals not exceeding 15 months but at least once each calendar year and will survey and grade all detected leakage by the following guide -- ASME Guide for Gas Transmission and Distribution Pipeline System, Guide Material, Appendix G-11-1983 (1983 Revision and no future revisions), except 4.4(c), incorporated by reference, on file with the Office of the Secretary of State, and copies available from ASME, United Engineering Center, 345 East 47th Street, New York, New York 10017. ("Should" as referenced in the guide will be interpreted to mean "shall".) Leak detection procedures shall be approved by the Office of Pipeline Safety.
- P. Operators of a master meter system will file an annual report with the Commission on Commission Form 1-90/15M (1990 Edition and no future editions), "Annual Report for Calendar Year 1990, Small Operators of Gas Distribution System," incorporated by reference, on file with the Office of the Secretary of State, and copies available from the Arizona Corporation Commission, Office of Pipeline Safety, 1200 West Washington, Phoenix, Arizona 85007. This report will be filed with the Office of Pipeline Safety not later than April 15 for the preceding calendar year.
- Q. The Commission may waive compliance with any of the aforementioned parts upon a finding that such a waiver is in the interest of public safety.
- R. To ensure compliance with provisions of this rule, the Commission or an authorized representative thereof, may enter the premises of an operator of a master meter system to inspect and investigate the property, books, papers, business methods, and affairs that pertain to the operation of the master meter system.
- S. All other Commission administrative rules are superseded to the extent they are in conflict with the pipeline safety provisions of this Article.

NOTICE OF PROPOSED RULEMAKING

TITLE 17. TRANSPORTATION

CHAPTER 4. DEPARTMENT OF TRANSPORTATION - MOTOR VEHICLE DIVISION

PREAMBLE

- | | |
|--|--|
| 1. <u>Sections Affected</u> | <u>Rulemaking Action</u> |
| R17-4-242 | Repeal |
|
 | |
| 2. <u>The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):</u> | |
| Authorizing statute: A.R.S. § 28-366 | |
| Implementing statute: A.R.S. § 28-4302 | |
|
 | |
| 3. <u>A list of all previous notices appearing in the Register addressing the proposed rule:</u> | |
| Notice of Rulemaking Docket Opening: 5 A.A.R. 4007, October 22, 1999 | |
|
 | |
| 4. <u>The name and address of agency personnel with whom persons may communicate regarding the rulemaking:</u> | |
| Name: | Ellen Damron, Rules Analyst |
| Address: | Arizona Department of Transportation
Administrative Rules Unit, Mail Drop 507M
3737 North Seventh Street, Suite 160
Phoenix, Arizona 85014-5017 |
| Telephone: | (602) 712-6722 |
| Fax: | (602) 241-1624 |
| E-Mail: | edamron@dot.state.az.us |

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

R17-4-242 does not reflect current information found in the underlying statute A.R.S. § 28-4302. The law's language provides clearly stated information about the costs for various dealer and recycler licenses required for doing business in Arizona.

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

None

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

A.R.S. § 28-4302 renders R17-2-424 unnecessary. The statute's language provides specific direction that enables the agency to implement statutory requirements without an administrative rule.

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

This Proposed Rulemaking repeals R17-4-242. A.R.S. § 41.1055.(D) exempts this action from the economic impact statement requirement.

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

Name: Ellen Damron, Rules Analyst
Address: Arizona Department of Transportation
Administrative Rules Unit, Mail Drop 507M
3737 North Seventh Street, Suite 160
Phoenix, Arizona 85014-5017
Telephone: (602) 712-6722
Fax: (602) 241-1624
E-Mail: edamron@dot.state.az.us

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

No oral proceeding is scheduled for this rulemaking. Written, faxed, e-mail comments, or requests may be made to the analyst listed in item #4 between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. If no oral proceeding is requested, the public comment period will be for 30 days from the notice's publication date. The public record for this rulemaking will close at 4:30 p.m. on Monday, October 23, 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:

Not applicable

13. The full text of the rules follows:

TITLE 17. TRANSPORTATION

CHAPTER 4. DEPARTMENT OF TRANSPORTATION - MOTOR VEHICLE DIVISION

ARTICLE 2. TITLES AND REGISTRATION

Section

R17-4-242. ~~Dealer license—changing location, branch outlet, etc.~~ **Repealed**

ARTICLE 2. TITLES AND REGISTRATION

R17-4-242. ~~Dealer license—changing location, branch outlet, etc.~~ **Repealed**

A. ~~For the purpose of determining when a dealer or wrecker may legally change his place of business, open a branch lot, or move a branch lot, application must be made to the Motor Vehicle Division and the \$10.00 fee therefore must be paid.~~

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- ~~B. No dealer or wrecker shall offer for sale or sell a motor vehicle unless or until he has obtained a duly authorized license issued pursuant to application made by him and approved by the Motor Vehicle Division.~~

NOTICE OF PROPOSED RULEMAKING

TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 4. BANKING DEPARTMENT

PREAMBLE

- | | |
|------------------------------------|---------------------------------|
| <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
| R20-4-201 | Amend |
| R20-4-202 | Amend |
- 2. The specific statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statute: A.R.S. § 6-123(2)
Implementing statutes: A.R.S. §§ 6-123(1) and 6-123(3)
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**
Notice of Rulemaking Docket Opening: 6 A.A.R. 1675, May 5, 2000
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
- | | |
|------------|---|
| Name: | John P. Hudock |
| Address: | 2910 North 44th Street, Suite 310
Phoenix, Arizona 85018 |
| Telephone: | (602) 255-4421, Ext. 167 |
| Fax: | (602) 381-1225 |
| E-Mail: | jhudock@azbanking.com |
- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**
These rules require prompt submission to the Superintendent of copies of the current text of bank licensees' Articles of Incorporation and Bylaws. The revisions proposed in this rulemaking are not intended to make any substantive change in the rules' requirements. Rather, in fulfillment of a promise made in a recent 5-Year-Rule Review, the Department is revising the rules to modernize the writing style, to conform them to modern rule writing standards, and to improve their clarity and conciseness.
- 6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study, and other supporting material:**
The Department does not propose to rely on any study as an evaluator or justification for the proposed rule.
- 7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable
- 8. The preliminary summary of the economic, small business, and consumer impact:**
- A. The Banking Department**
- The Department does not expect to experience any adverse economic impact. It will bear the administrative and human resources cost of this rulemaking. The revision of these Sections may result in some marginal cost savings for the Department because the modernized rules will promote easier communication with licensees. State Banking will continue to bear the costs of enforcement.
- B. Other Public Agencies**
- The state will incur normal publishing costs incident to rulemaking.

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C. Private Persons and Businesses Directly Affected

Costs of services will not increase to any measurable degree. Nor should these revisions increase any licensee's cost of doing business in compliance with these rules.

D. Consumers

No measurable effect on consumers is expected.

E. Private and Public Employment

There is no expected measurable effect on private and public employment.

F. State Revenues

This rulemaking will not change state revenues.

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

Name: John P. Hudock
Address: 2910 North 44th Street, Suite 310
Phoenix, Arizona 85018
Telephone: (602) 255-4421, Ext. 167
Fax: (602) 381-1225
E-Mail: jhudock@azbanking.com

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

No oral proceedings are scheduled. The Department will schedule an oral proceeding on the proposed rule if it receives a written request for a proceeding within 30 days after the publication date of this notice, under the provisions of A.R.S. § 41-1023(C). Send requests to the Department personnel listed in this preamble's questions 4 and 9. The Department invites and will accept written comments on the proposed rule or the preliminary economic, small business, and consumer impact statement. Submit comments during regular business hours, at the address listed in this preamble's question 9, until the close of the record for this proposed rulemaking. The record will close on the 31st day following publication of this notice in the *Arizona Administrative Register*, unless the Department schedules an oral proceeding.

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

Not applicable

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

None

13. The full text of the rules follows:

TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 4. BANKING DEPARTMENT

ARTICLE 2. BANK ORGANIZATION AND REGULATION

Sections

R20-4-201. Articles of Incorporation -- § 6-123

R20-4-202. Bylaws – A.R.S. § 6-123

ARTICLE 2. BANK ORGANIZATION AND REGULATION

R20-4-201. Articles of Incorporation — A.R.S. § 6-123

A licensee Every bank shall promptly deliver to file with the Superintendent a one copy certified by an officer of the bank of each amendment to the bank's articles of incorporation of the bank within 30 days after the amendment is filed with the Arizona Corporation Commission. An officer of the licensee shall certify any copy delivered in compliance with this Section, and shall ensure the copy bears a stamp affixed by the Arizona Corporation Commission to evidence filing with the Commission.

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R20-4-202. Bylaws — A.R.S. § 6-123

A licensee ~~Every bank shall deliver to file with the Superintendent a one copy certified by an officer of the bank of each amendment to the bank's bylaws of the bank within 30 days after the amendment is has been adopted. An officer of the licensee shall certify any copy delivered in compliance with this Section.~~