

NOTICES OF FINAL RULEMAKING

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

NOTICE OF FINAL RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 6. DEPARTMENT OF HEALTH SERVICES COMMUNICABLE DISEASES

PREAMBLE

1. Sections Affected

Article 8
R9-6-801
R9-6-802
R9-6-803

Rulemaking Action

New Article
New Section
New Section
New Section

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

Authorizing statute: A.R.S. § 36-136(F)

Implementing statute: A.R.S. § 13-1210

3. The effective date of the rules:

February 1, 2003

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

Notice of Rulemaking Docket Opening: 7 A.A.R. 1319, March 23, 2001

Notice of Proposed Rulemaking: 7 A.A.R. 5130, November 9, 2001

Notice of Supplemental Proposed Rulemaking: 8 A.A.R. 1696, April 5, 2002

Notice of Supplemental Proposed Rulemaking: 8 A.A.R. 3830, September 6, 2002

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

Name: Sarah Harpring, Rules Analyst

Address: Arizona Department of Health Services
Division of Assurance and Licensure Services
1647 E. Morten
Phoenix, AZ 85020

Telephone: (602) 674-4253

Fax: (602) 861-0674

E-mail: sharpri@hs.state.az.us

or

Name: Kathleen Phillips, Rules Administrator

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

Telephone: (602) 542-1264

Fax: (602) 364-1150

Arizona Administrative Register
Notices of Final Rulemaking

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

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

This rulemaking adds a new Article 8, entitled "Assaults on Officers, Firefighters, or Emergency Medical Technicians" to 9 A.A.C. 6. The new Article 8 includes three new Sections to implement A.R.S. § 13-1210. A.R.S. § 13-1210 provides a procedure whereby a law enforcement officer, probation officer, surveillance officer, correctional service officer, detention officer, private prison security officer, firefighter, or emergency medical technician or the officer's, firefighter's, or emergency medical technician's employer can obtain a court-ordered test for the presence of blood-borne disease agents, including the human immunodeficiency virus (HIV), in the blood of another individual if there are reasonable grounds to believe that an exposure occurred and:

- a. The other individual is charged in a criminal complaint that alleges that the individual interfered with the official duties of the officer, firefighter, or emergency medical technician by biting, scratching, spitting, or transferring blood or other bodily fluids on or through the skin or membranes of the officer, firefighter, or emergency medical technician; or
- b. There is probable cause to believe that the other individual interfered with the official duties of the officer, firefighter, or emergency medical technician as described in (a) above, and the other individual is deceased.

If the court finds that probable cause exists to believe that a possible transfer of blood or other bodily fluids occurred between the officer, firefighter, or emergency medical technician and the other individual, the court shall order:

- a. If the individual is living, that the individual provide two specimens of blood for testing; or
- b. If the individual is deceased, that the medical examiner draw two specimens of blood for testing from the deceased individual.

A.R.S. § 13-1210(D) makes the Arizona Department of Health Services (ADHS) responsible for establishing the notification procedure to be used to provide the test results obtained from these specimens of blood and specifies to whom notice is to be provided.

This rulemaking creates a definitions Section and two additional Sections that describe the notification procedure to be used and identify the parties responsible for providing notice.

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

Not applicable

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

Not applicable

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

As used in this economic impact summary, minimal means less than \$1,000, moderate means \$1,000 to \$9,999, and substantial means \$10,000 or greater.

ADHS will incur a moderate cost for staff time to write, review, and process the rules through promulgation. ADHS anticipates that the rules themselves will result in no additional burden on ADHS.

The occupational health care provider for an officer, firefighter, or emergency medical technician who is the victim of an assault covered by A.R.S. § 13-1210 will incur minimal costs as a result of the notification requirements in the rule. Likewise, the health care provider for a subject who is ordered to provide blood samples for testing under A.R.S. § 13-1210 will incur minimal costs as a result of the notification requirements in the rule. If a subject is detained or incarcerated, the chief medical officer of the facility in which the subject is detained or incarcerated will also incur minimal costs as a result of the notification requirements in the rule. ADHS estimates that fewer than 50 subjects have been ordered to provide blood specimens under A.R.S. § 13-1210 each year since the statute was enacted. With the statute expanded to include emergency medical technicians, probation officers, and surveillance officers, ADHS anticipates that the annual number of court orders will still be fewer than 100. The costs resulting from each order should be minimal for each occupational health care provider, health care provider, and chief medical officer who provides notice. The aggregate annual costs for occupational health care providers, health care providers, and chief medical officers should be moderate to substantial for each group.

A number of entities will benefit from the rules. ADHS will receive minimal benefits from no longer receiving inquiries from individuals and agencies confused about the notification process under A.R.S. § 13-1210. Each officer, firefighter, or emergency medical technician who is the victim of an assault covered by A.R.S. § 13-1210 will receive a significant, unquantifiable benefit from the information received in the notification counseling and the ability to take appropriate action to protect the officer's, firefighter's, or emergency medical technician's own health and the health of those around the officer, firefighter, or emergency medical technician if the subject tests positive for an infectious agent. A living subject will also receive a significant, unquantifiable benefit from the information received

in the notification counseling and the ability to receive treatment to combat an infectious agent for which the subject tests positive and to take action to protect the health of those around the subject.

An agency or entity that employs an officer, firefighter, or emergency medical technician who is the victim of an assault covered by A.R.S. § 13-1210 will receive a significant, unquantifiable benefit from the information received in a notification counseling and the ability to institute appropriate control measures to prevent further transmission if an officer, firefighter, or emergency medical technician has been exposed to an infectious subject. A law enforcement agency that is detaining or incarcerating a subject will receive the same benefit from the ability to institute appropriate control measures to prevent transmission by an infectious subject.

The individuals who are required to provide notice under the rules will receive minimal benefits from the clarity of the notification procedure under the rules. Currently, there is much confusion over who is responsible to provide notification to whom and in what manner. The rules clarify the responsible parties, identify to whom each responsible party is to provide notification, and prescribe the manner in which notification is to be completed. ADHS solicited input from a number of different law enforcement agencies, firefighting agencies, courts, and health care provider organizations throughout the state in drafting the rules and designated the individuals who are required to provide notice after determining the parties who are typically involved in providing this notification in the absence of rules.

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

ADHS corrected the citation at R9-6-801(10)(c). ADHS also corrected the formatting of the rules text to eliminate strikethrough and underlining of the same text. ADHS also made several stylistic changes at the request of Governor's Regulatory Review Council staff. ADHS has not made any other changes to the rules as proposed in the second Notice of Supplemental Proposed Rulemaking, published at 8 A.A.R. 3830 on September 6, 2002.

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

a. First Public Comment Period

ADHS held an oral proceeding on December 10, 2001, but did not receive any oral comments. ADHS received one set of written comments. The comments and ADHS's response to them are summarized below.

Arizona Administrative Register
Notices of Final Rulemaking

Public Comment	Department Response
<p>R9-6-802 should be clarified to confirm that it is the responsibility of the chief medical officer of the incarceration facility to provide the necessary information to the subject and the responsibility of the occupational health care provider to provide the necessary information to the officer or firefighter, not the responsibility of a hospital-based health care provider, by changing the word “individual” in R9-6-802(D), (E), and (H) to read “individual who, on behalf of an occupational health provider or the chief medical officer.”</p>	<p>To clarify R9-6-802, ADHS modified R9-6-802(D) and (E) so that they now refer to notification as required under subsection (B) or (C). ADHS believes that subsection (F) is sufficiently clear. ADHS did not use the suggested language because it would be misleading. The individual who provides information may be the occupational health care provider or the chief medical officer rather than another individual acting on behalf of the occupational health care provider or the chief medical officer.</p>
<p>Health care providers, including hospital-based health care providers, are ill-equipped to provide the counseling and follow-through required under R9-6-803 in situations where a health care provider serves only as the laboratory source. R9-6-803 should be amended to require the health care provider to provide the laboratory report to the Bureau of Epidemiology and Disease Control Services of ADHS (BEDCS) and to require BEDCS to provide the required counseling and notice to the subject. Hospitals are experiencing severe personnel shortages and limited resources, and the outreach and follow-through needed to meet the detailed counseling and notice requirements in R9-6-803 would be difficult, if not impossible, for hospitals to implement in this setting. This is particularly true when a hospital’s contact with an individual will be extremely limited</p>	<p>In A.R.S. § 13-1210, the legislature required ADHS to prescribe how notice of test results shall be provided and specified to whom the notice shall be provided rather than requiring ADHS to provide notice. Although ADHS is cognizant that hospitals have limited resources, ADHS believes that R9-6-803 will have only a minimal impact on each hospital. ADHS estimates that only approximately 50 of these court orders have been issued each year since the statute was enacted. With the statute expanded to include emergency medical technicians, probation officers, and surveillance officers, ADHS anticipates that the annual number of court orders will still be fewer than 100. Also, ADHS believes that, absent a hospital’s having an agreement with the employer of an officer, firefighter, or emergency medical technician, a hospital-based health care provider will seldom be in a</p>
<p>and will often take place only in the emergency department.</p>	<p>position to order laboratory tests for a subject. ADHS believes, consistent with legal advice, that the Emergency Medical Treatment and Active Labor Act, which requires a hospital with an emergency department to provide a medical screening examination when an individual requests examination or treatment for a medical condition, would not apply in this context. Finally, the requirement to provide information to a subject, found in R9-6-803(C), could be satisfied by providing an information sheet that includes all of the required information for an agent. It is not designed to be burdensome. ADHS did not make any changes in response to this comment.</p>

After the close of record for the proposed rules, ADHS became aware that health care providers’ compliance with the rules might be enhanced if the rules more closely resembled the rule for reporting positive HIV test results. Thus, in an effort to make the rules more similar to the rule for reporting positive HIV test results, while still maintaining the mandate of A.R.S. § 13-1210, ADHS revised the rules and published a Notice of Supplemental Proposed Rulemaking.

b. Second Public Comment Period

ADHS held an oral proceeding on May 6, 2002, but did not receive any oral comments. ADHS also did not receive any written comments. However, during the Second Regular Session of the 45th Legislature, the Legislature amended A.R.S. § 13-1210 in Laws 2002, Ch. 312 by adding probation officers, surveillance officers, and emergency medical

Notices of Final Rulemaking

technicians as individuals eligible to petition for a court order and adding provisions for testing of a deceased subject. Thus, ADHS revised the rules to be consistent with the changes to A.R.S. § 13-1210 and published another Notice of Supplemental Proposed Rulemaking.

c. Third Public Comment Period

ADHS held an oral proceeding on October 9, 2002, but did not receive any oral comments. ADHS also did not receive any written comments.

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

Not applicable

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

Not applicable

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

No

15. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

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

**ARTICLE 8. ~~RENUMBERED~~ ASSAULTS ON OFFICERS, FIREFIGHTERS, OR EMERGENCY MEDICAL
TECHNICIANS**

Section

R9-6-801. ~~Renumbered~~ Definitions

R9-6-802. ~~Renumbered~~ Notice of Test Results; Subject Incarcerated or Detained

R9-6-803. ~~Renumbered~~ Notice of Test Results; Subject Not Incarcerated or Detained

Arizona Administrative Register
Notices of Final Rulemaking

**ARTICLE 8. ~~RENUMBERED~~ ASSAULTS ON OFFICERS, FIREFIGHTERS, OR EMERGENCY MEDICAL
TECHNICIANS**

R9-6-801. Renumbered Definitions

In this Article, unless otherwise specified:

1. “Agency” means any board, commission, department, office, or other administrative unit of the federal government, the state, or a political subdivision of the state.
2. “Agent” means a virus or bacterium that causes a disease or syndrome in a human.
3. “Average window period” means the typical time between exposure to an agent and the ability to detect infection with the agent in human blood.
4. “Chief medical officer” means the senior health care provider or that individual’s designee who is also a health care provider.
5. “Emergency medical technician” means one of the following who is named as the victim of a subject’s assault in a petition filed under A.R.S. § 13-1210 and granted by a court:
 - a. A “basic emergency medical technician,” defined in A.R.S. § 36-2201;
 - b. An “emergency paramedic,” defined in A.R.S. § 36-2201; or
 - c. An “intermediate emergency medical technician,” defined in A.R.S. § 36-2201.
6. “Employer” means an individual in the senior leadership position with the agency or entity for which the officer, firefighter, or emergency medical technician works or that individual’s designee.
7. “Entity” has the same meaning as “person” in A.R.S. § 1-215.
8. “Facility” means an institution in which a subject is incarcerated or detained.
9. “Firefighter” means an individual who is a member of a state, federal, tribal, city, county, district, or private fire department and who is named as the victim of a subject’s assault in a petition filed under A.R.S. § 13-1210 and granted by a court.
10. “Health care provider” means:
 - a. An individual licensed as a doctor of:
 - i. Allopathic medicine under A.R.S. Title 32, Chapter 13;
 - ii. Naturopathic medicine under A.R.S. Title 32, Chapter 15;
 - iii. Osteopathic medicine under A.R.S. Title 32, Chapter 17; or
 - iv. Homeopathic medicine under A.R.S. Title 32, Chapter 29;
 - b. A physician assistant, as defined in A.R.S. § 32-2501;
 - c. A registered nurse, as defined in A.R.S. § 32-1601; or
 - d. A registered nurse practitioner, as defined in A.R.S. § 32-1601.
11. “Laboratory report” means a document, produced by a laboratory that conducts a test or tests on a subject’s blood, that shows the outcome of each test and includes personal identifying information about the subject.
12. “Medical examiner” means an individual:
 - a. Appointed as a county medical examiner by a county board of supervisors under A.R.S. § 11-591, or
 - b. Employed by a county board of supervisors under A.R.S. § 11-592 to perform the duties of a county medical examiner.
13. “Occupational health care provider” means a health care provider who provides medical services for work-related health conditions for an agency or entity for which an officer, firefighter, or emergency medical technician works.
14. “Officer” means a law enforcement officer, probation officer, surveillance officer, correctional service officer, detention officer, or private prison security officer who is named as the victim of a subject’s assault in a petition filed under A.R.S. § 13-1210 and granted by a court.
15. “Officer in charge” means the individual in the senior leadership position or that individual’s designee.
16. “Personal notice” means informing an individual by speaking directly to the individual while physically present with the individual.
17. “Petition” means a formal written application to a court requesting judicial action on a matter.
18. “Subject” means an individual:
 - a. Whom a court orders, under A.R.S. § 13-1210, to provide samples of blood for testing; or
 - b. From whom, under A.R.S. § 13-1210, a medical examiner draws samples of blood for testing.
19. “Telephonic notice” means informing an individual by speaking directly to the individual on the telephone, but does not include a message left on a recording device or with another individual.
20. “Test results” means information about the outcome of a laboratory analysis and does not include personal identifying information about the subject.
21. “Written notice” means a document that:
 - a. Describes each test result;
 - b. Identifies a subject only by court docket number; and
 - c. Is provided to an individual:
 - i. In person.

Arizona Administrative Register
Notices of Final Rulemaking

- ii. By delivery service.
- iii. By facsimile transmission.
- iv. By electronic mail, or
- v. By mail.

22. “Work” means to labor with or without compensation.

R9-6-802. Renumbered Notice of Test Results; Subject Incarcerated or Detained

- A.** Within 30 days after the date of receipt of a laboratory report for a test ordered by a health care provider on a subject’s blood, the health care provider shall provide:
- 1. A copy of the laboratory report to the chief medical officer of the facility in person, by delivery service, by facsimile transmission, or by mail; and
 - 2. Written notice to the occupational health care provider.
- B.** Within 30 days after the date of receipt of a laboratory report, the chief medical officer of the facility shall provide:
- 1. Personal notice, telephonic notice, or written notice to the subject;
 - 2. If requested by the subject, a copy of the laboratory report in person, by delivery service, by facsimile transmission, or by mail to the subject; and
 - 3. Personal notice, telephonic notice, or written notice to the officer in charge of the facility.
- C.** Within 30 days after the date of receipt of written notice, the occupational health care provider shall provide personal notice, telephonic notice, or written notice to the officer, firefighter, or emergency medical technician and the employer.
- D.** An individual who provides notice to a subject, officer, firefighter, or emergency medical technician as required under subsection (B) or (C) shall describe the test results and provide or arrange for the subject, officer, firefighter, or emergency medical technician to receive the following information about each agent for which the subject was tested:
- 1. A description of the disease or syndrome caused by the agent, including its symptoms;
 - 2. A description of how the agent is transmitted to others;
 - 3. The average window period for the agent;
 - 4. An explanation that a negative test result does not rule out infection and that retesting for the agent after the average window period has passed is necessary to rule out infection;
 - 5. Measures to reduce the likelihood of transmitting the agent to others and that it is necessary to continue the measures until a negative test result is obtained after the average window period has passed or until an infection, if detected, is eliminated;
 - 6. That it is necessary to notify others that they may be or may have been exposed to the agent by the individual receiving notice;
 - 7. The availability of assistance from local health agencies or other resources; and
 - 8. The confidential nature of the subject’s test results.
- E.** An individual who provides notice to the employer or the officer in charge of the facility as required under subsection (B) or (C) shall describe the test results and provide or arrange for the employer or the officer in charge of the facility to receive the following information about each agent for which the subject’s test results indicate the presence of infection:
- 1. A description of the disease or syndrome caused by the agent, including its symptoms;
 - 2. A description of how the agent is transmitted to others;
 - 3. Measures to reduce the likelihood of transmitting the agent to others;
 - 4. The availability of assistance from local health agencies or other resources; and
 - 5. The confidential nature of the subject’s test results.
- F.** An individual who provides notice under this Section shall not provide a copy of the laboratory report to anyone other than the chief medical officer of the facility or the subject.
- G.** An individual who provides notice under this Section shall protect the confidentiality of the subject’s personal identifying information and test results.
- H.** A health care provider who orders a test on a subject’s blood shall comply with all applicable reporting requirements contained in this Chapter.

R9-6-803. Renumbered Notice of Test Results; Subject Not Incarcerated or Detained

- A.** Within 30 days after the date of receipt of a laboratory report for a test ordered by a health care provider on a subject’s blood, the health care provider shall provide:
- 1. Unless the subject is deceased, personal notice, telephonic notice, or written notice to the subject;
 - 2. If requested by the subject, a copy of the laboratory report in person, by delivery service, by facsimile transmission, or by mail to the subject; and
 - 3. Written notice to the occupational health care provider.
- B.** Within 30 days after the date of receipt of written notice, the occupational health care provider shall provide personal notice, telephonic notice, or written notice to the officer, firefighter, or emergency medical technician and the employer.

Arizona Administrative Register
Notices of Final Rulemaking

- C.** An individual who provides notice to a subject, officer, firefighter, or emergency medical technician as required under subsection (A) or (B) shall describe the test results and provide or arrange for the subject, officer, firefighter, or emergency medical technician to receive the following information about each agent for which the subject was tested:
1. A description of the disease or syndrome caused by the agent, including its symptoms;
 2. A description of how the agent is transmitted to others;
 3. The average window period for the agent;
 4. An explanation that a negative test result does not rule out infection and that retesting for the agent after the average window period has passed is necessary to rule out infection;
 5. Measures to reduce the likelihood of transmitting the agent to others and that it is necessary to continue the measures until a negative test result is obtained after the average window period has passed or until an infection, if detected, is eliminated;
 6. That it is necessary to notify others of the possibility of exposure to the agent by the individual receiving notice;
 7. The availability of assistance from local health agencies or other resources; and
 8. The confidential nature of the subject's test results.
- D.** An individual who provides notice to the employer as required under subsection (B) shall describe the test results and provide or arrange for the employer to receive the following information about each agent for which the subject's test results indicate the presence of infection:
1. A description of the disease or syndrome caused by the agent, including its symptoms;
 2. A description of how the agent is transmitted to others;
 3. Measures to reduce the likelihood of transmitting the agent to others;
 4. The availability of assistance from local health agencies or other resources; and
 5. The confidential nature of the subject's test results.
- E.** An individual who provides notice under this Section shall not provide a copy of the laboratory report to anyone other than the subject.
- F.** An individual who provides notice under this Section shall protect the confidentiality of the subject's personal identifying information and test results.
- G.** A health care provider who orders a test on a subject's blood may, at the time the subject is seen by the health care provider, present the subject with a telephone number and instruct the subject to contact the health care provider after a stated period of time for telephonic notice of the test results. Providing a telephone number and instructions as allowed by this subsection does not satisfy the health care provider's obligation to notify under subsection (A) if the subject does not contact the health care provider and receive telephonic notice.
- H.** A health care provider who orders a test on a subject's blood shall comply with all applicable reporting requirements contained in this Chapter.

NOTICE OF FINAL RULEMAKING

TITLE 17. TRANSPORTATION

**CHAPTER 4. DEPARTMENT OF TRANSPORTATION
TITLE, REGISTRATION, AND DRIVER LICENSES**

PREAMBLE

- | | |
|---|--|
| 1. <u>Sections Affected:</u>
R17-4-401
R17-4-402 | <u>Rulemaking Action:</u>
New Section
Amend |
| 2. <u>The statutory 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 statutes: A.R.S. §§ 28-4143 through 28-4145 | |
| 3. <u>The effective date of the rules:</u>
February 3, 2003 | |
| 4. <u>A list of all previous notices appearing in the Register addressing the final rule:</u>
Notice of Rulemaking Docket Opening: 8 A.A.R. 2904, July 12, 2002
Notice of Proposed Rulemaking: 8 A.A.R. 3808, September 6, 2002 | |

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

Name: George R. Pavia, Department Rules Supervisor
Address: Administrative Rules Unit
Department of Transportation, Mail Drop 507M
3737 N. 7th Street, Suite 160
Phoenix, AZ 85014-5079
Telephone: (602) 712-8446
Fax: (602) 241-1624
E-mail: gpavia@dot.state.az.us

Please visit the ADOT web site to track progress of this rule and any other agency rulemaking matters at www.dot.state.az.us/about/rules/index.htm.

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

R17-4-402 will amend the agency's rule regulating restricted permits after financial responsibility suspension and reinstatement at the end of a suspension period. R17-4-401 will be a new Section of definitions applicable to all of 17 A.A.C. 4, Article 4. This rulemaking arises from action promised in a five-year rule review (F-98-0401) approved by the Governor's Regulatory Review Council on May 5, 1998.

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

The agency did not rely on any study in this rulemaking.

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

Not applicable

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

R17-4-401, a Section of definitions, saves agency employee and inquiring private parties time and effort in clarifying the meaning of terms used within Article 4 of this Chapter.

R17-4-402 will provide substantial benefits to insurance carriers that issue SR22 insurance policies with a minimum of administrative costs to write the policies and transmit certification of SR22s written to the Division. ADOT-MVD will experience costs for administering the program partially for a mandatory insurance unit staff to provide oversight to ensure SR22 insurance policies are kept current. This oversight activity is just one of a variety of functions the mandatory insurance unit performs under an aggregate annual budget for all assigned functions. Because Service Arizona (ADOT-MVD's interactive internet service) now provides for reinstatement fee payment, there probably will be moderate annual costs incurred to maintain this online service for the customer's convenience. Private persons whose driving privileges are suspended under applicable statutes, will incur minimal fee costs for reinstatement and minimal to moderate costs for maintaining the mandatory SR22 for the required three-year period. The valid SR22 will also provide the insured an opportunity to obtain a restricted work-school permit to ease the burden of the full suspension. Finally, the overwhelming benefit and principal reason for this Section is an attempt to ensure the statewide integrity of financial responsibility for Arizona's motoring public.

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

The agency made non-substantial grammatical and structural changes upon recommendation by Governor's Regulatory Review Council staff.

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

The agency received no comments in this rulemaking.

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

None

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

None

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

No

Arizona Administrative Register
Notices of Final Rulemaking

15. The full text of the rules follows:

TITLE 17. TRANSPORTATION

**CHAPTER 4. DEPARTMENT OF TRANSPORTATION
TITLE, REGISTRATION, AND DRIVER LICENSES**

ARTICLE 4. DRIVER LICENSES

Section

R17-4-401. ~~Reserved~~ Definitions

R17-4-402. ~~Financial Responsibility Suspension; Restricted License and Restricted Registration~~ Restricted Permit During a Financial Responsibility (Accident) Suspension

ARTICLE 4. DRIVER LICENSES

R17-4-401. ~~Reserved~~ Definitions

The following definitions apply to this Article unless otherwise specified:

1. “Division” means the Arizona Department of Transportation, Motor Vehicle Division.
2. “Financial responsibility (accident) suspension” means suspension by the Division of:
 - a. The Arizona driver license or driving privilege of an owner of a vehicle that:
 - i. Lacks the coverage required by A.R.S. § 28-4135, and
 - ii. Is involved in an accident in Arizona; and
 - b. The Arizona registration of a vehicle specified under R17-4-402(A), unless the Division receives proof the vehicle was sold.
3. “Proof of the vehicle was sold” means a written statement to the Division from an owner that includes the following:
 - a. The seller’s name.
 - b. The VIN.
 - c. The sale date, and
 - d. The purchaser’s name and address.
4. “Restricted permit” means written permission from the Division for:
 - a. A person subject to a financial responsibility (accident) suspension to operate a motor vehicle only:
 - i. Between the person’s home and workplace,
 - ii. During the person’s work-related activities, or
 - iii. Between the person’s home and school; and
 - b. A vehicle with an Arizona registration subject to a financial responsibility (accident) suspension to be operated by a person specified under R17-4-402 only:
 - i. Between the person’s home and workplace;
 - ii. During the person’s work-related activities; or
 - iii. Between the person’s home and school.
5. “State” means a state, territory or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.
6. “SR22” means a certificate of insurance that complies with requirements under A.R.S. § 28-4077(A).
7. “VIN” or “vehicle identification number” is defined in A.R.S. § 13-4701(4).
8. “Withdrawal action” means a Division action that invalidates a person’s Arizona driving privilege or a vehicle’s Arizona registration that includes:
 - a. A suspension;
 - b. A revocation;
 - c. Any outstanding warrant; or
 - d. Any unresolved citation.

R17-4-402. ~~Financial Responsibility Suspension; Restricted License and Restricted Registration~~ Restricted Permit During a Financial Responsibility (Accident) Suspension

A. Definitions:

1. ~~“Prohibitive Action” means any other action taken pursuant to rule or statute, except A.R.S. § 28-1256.02, which prohibits the issuance of either the applicant’s driving privileges or vehicle registration privileges.~~
2. ~~“Proof of Insurance” means those items identified in A.R.S. § 28-1253(A) as acceptable evidence of financial responsibility.~~
3. ~~“Restricted License” means a driver’s license restricted to travel during the licensee’s course of employment or between the licensee’s place of employment and residence and its use limited to specified periods of the day or night according to the licensee’s employment schedule.~~

Arizona Administrative Register

Notices of Final Rulemaking

- 4. "Restricted Registration" means a motor vehicle registration restricted to travel during the owner's course of employment or between the owner's place of employment and residence and its use limited to specified periods of the day or night according to the owner's employment schedule.
- B. Restricted License and Restricted Registration:**
 - 1. Any person whose driving privileges or vehicle registration privileges or both are suspended pursuant to A.R.S. § 28-1256.02 may apply to the Motor Vehicle Division for a restricted license or a restricted registration or both.
 - 2. The restricted license or restricted registration shall only be issued as long as there is no prohibitive action.
 - 3. To receive the restricted license or restricted registration, the applicant shall surrender the applicant's current driver's license, if any, and file proof of insurance in accordance with A.R.S. §§ 28-1251(A) and 28-1253(A).
 - 4. The restricted license and restricted registration shall expire at the end of the suspension period.
- C. Reinstatement:**
 - 1. At the end of the suspension period, the applicant may apply to the Motor Vehicle Division for the reinstatement of the applicant's driving and vehicle registration privileges.
 - 2. Driving privileges and vehicle registration privileges shall not be reinstated until proof of financial responsibility in accordance with A.R.S. Title 28, Chapter 7, Article 4 is filed with the Motor Vehicle Division. This proof of future financial responsibility is required to be maintained for the 3-year period following the ending date of the suspension.
 - 3. A fee of \$10 for the reinstatement of driving privileges and a fee of \$25 for the reinstatement of vehicle registration privileges shall be paid at the time of application for reinstatement.
- A. An applicant for a restricted permit shall:**
 - 1. Have no withdrawal action other than the financial responsibility (accident) suspension;
 - 2. Provide an SR22 Certificate of Insurance as proof of future financial responsibility that must be kept in force for three consecutive years after the effective date of the financial responsibility (accident) suspension;
 - 3. Pay the \$10 driving privilege reinstatement fee under A.R.S. § 28-4144(C)(2)(b); and
 - 4. For a vehicle specified under subsection (A)(2):
 - a. Pay the \$25 vehicle registration reinstatement fee under A.R.S. § 28-4144(C)(2)(b), or
 - b. Provide proof the vehicle was sold;
 - 5. Pay the driving privilege reinstatement application fee under A.R.S. § 28-3002(A)(2); and
 - 6. Satisfy any applicable subsection (C) requirement.
- B. In addition to subsection (A) during a financial responsibility (accident) suspension, a restricted permit applicant may:**
 - 1. Apply for an original or renew an Arizona driver license by:
 - a. Complying with A.R.S. §§ 28-3153, 28-3158, or 28-3171; and
 - b. Paying the application fee under A.R.S. § 28-3002(A)(2) determined by the applicant's age on the application date; or
 - 2. Obtain a duplicate Arizona driver license by paying the \$4 duplicate driver license application fee under A.R.S. § 28-3002(A)(7).
- C. At the end of the financial responsibility (accident) suspension, the Division shall immediately remove the driving privilege restriction from the Arizona driving record when the person surrenders an expired restricted permit to the Division.**

NOTICE OF FINAL RULEMAKING

TITLE 17. TRANSPORTATION

CHAPTER 4. DEPARTMENT OF TRANSPORTATION
TITLE, REGISTRATION, AND DRIVER LICENSES

PREAMBLE

- 1. **Sections Affected:**
 - R17-4-501
 - R17-4-506
 - R17-4-507
- Rulemaking Action:**
 - Amend
 - Amend
 - Amend
- 2. **The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
 - Authorizing statute: A.R.S. § 28-366
 - Implementing statutes: A.R.S. §§ 28-3051, 28-3153(A)(11), 28-3165, and 28-3166
- 3. **The effective date of the rules:**
 - December 5, 2002

Arizona Administrative Register
Notices of Final Rulemaking

The agency requests an immediate effective date under the provisions of A.R.S. § 41-1032(A)(4). This rulemaking provides a benefit to the public and no prescribed penalty for violation. The rulemaking action is merely cosmetic to consolidate definitions from two existing Sections into one lead Section at the head of the Article. The agency incorporates no other change to regulatory provisions of the existing Sections.

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

Notice of Rulemaking Docket Opening: 8 A.A.R. 3583, August 16, 2002

Notice of Proposed Rulemaking: 8 A.A.R. 3554, August 16, 2002

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

Name: George R. Pavia, Department Rules Supervisor

Address: Administrative Rules Unit
Department of Transportation, Mail Drop 507M
3737 N. 7th Street, Suite 160
Phoenix, AZ 85014-5079

Telephone: (602) 712-8446

Fax: (602) 241-1624

E-mail: gpavia@dot.state.az.us

Please visit the ADOT web site to track progress of this rule and any other agency rulemaking matters at www.dot.state.az.us/about/rules/index.htm.

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

This rulemaking merely consolidates existing definitions into R17-4-501 from other Sections within the Article. There is no change in any substantive regulatory provisions in any of the affected Sections.

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

The agency did not rely on any study in this rulemaking.

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

Not applicable

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

This rulemaking merely consolidates existing definitions into R17-4-501 from other Sections within the Article. There is no change in any substantive regulatory provisions in any of the affected Sections. Therefore, the economic impact is unchanged from the last time R17-4-506 and R17-4-507 were amended. The only impact this rulemaking action will have is increased clarity and reduced possibility for confusion on the part of concerned persons.

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

One internal reference was changed in R17-4-501(11). Subsection (17) had to be changed to (21) to properly reflect the renumbering of the definitions. Other non-substantial grammatical and structural changes were made upon recommendation by Governor's Regulatory Review Council staff.

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

The agency received no comments on this rulemaking.

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

None

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

None

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

No

15. The full text of the rules follows:

TITLE 17. TRANSPORTATION

CHAPTER 4. DEPARTMENT OF TRANSPORTATION
TITLE, REGISTRATION, AND DRIVER LICENSES

ARTICLE 5. SAFETY

Section

R17-4-501. Definitions

R17-4-506. Neurological Standards

R17-4-507. Driver License Identification Number

ARTICLE 5. SAFETY

R17-4-501. Definitions

~~In this Article~~ Unless otherwise indicated, the following definitions apply to this Article:

1. "Adaptation" means a modification of or addition to the standard operating controls or equipment of a motor vehicle.
2. "Applicant" or "licensee" means a person:
 - a. Applying for an Arizona driver license or driver license renewal, or
 - b. Required by the Division to complete an examination successfully or to obtain an evaluation.
3. "Application" means the Division form required to be completed by or for an applicant for a driver license or driver license renewal.
4. "Arizona Driver License Manual" or "manual" means the reference booklet for applicants, issued by the Division, containing non-technical explanations of the Arizona motor vehicle laws.
5. "Aura" means a sensation experienced before the onset of a neurological disorder.
- ~~5-6.~~ "Certified substance abuse counselor" is defined in A.R.S. § 28-3005(C)(1).
- ~~6-7.~~ "Director" means the Division Director or the Division Director's designee.
- ~~7-8.~~ "Disqualifying medical condition" means a visual, physical, or psychological condition, including substance abuse that impairs functional ability.
- ~~8-9.~~ "Division" means the Arizona Department of Transportation, Motor Vehicle Division.
- ~~9-10.~~ "Driver license" is defined in A.R.S. § 28-101(19).
- ~~10-11.~~ "Evaluation" means a medical assessment of an applicant or licensee by a specialist as defined under (21) of this Section to determine whether a disqualifying medical condition exists.
- ~~11-12.~~ "Examination" means testing or evaluating an applicant's or licensee's:
 - a. Ability to read and understand official traffic control devices,
 - b. Knowledge of safe driving practices and the traffic laws of this state, and
 - c. Functional ability.
- ~~12-13.~~ "Functional ability" means the ability to operate safely a motor vehicle of the type permitted by an Arizona driver license class or endorsement.
14. "Identification number" means a distinguishing number assigned by the Division to a person for a license or instruction permit.
- ~~13-15.~~ "Licensee" means a person issued a driver license by this state.
- ~~14-16.~~ "Licensing action" means an action by the Division to:
 - a. Issue, deny, suspend, revoke, cancel, or restrict a driver license; or
 - b. Require an examination or evaluation of an applicant or licensee.
- ~~15-17.~~ "Medical screening questions and certification" means the questions and certification on the application, as shown in Exhibit A following this Section.
18. "Neurological disorder" means a malfunction or disease of the nervous system.
- ~~16-19.~~ "Physician" means a person licensed to practice medicine or osteopathy in any state, territory, or possession of the United States or the Commonwealth of Puerto Rico.
20. "Seizure" means a neurological disorder characterized by a sudden alteration in consciousness, sensation, motor control, or behavior, due to an abnormal electrical discharge in the brain.
- ~~17-21.~~ "Specialist" means:
 - a. A physician who is a surgeon or a psychiatrist;
 - b. A physician whose practice is limited to:
 - i. A particular anatomical or physiological area or function of the human body, or
 - ii. Patients within a specific age range; or
 - c. A psychologist.
- ~~18-22.~~ "Substance abuse" means:
 - a. Use of alcohol in a manner that makes the user an alcoholic as defined in A.R.S. § 36-2021(1), or
 - b. Drug dependency as described in A.R.S. § 36-2501(A)(5).

Arizona Administrative Register
Notices of Final Rulemaking

~~19-23.~~ “Substance abuse evaluation” means an assessment by a physician, ~~appropriate~~ specialist, or certified substance abuse counselor to determine whether the use of alcohol or a drug impairs functional ability.

~~20-24.~~ “Successful completion of an examination” means an applicant or licensee:

- a. Establishes the visual ability, physical ability, and psychological ability to operate a motor vehicle safely, or
- b. Achieves a score of at least 80 percent on a written test ~~or~~ and road test.

R17-4-506. Neurological Standards

A. Definitions:

- ~~1. “Aura” means a sensation experienced before the onset of a neurological disorder.~~
- ~~2. “Division” means the Arizona Department of Transportation, Motor Vehicle Division.~~
- ~~3. “Neurological disorder” means a malfunction or disease of the nervous system.~~
- ~~4. “Seizure” means a neurological disorder characterized by a sudden alteration in consciousness, sensation, motor control, or behavior, due to an abnormal electrical discharge in the brain.~~

B. Driver license application.

1. A person who has ~~had~~ a seizure in the three months before ~~the person applies~~ applying for a driver license shall undergo a medical examination as provided in R17-4-502.
2. After the medical examination ~~at the time the person applies~~ under R17-4-502, the person or the person’s physician shall submit the medical examination report to the Division.
3. The Division shall not issue a driver license to a person if the medical examination report shows that the person has a neurological disorder that affects the person’s ability to operate a motor vehicle safely.

~~**C.**~~ **B. Driver license revocation.**

1. A person with a driver license or non-resident driving privileges who experiences a seizure shall cease driving and:
 - a. Undergo a medical examination as provided in R17-4-502;
 - b. Submit the medical examination report to the Division; and
 - c. Undergo a follow-up medical examination within one year after ~~the occurrence of~~ the seizure or within a shorter time, as recommended by a physician.
2. After each medical examination, the person or the person’s physician shall submit the applicable medical examination report to the Division.
3. The Division shall revoke a person’s driver license or nonresident driver privileges if any medical examination report shows the person has a neurological disorder that affects the person’s ability to operate a motor vehicle safely.

~~**D.**~~ **C. Medical examination report.** A medical examination report under this Section shall include the following information:

1. Age at onset of seizures, diagnosis, and history;
2. Aftereffects of seizures;
3. EEG findings, if any;
4. Description, cause, frequency, duration, and date of most recent seizure;
5. Current medications, including dosage, side effects, and serum level; and
6. A physician’s medical opinion as to whether ~~or not~~ the neurological disorder will affect the person’s ability to operate a motor vehicle safely.

~~**E.**~~ **D. Physician’s medical opinion.** A neurological disorder does not affect a person’s ability to operate a motor vehicle safely if a physician concludes with reasonable medical certainty that:

1. Any seizure that occurred within the last three months was due to a change in anticonvulsant medication ordered by a physician and that seizures are under control after the change in medication;
2. Any seizure that occurred within the last three months was a single event that will not recur in the future;
3. Any seizure is likely to occur but has an established pattern of occurring only during sleep; ~~and or~~
4. There is an established pattern of an aura of sufficient duration to allow the person to cease operating a motor vehicle safely ~~and~~ immediately at the onset of the aura.

R17-4-507. Driver License Identification Number

A. Definitions:

- ~~1. “Division” means the Motor Vehicle Division, Arizona Department of Transportation.~~
- ~~2. “Identification number” means a distinguishing number assigned by the Division to a person for a license or instruction permit.~~

B. The Division shall assign an identification number to each person who receives a driver license, nonoperating identification license, or instruction permit. The Division shall place a person’s identification number on the person’s license, nonoperating identification, or instruction permit.

~~**C.**~~ **B.** The Division shall not use a person’s Social Security Number as the person’s identification number unless:

1. The person’s current driver license or nonoperating identification license has a Social Security Number as the identification number, or
2. The person requests that the person’s Social Security Number be used as the identification number.

Arizona Administrative Register
Notices of Final Rulemaking

C. Private Persons and Businesses Directly Affected

Costs of services will not increase to any measurable degree.

D. Consumers

No measurable effect on consumers is expected.

E. Private and Public Employment

There is no measurable effect on private and public employment.

F. State Revenues

This rulemaking will not change state revenues.

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

The Council's staff has recommended editorial and stylistic changes to the originally proposed text of the Section. The changes, which required a complete rewrite of the Section, improved the precision and clarity of the text and have been implemented.

In addition, the Department has abandoned further efforts to amend R20-4-1101 and R20-4-1102. Given the Department's duties under modern statutes, those definitional provisions serve no purpose. Rather than revise the dated text, the Department plans to repeal them soon. The Department has begun the work of amending the statute, A.R.S. § 35-321(3), which requires the rules to exist. As soon as the statute is amended, the Department will repeal R20-4-1101 and R20-4-1102.

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

The public was invited to comment in the Notice of Proposed Rulemaking. That invitation contained an agency contact name, address, telephone number, and fax number. The Department has had several very helpful informal discussions with stakeholders about preliminary drafts of this rulemaking. However, no written comments were received and no arguments against adoption of the rules as they appear in this Final Rulemaking have been raised.

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

Not applicable

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

There is no material incorporated by reference in these final rules.

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

No

15. The full text of the rules follows:

TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 4. BANKING DEPARTMENT

ARTICLE 10. SAFE DEPOSIT AND SAFEKEEPING CODE

Section

~~R20-4-1001. Notice of change of location of safe deposit repository -- A.R.S. § 6-923~~ Notice of Change of Location of Safe Deposit Repository

ARTICLE 10. SAFE DEPOSIT AND SAFEKEEPING CODE

~~**R20-4-1001. Notice of change of location of safe deposit repository -- A.R.S. § 6-923**~~ **Notice of Change of Location of Safe Deposit Repository**

~~A lessor of a safe deposit repository may, during the term of any lease, move its repositories and the contents to another location by giving written notice of such change of location to the Superintendent and constructive notice to the lessees. Constructive notice of such change of location shall be made by publication in a newspaper of general circulation in the county in which the repository is located which is printed in English. If publication is made in a weekly newspaper, two weekly publications. If publication is made in a daily newspaper, three consecutive times.~~

A. A corporation or association that moves a repository shall give written notice of the location change to the Superintendent and to its customers.

1. A corporation or association shall provide notice of the location change to the Superintendent by mailing the notice required under this subsection by first class mail no less than 30 days before the scheduled moving date. The corporation or association shall include a copy of the notice to customers required under subsection (B).

2. A corporation or association shall provide notice of the location change to its customers by:
 - a. Publishing notice of the change of location in:
 - i. An English language newspaper of general circulation in the county where the repository will be closed,
 - ii. In a weekly newspaper for two consecutive publications, or
 - iii. In a daily newspaper for three consecutive days; and
 - b. Publishing the notice no more than 90 days, and no less than 30 days, before the scheduled moving date.
- B.** The corporation or association shall include all the following information in the notice:
 1. The date the corporation or association intends to move the repository.
 2. The earliest date a customer can remove contents and transact other business related to the move.
 3. The latest date a customer can remove contents and transact other business related to the move.
 4. The street address of the repository to be closed, and
 5. The street address of the new repository.