

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 2. ADMINISTRATION

CHAPTER 5. DEPARTMENT OF ADMINISTRATION PERSONNEL ADMINISTRATION

[R09-11]

PREAMBLE

1. Sections Affected

Article 1
R2-5-101
Article 4
R2-5-415
R2-5-415
R2-5-415
R2-5-416
R2-5-417
R2-5-418
R2-5-419
R2-5-420
R2-5-421
R2-5-422
R2-5-423

Rulemaking Action

Amend
Amend
Amend
Repeal
Re-number
Amend
Repeal
Repeal
Repeal
Repeal
Repeal
Repeal
Repeal
Repeal
Re-number

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

Authorizing statutes: A.R.S. §§ 41-761 and 41-763(2) and (6)
Implementing statutes: A.R.S. §§ 41-783(1) through (28)

3. The effective date of the rules:

March 7, 2009

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

Notice of Rulemaking Docket Opening: 14 A.A.R. 3438, August 29, 2008
Notice of Proposed Rulemaking: 14 A.A.R. 3854, October 10, 2008

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

Name: Christine Bronson, Employee Relations Manager
Address: 100 N. 15th Ave., Suite 261
Phoenix, AZ 85007
Telephone: (602) 542-1423
Fax: (602) 542-1980
E-mail: Christine.Bronson@azdoa.gov

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

This rulemaking primarily results from the Department's Five-year Review Report that was approved by the Governor's Regulatory Review Council (G.R.R.C.) in September 2006. Article 4, Leave, explains the various types of employee benefits (leave and insurance), eligibility, and use. This rulemaking repeals the rules regarding insurance benefits for state officers and employees from this Chapter, as these rules will be relocated to a separate Chapter (in a

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separate rulemaking). Because R2-5-415 through R2-5-422 are being repealed, it is necessary to renumber R2-5-423 as R2-5-415. R2-5-101, Definitions, is also being amended, in part because some of the terms defined are directly applicable to the insurance benefit rules, which are being repealed. Clarifications and housekeeping revisions are also being made along with the specific changes.

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

The agency did not review any study relevant to the rules.

8. A showing of good cause why the rules are necessary to promote a statewide interest if the rules 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 affects state officers and employees only and will not have an impact on small businesses and consumers. The economic impact of relocating these rules will be minimal.

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

Minor, non-substantive changes were made between the publication of the notice of proposed rulemaking and this notice of final rulemaking.

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

As part of the initial rulemaking process, the agency solicited input from ADOA Personnel Managers and staff assigned to the satellite Human Resources (HR) offices. Following submission of the Notice of Proposed Rulemaking, no comments were received. An oral proceeding on the Notice of Proposed Rulemaking published October 10, 2008, was held on November 10, 2008. No one appeared to speak and no comments were received at the oral proceeding.

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

None

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

None

14. Was this rule previously made as an emergency rule? If so, please indicate the Register citation:

No

15. The full text of the rules follows:

TITLE 2. ADMINISTRATION

CHAPTER 5. DEPARTMENT OF ADMINISTRATION
PERSONNEL ADMINISTRATION

ARTICLE 1. GENERAL

Section
R2-5-101. Definitions

ARTICLE 4. LEAVE

Section
~~R2-5-415.~~ Insurance Plans
~~R2-5-423.~~ ~~R2-5-415.~~ Recognition Leave
R2-5-416. Health Benefit Plan Repealed
R2-5-417. Life Insurance and Disability Income Insurance Plans Repealed
R2-5-418. Retiree Health Benefit Plan Repealed
R2-5-419. Health Benefit Plan for Former Elected Officials Repealed
R2-5-420. Health Benefit Plan for Surviving Spouse of Elected Official Repealed
R2-5-421. Life Insurance Plan for Former Elected Officials Repealed
R2-5-422. Flexible or Cafeteria Employee Benefit Plan Repealed
R2-5-423. Renumbered

ARTICLE 1. GENERAL

R2-5-101. Definitions

The following words and phrases have the defined meanings unless otherwise clearly indicated by the context.

1. "Agency" means a department, board, office, authority, commission, or other governmental budget unit of the state.
2. "Agency head" means the chief executive officer of an agency.
3. "Appeal" means a request for a review by the Personnel Board of a disciplinary action under A.R.S. § 41-782.
4. "Applicant" means a person who seeks appointment to a position in state service.
5. "Appointment" means the offer to and the acceptance by a person of a position in state service.
6. "Base salary" means an employee's salary excluding overtime pay, shift differential, bonus pay, special performance adjustment previously granted, or pay for other allowance or special incentive pay program.
7. "Business day" means the hours between 8:00 a.m. and 5:00 p.m. Monday through Friday, excluding observed state holidays.
8. "Candidate" means a person whose knowledge, skills, and abilities meet the requirements of a position and who may be considered for employment.
9. "Cause" means any of the reasons for disciplinary action provided by A.R.S. § 41-770 or these rules.
10. "Child" means: for purposes of R2-5-404, pertaining to sick leave, R2-5-410 pertaining to bereavement leave, and R2-5-411, pertaining to parental leave, a natural child, adopted child, foster child, or stepchild.
 - a. ~~For purposes of R2-5-416(C), pertaining to the health benefit plan, R2-5-418(B), pertaining to the retiree health benefit plan, and R2-5-419(C), pertaining to the health benefit plan for former elected officials, an unmarried person who falls within one or more of the following categories:~~
 - i. ~~A natural child, adopted child, or stepchild of the employee member, retiree, former elected official, or domestic partner and who is younger than age 19 or younger than age 25 if a full time student;~~
 - ii. ~~A child who is younger than age 19 for whom the employee member, retiree, or former elected official has court ordered guardianship;~~
 - iii. ~~A foster child who is younger than age 19;~~
 - iv. ~~A child who is younger than age 19 and placed in the employee member's, retiree's, or former elected official's home by court order pending adoption; or~~
 - v. ~~A natural child, adopted child, or stepchild of the employee member, retiree, former elected official, or domestic partner and who was disabled prior to age 19 and continues to be disabled under 42 U.S.C. 1382e and for whom the employee member, retiree, former elected official or domestic partner had custody prior to age 19.~~
 - b. ~~For purposes of R2-5-417(C) and (D), pertaining to the life and disability income insurance plan, and R2-5-421(B), pertaining to the life insurance plan for former elected officials, an unmarried person who falls within one or more of the following categories:~~
 - i. ~~A natural child, adopted child, or stepchild of the employee member, former elected official, or domestic partner and who is younger than age 19 or younger than age 25 if a full time student;~~
 - ii. ~~A child who is younger than age 19 for whom the employee or former elected official has court ordered guardianship;~~
 - iii. ~~A foster child who is younger than age 19;~~
 - iv. ~~A child who is younger than age 19 and placed in the employee's or former elected official's home by court order pending adoption; or~~
 - v. ~~A natural child, adopted child, or stepchild of the employee member, former elected official, or domestic partner and who was disabled prior to age 19 and continues to be disabled under 42 U.S.C. 1382e and for whom the employee, former elected official, or domestic partner had custody prior to age 19; or~~
 - e. ~~For purposes of R2-5-207(D), pertaining to the employment of relatives, R2-5-404, pertaining to sick leave, R2-5-410, pertaining to bereavement leave, the term includes a natural child, adopted child, foster child, or stepchild; and~~
 - d. ~~For purposes of R2-5-411, pertaining to parental leave, the term includes a natural child, adopted child, foster child, or stepchild.~~
11. "Class" means a group of positions with the same title and pay grade because each position in the group has similar duties, scope of discretion and responsibility, required knowledge, skills and abilities, or other job-related characteristics.
12. "Class series" means: ~~a. For purposes of R2-5-902(B), pertaining to the administration of reduction in force, and R2-5-903(A), pertaining to a temporary reduction in force, a group of related classes that is listed in the Arizona Department of Administration, Human Resources Division, Occupational Listing of Classes as a subsection of the occupational group; and b. For purposes of R2-5-902(D), pertaining to the calculation of retention points for length of service, a group of related classes that is listed in the Arizona Department of Administration, Human Resources Division, Occupational Listing of Classes as a subsection of the occupational group, including this includes a position that has been reclassified or reassigned to the class series within five years before the effective date of the reduction in~~

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- force.
13. "Class specification" means a description of the type and level of duties and responsibilities of the positions assigned to a class.
14. "Clerical pool appointment" means the non-competitive, temporary placement of a qualified individual in a clerical position.
15. "Competition" means the process leading to the identification of candidates for employment or promotional consideration that includes an evaluation of knowledge, skills, and abilities and the development of a hiring list in accordance with these rules.
16. "Covered employee" means an employee in state service who is subject to the provisions of these rules.
17. "Covered position" means a position in state service, as defined in A.R.S. § 41-762.
18. "Days" means calendar days, unless otherwise stated.
19. "Demotion" means a change in the assignment of ~~an~~ a permanent status employee from a position in one class to a position in another class with a lower pay grade that results from disciplinary action for cause.
20. "Department" means the Arizona Department of Administration.
21. "Director" means the Director of the Arizona Department of Administration, and the Director's designee with respect to personnel administration.
22. ~~"Domestic partner" means a person of the same or opposite gender who:~~
- a. ~~Shares the employee's or retiree's permanent residence;~~
 - b. ~~Has resided with the employee or retiree continuously for at least 12 consecutive months before filing an application for benefits and is expected to continue to reside with the employee or retiree indefinitely as evidenced by an affidavit filed at time of enrollment;~~
 - c. ~~Has not signed a declaration or affidavit of domestic partnership with any other person and has not had another domestic partner within the 12 months before filing an application for benefits;~~
 - d. ~~Does not have any other domestic partner or spouse of the same or opposite sex;~~
 - e. ~~Is not currently legally married to anyone or legally separated from anyone else;~~
 - f. ~~Is not a blood relative any closer than would prohibit marriage in Arizona;~~
 - g. ~~Was mentally competent to consent to contract when the domestic partnership began;~~
 - h. ~~Is not acting under fraud or duress in accepting benefits;~~
 - i. ~~Is at least 18 years of age; and~~
 - j. ~~Is financially interdependent with the employee or retiree in at least three of the following ways:~~
 - i. ~~Having a joint mortgage, joint property tax identification, or joint tenancy on a residential lease;~~
 - ii. ~~Holding one or more credit or bank accounts jointly, such as a checking account, in both names;~~
 - iii. ~~Assuming joint liabilities;~~
 - iv. ~~Having joint ownership of significant property, such as real estate, a vehicle, or a boat;~~
 - v. ~~Naming the partner as beneficiary on the employee's life insurance, under the employee's will, or employee's retirement annuities and being named by the partner as beneficiary of the partner's life insurance, under the partner's will, or the partner's retirement annuities; and~~
 - vi. ~~Each agreeing in writing to assume financial responsibility for the welfare of the other, such as durable power of attorney; or~~
 - vii. ~~Other proof of financial interdependence as approved by the Director.~~
23. ~~"Eligible dependent" means the employee member's, retiree's, or former elected official's spouse under Arizona law, domestic partner, child, or older child.~~
24. ~~22.~~ "Emergency appointment" means an appointment made without regard to the recruitment, evaluation, referral, or selection requirements of these rules in response to a governmental emergency.
25. ~~23.~~ "Entrance salary" means the minimum rate of the pay grade established for a specific class.
26. ~~24.~~ "Essential job function" means the a fundamental job duties duty of a position that an applicant or employee must be able to perform, with or without a reasonable accommodation.
27. ~~25.~~ "Evaluation" means the procedure used to determine the relative knowledge, skills, and abilities of an applicant.
28. ~~"Flexible or cafeteria employee benefit plan" means a plan providing benefits to eligible employees that meets the requirements of Section 125 of the Internal Revenue Code.~~
29. ~~26.~~ "FLSA" means the federal Fair Labor Standards Act.
30. ~~27.~~ "FLSA exempt" means a position that is not entitled to overtime compensation under the FLSA.
31. ~~28.~~ "FLSA non-exempt" means a position that is entitled to overtime compensation under the FLSA.
32. ~~29.~~ "FMLA" means the federal Family and Medical Leave Act.
33. ~~30.~~ "Good standing" means the status of a former employee at the time of separation from state service for reasons other than disciplinary action or anticipated disciplinary action.
34. ~~31.~~ "Grievance" means a formal complaint filed by an employee, using the procedure established in Article 7 of ~~these rules~~ this Chapter, that alleges discrimination, noncompliance with these rules, or concerns other work-related matters that directly and personally affect the employee.

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- 35-32. "Human Resources Employment Database" means the database that contains the resumé of an applicant interested in employment within state service.
- 36-33. "Incumbent" means the officer or employee who currently holds an office or position.
37. ~~"Institution" means a facility that provides supervision or care for residents on a 24-hour per day, 7-day per week, basis.~~
- 38-34. "Knowledge, skills, and abilities" means the qualifications and personal attributes required to perform a job that are generally demonstrated through qualifying service, education, or training.
- Knowledge is a body of information applied directly to the performance of a function;
 - Skill is an observable competence to perform a learned psychomotor act; and
 - Ability is competence to perform an observable behavior or a behavior that results in an observable product.
- 39-35. "Limited appointment" means an appointment to a position that is funded for at least six months but not more than 36 months.
- 40-36. "Limited position" means a position in state service that is established for at least six months but not more than 36 months based on the duration of funding.
- 41-37. "Manifest error" means an act or failure to act that is, or clearly has caused, a mistake.
- 42-38. "Mobility assignment" means the assignment of a permanent status employee to an uncovered position in the same agency or to a covered or uncovered position in another state agency.
43. ~~"Older child" means an individual who:~~
- ~~Is younger than 25 years old;~~
 - ~~Is unmarried;~~
 - ~~Was covered by a health insurance plan made available by the Department during the year that the individual was 18 years old, and~~
 - ~~Resides in Arizona, if the individual is:~~
 - ~~A natural child, adopted child, or stepchild of the employee, officer, retiree, or former elected official;~~
 - ~~A natural child, adopted child, or stepchild of a domestic partner; or~~
 - ~~A child for whom an employee, officer, retiree, or former elected official received a court-ordered guardianship when the child was 18 years old or younger.~~
- 44-39. "Original probation" means the specified period following initial appointment to state service in a regular or limited position for evaluation of the employee's work.
- 45-40. "Original probationary appointment" means the initial appointment to a regular or limited position in state service.
- 46-41. "Parent" means, for purposes of R2-5-403, pertaining to annual leave, R2-5-404, pertaining to sick leave, and R2-5-410, pertaining to bereavement leave, a birth parent, adoptive parent, stepparent, foster parent, grandparent, parent-in-law, or anyone who can be considered "in loco parentis."
47. ~~"Participant" means an employee who is enrolled in the state's insurance program.~~
- 48-42. "Part-time" means, for purposes of R2-5-402, pertaining to holidays, R2-5-403, pertaining to annual leave, R2-5-404, pertaining to sick leave, R2-5-902, pertaining to reduction in force, and R2-5-903, pertaining to temporary reduction in force, employment scheduled for less than 40 hours per week.
- "3/4 time" means employment regularly scheduled for 30 hours per week.
 - "1/2 time" means employment regularly scheduled for 20 hours per week.
 - "1/4 time" means employment regularly scheduled for 10 hours per week.
- 49-43. "Pay grade" means a salary range in a state service salary plan.
- 50-44. "Pay status" means an employee is ~~eligible to receive~~ receiving pay for work or for a compensated absence.
- 51-45. "Permanent status" means the standing an employee achieves after the completion of an original probation or a promotional probation.
52. ~~"Plan" means a flexible or cafeteria employee benefit plan.~~
53. ~~"Plan administrator" means the Director of the Arizona Department of Administration.~~
46. "Premium/contribution" means the amount paid in exchange for insurance coverage. Depending on the type of coverage, the premium/contribution is paid by the employee, the state, or a combination of both.
- 54-47. "Promotion" means a permanent change in assignment of an employee from a position in one class to a position in another class that has a higher pay grade.
- 55-48. "Promotional probation" means the specified period of employment following promotion of a permanent status employee for evaluation of the employee's work.
49. "Provisional appointment" means the non-competitive appointment of a qualified individual on an interim basis until the reporting date of the candidate selected from the referral list or six months, whichever occurs first.
- 56-50. "Qualified" means an individual possesses the knowledge, skills, and abilities required of a specific position, as described in the class specification, and any unique characteristics required for the position.
57. ~~"Qualified life event" means a change in an employee's family, employment status, or residence including but not limited to:~~
- ~~Changes in the employee's marital status such as marriage, divorce, legal separation, annulment, death of spouse,~~

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- ~~domestic partnership, termination of domestic partnership, or death of domestic partner;~~
 - b. ~~Changes in dependent status such as birth, adoption, placement for adoption, death, or dependent eligibility due to age, marriage, or student status;~~
 - e. ~~Changes in employment status or work schedule that affect benefits eligibility for the employee, spouse, domestic partner, or dependent; or~~
 - d. ~~Changes in residence that affect available plan options for the employee, spouse, domestic partner, or dependent.~~
- ~~58-51. "Reclassification" means changing the classification of a position if a material and permanent change in duties or responsibilities occurs.~~
- ~~59-52. "Reduction" means the non-appealable movement of an employee from one position to another position in a lower pay grade as a result of a reduction in force.~~
- ~~60-53. "Reemployment" means the appointment of a former permanent status employee who was separated by a reduction in force.~~
- ~~61-54. "Regular position" means a full-time equivalent (FTE) position in state service.~~
- ~~62-55. "Reinstatement" means the appointment of a former permanent status employee who resigned, was separated in good standing, or was separated without prejudice within two years from the effective date of separation.~~
- ~~63-56. "Repromotion" means the promotion of an employee who was reduced in pay grade due to a reduction in force to the pay grade held before the reduction in force or to an intervening pay grade.~~
- ~~64-57. "Reversion" means the return of an employee on promotional probation to a position in the class in which the employee held permanent status immediately before the promotion.~~
- ~~65-58. "Rules" means the rules contained in 2 A.A.C., Title 2, Chapter 5.~~
- ~~66-59. "Separation without prejudice" means a non-disciplinary removal from state service, without appeal rights, of an employee in good standing.~~
- ~~67-60. "Special detail" means the temporary assignment of a permanent status employee to a covered position in the same agency.~~
- ~~68-61. "State service" is defined in A.R.S. § 41-762- and means all offices and positions of employment in state government except offices and positions exempted by the provisions of A.R.S. Title 41, Chapter 4, Article 5.~~
- ~~69. "Surviving spouse" means the husband or wife, as provided by law, of a current or former elected official, or active or retired officer or employee who survives upon the death of the elected official, officer, or employee.~~
- ~~70-62. "Temporary appointment" means an appointment made for a maximum of 1,500 hours in any one position per agency in each calendar year.~~
- ~~71-63. "Transfer" means the movement of an employee from one position in state service to another position in state service in the same pay grade.~~
- ~~72-64. "Uncovered position" means a position that is exempt under A.R.S. § 41-771 and not subject to the provisions of these rules.~~
- ~~73-65. "Underfill" means the appointment of a person to a class with a pay grade that is lower than the pay grade for the allocated class for that position.~~
- ~~74-66. "Voluntary pay grade decrease" means a change in assignment, at the request of an employee, to a position in a class with a lower pay grade.~~

ARTICLE 4. LEAVE

~~R2-5-415. Insurance Plans~~

- ~~A. Designation of qualifying health care plans. The following types of plans are qualifying health care plans:
 - 1. Medical Insurance.
 - 2. Dental Insurance.
 - 3. Vision Insurance.~~
- ~~B. Designation of other qualifying insurance plans. Other qualifying insurance plans are:
 - 1. Life Insurance.
 - 2. Short-term Disability Income Insurance.~~
- ~~C. Complaints. An employee who wishes to submit a complaint about an employee insurance plan shall contact the employee's Agency Insurance Liaison or a representative of the Department Benefits Section. Retired employees shall contact a representative of the Department Human Resources Benefits Section.~~

~~R2-5-423. R2-5-415. Recognition Leave~~

- ~~A. Definition. "Recognition leave" means a period of paid leave granted to an employee by an agency head as an acknowledgment of exemplary employee service or extraordinary contributions toward accomplishing the agency's goals.~~
- ~~B. Amount of leave. An agency with 100 or fewer permanent positions may award 16 hours of recognition leave per year. An agency with more than 100 permanent positions may award eight hours of recognition leave per year per 50 permanent positions.~~
- ~~C. Procedure. An agency head shall develop and implement an employee recognition leave program and process. The agency head shall submit a proposed recognition leave program and process and any subsequent changes to the Director. The pro-~~

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cess shall include as at a minimum:

1. Criteria for consideration;
2. Nominating procedures;
3. Categories of recognition used by the agency; and
4. Recommendation procedure, with final approval by the agency head.

- D. Use of leave. An employee shall use recognition leave within one year of receiving the leave.
- E. Movement to another agency. ~~An~~ If an employee ~~who~~ moves from one agency to another state service agency, the employee's shall transfer any unused recognition leave shall be transferred to the employee's recognition leave account in the new agency.
- F. Separation. An employee who separates from state service shall be paid for all unused recognition leave at the employee's current rate of pay.

R2-5-416. ~~Health Benefit Plan Repealed~~

~~A. Eligibility:~~

1. ~~A state employee, except an employee listed in subsection (A)(2), and the employee's eligible dependents may participate in the health benefit plan, if the employee complies with the contractual requirements of the selected health benefit plan. An eligible employee may enroll in a health benefit plan at any time within the first 31 days of employment or during an open enrollment period specified by the Director. To add an eligible dependent due to a qualified life event, an eligible employee shall submit an application for enrollment within 31 days of the qualified life event.~~
2. ~~The following categories of employees are not eligible to participate in the health benefit plan:~~
 - a. ~~An employee who works fewer than 20 hours per week;~~
 - b. ~~An employee in a temporary, emergency, or clerical pool position;~~
 - c. ~~A patient or inmate employed in a state institution;~~
 - d. ~~A non-state employee, officer, or enlisted personnel of the National Guard of Arizona;~~
 - e. ~~An employee in a position established for rehabilitation purposes;~~
 - f. ~~An employee of any state college or university:~~
 - i. ~~Who works fewer than 20 hours per week;~~
 - ii. ~~Who is engaged to work for less than six months; or~~
 - iii. ~~For whom contributions are not made to a state retirement plan. This disqualification does not apply to a non-immigrant alien employee, an employee participating in a medical residency training program, a Cooperative Extension employee on federal appointment, or a retiree who returns to work under A.R.S. § 38-766.01.~~

~~B. Eligibility exception.~~ ~~An employee who is on leave without pay may continue to participate in the health benefit plan under the conditions in:~~

1. ~~R2-5-405 for employees on leave without pay due to industrial illness or injury;~~
2. ~~R2-5-413 for employees on medical leave without pay; or~~
3. ~~R2-5-414 for employees on leave without pay for any other reason.~~

~~C. Dependent eligibility.~~ ~~Dependents eligible to participate in the health benefit plan include:~~

1. ~~An employee member's spouse as provided by law or domestic partner; and~~
2. ~~Each child.~~

~~D. Enrollment of dependents.~~ ~~An eligible employee may enroll eligible dependents at the time of the employee's original enrollment, within 31 days of a qualified life event, or at open enrollment.~~

R2-5-417. ~~Life Insurance and Disability Income Insurance Plans Repealed~~

~~A. Eligibility:~~

1. ~~A state employee, except an employee listed in subsection (A)(2), may participate in the life insurance and short-term disability income insurance plans.~~
2. ~~The following categories of employees are not eligible to participate in the life insurance and short-term disability income insurance plans:~~
 - a. ~~An employee who works fewer than 20 hours per week;~~
 - b. ~~An employee in a temporary, emergency, or clerical pool position;~~
 - c. ~~A patient or inmate employed in a state institution;~~
 - d. ~~A non-state employee, officer, or enlisted personnel of the National Guard of Arizona;~~
 - e. ~~An employee in a position established for rehabilitation purposes;~~
 - f. ~~An employee of any state college or university:~~
 - i. ~~Who works fewer than 20 hours per week;~~
 - ii. ~~Who is engaged to work for less than six months; or~~
 - iii. ~~For whom contributions are not made to a state retirement plan. This disqualification does not apply to an employee participating in a medical residency training program, a Cooperative Extension employee on federal appointment, or a retiree who returns to work under A.R.S. § 38-766.01.~~

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- ~~B.~~ Supplemental insurance coverage. In addition to the basic life insurance provided at no cost to an employee, an eligible employee may elect to purchase additional group life insurance. The employee may purchase an amount of insurance that does not exceed three times the employee's annual base salary, rounded down to the nearest \$5,000, or the maximum amount established by the Director, whichever is less.
- ~~C.~~ Dependent coverage. An eligible employee may elect to purchase group life insurance for the employee's spouse or domestic partner, and each child in an amount established by the Director.
- ~~D.~~ Long-term disability coverage. The monthly benefit paid under the disability portion of a plan provided under A.R.S. § 38-651 may be reduced by payments the employee receives or is eligible to receive in the same month as determined by the terms and conditions of the plan.

R2-5-418. Retiree Health Benefit Plan Repealed

- ~~A.~~ Eligibility. A state employee is eligible to participate in the retiree health benefit plan if the employee is:
 - 1. Retired under a state-sponsored retirement plan and continues enrollment in the retiree health benefit plan;
 - 2. Newly retired under a state-sponsored retirement plan and within 31 days of the date of retirement enrolls in the retiree health benefit plan; or
 - 3. On long-term disability under a state-sponsored plan.
- ~~B.~~ Dependent eligibility. A retired employee's spouse or domestic partner, and each child are eligible to participate in the retiree health benefit plan.
- ~~C.~~ Extended coverage. If a state employee dies while retired, on long-term disability, or continuing to work when eligible for retirement, retiree health benefit plan coverage that is in effect for the employee's spouse or child may continue by payment of the premium and applicable administrative expense.

R2-5-419. Health Benefit Plan for Former Elected Officials Repealed

- ~~A.~~ Definition. "Former elected official" means an elected official as defined in A.R.S. § 38-801(3) who is no longer in office.
- ~~B.~~ Eligibility. A former elected official of this state is eligible to participate in the retiree health benefit plan if the former elected official:
 - 1. Has at least five years of credited service in the Elected Officials' Retirement Plan;
 - 2. Was covered under a group health or group health and accident plan at the time of leaving office;
 - 3. Served as an elected official on or after January 1, 1983; and
 - 4. Applies for enrollment within 31 days of leaving office or retiring.
- ~~C.~~ Dependent eligibility. A former elected official's spouse or domestic partner, and each child are eligible to participate in the retiree health benefit plan.
- ~~D.~~ Eligibility of surviving spouse. Upon the death of a former elected official, the surviving spouse is eligible for coverage under the retiree health benefit plan by paying the premium and applicable administrative expenses if:
 - 1. The deceased former elected official met the qualifications for eligibility listed in subsection (B); and
 - 2. The surviving spouse applies for coverage within 31 days of the death of the former elected official.
- ~~E.~~ Termination of coverage. The insurance coverage of a former elected official or the surviving spouse of a former elected official who fails to pay insurance premiums when due shall terminate at 11:59 p.m. on the last day of the period covered by the last premium paid.

R2-5-420. Health Benefit Plan for Surviving Spouse of Elected Official Repealed

- ~~A.~~ Upon the death of an elected official who is currently serving in office, the surviving spouse is eligible for coverage under the retiree health benefit plan by paying the premium and applicable administrative expenses if:
 - 1. The deceased elected official met the qualifications for eligibility listed in R2-5-419(B)(1) and (2), or would have met the qualifications upon completion of the term of office in which the deceased elected official was serving at the time of death; and
 - 2. The surviving spouse applies for coverage within 31 days of the death of the elected official.
- ~~B.~~ Termination of coverage. The insurance coverage of a surviving spouse who fails to pay insurance premiums when due shall terminate at 11:59 p.m. on the last day of the period covered by the last premium paid.

R2-5-421. Life Insurance Plan for Former Elected Officials Repealed

- ~~A.~~ Definitions. "Former elected official" means an elected official as defined in A.R.S. § 38-801(3) who is no longer in office.
- ~~B.~~ Eligibility. A former elected official of this state, spouse or domestic partner, and each child are eligible to participate in the group life insurance plan, if the former elected official:
 - 1. Has at least five years of credited service, as referenced in A.R.S. § 38-801 et seq., in the Elected Officials' Retirement Plan; and,
 - 2. Served as an elected official on or after January 1, 1983.
- ~~C.~~ Eligibility of surviving spouse.
 - 1. Upon the death of a former elected official, the spouse is entitled to coverage under the group life insurance plan, if:
 - a. The deceased former elected official met the qualifications for eligibility listed in subsection (B);

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- b. The surviving spouse is receiving a monthly survivor's retirement check from the Elected Officials' Retirement Plan;
 - e. The surviving spouse applies for the life insurance benefit within 31 days of the death of the former elected official; and;
 - d. The surviving spouse pays the premium for the group life insurance coverage based upon the spouse's age and pays applicable administrative expenses.
2. Upon the death of an incumbent elected official, the surviving spouse is eligible to participate in the life insurance plan for former elected officials in accordance with the terms of the insurance contract covering the former elected official at the time of death, if:
- a. The deceased elected official met the qualifications for eligibility listed in subsection (B) or would have met the qualifications upon completion of the term of office in which the deceased elected official was serving at the time of death;
 - b. The surviving spouse is receiving a monthly survivor's retirement check from the Elected Officials' Retirement Plan; and;
 - e. The surviving spouse applies for the life insurance benefit within 31 days of the death of the incumbent elected official.
- D.** Termination of coverage. The insurance coverage of either a former elected official or the surviving spouse of a former or incumbent elected official who fails to pay insurance premiums when due shall terminate at 11:59 p.m. on the last day of the period covered by the last premium paid.

R2-5-422. Flexible or Cafeteria Employee Benefit Plan Repealed

- A.** Eligibility. A state employee who is eligible to participate in the state's employee insurance programs, other than the short-term disability program, is enrolled in the flexible or cafeteria employee benefit plan, in accordance with 26 U.S.C. 125, Internal Revenue Code of 1986, as amended. Benefits provided to domestic partners shall receive pre-tax treatment under the flexible or cafeteria employee benefit plan only to the extent allowed by 26 U.S.C. 125, as amended.
- B.** Pre-taxing of plan premiums. The method of subtracting premiums for health and supplemental life insurance from gross salary before deducting federal and state income taxes and Social Security taxes, resulting in the pre-taxing of premiums for health and supplemental life insurance plans, shall not change or cancel until the end of the plan year.
- C.** Corresponding change in premiums. A family status event that results in the modification of a pre-tax premium will also result in a corresponding change in the premium amount being deducted.
- D.** Automatic disenrollment. A participant is automatically disenrolled from this plan if the participant ceases to be an eligible employee.
- E.** Plan administrator. The Arizona Department of Administration administers the plan and determines the type, structure, and components of the plan.
- F.** Responsibility for plan operation. The plan administrator has sole authority to amend or terminate, in whole or in part, the plan at any time. The plan administrator has sole responsibility for effecting salary reductions.
- G.** Scope of authority. The plan administrator has sole responsibility to administer the plan, including, but not limited to, the following:
 - 1. To construe and interpret the plan, decide all questions of eligibility, and determine the amount, manner, and time of payment of any benefits; and
 - 2. To prescribe procedures to be followed by eligible employees who want to enroll in the plan.

R2-5-423. Renumbered

NOTICE OF FINAL RULEMAKING

TITLE 9. HEALTH SERVICES

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

[R09-17]

PREAMBLE

1. Sections Affected

R9-6-101
Exhibit I-A

Rulemaking Action

Amend
Repeal

Notices of Final Rulemaking

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

Authorizing statutes: A.R.S. §§ 36-136(A)(7) and (F)

Implementing statutes: A.R.S. §§ 36-132(A)(1) and 36-136(H)(1)

3. The effective date of the rules:

March 7, 2009

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

Notice of Rulemaking Docket Opening: 14 A.A.R. 3900, October 10, 2008

Notice of Proposed Rulemaking: 14 A.A.R. 3942, October 17, 2008

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

Name: Ken Komatsu, State Epidemiologist

Address: Department of Health Services
Bureau of Epidemiology and Disease Control
150 N. 18th Ave., Suite 150
Phoenix, AZ 85007

Telephone: (602) 364-3587

Fax: (602) 542-2722

E-mail: komatsk@azdhs.gov

or

Name: Kathleen Phillips, Esq.
Administrative Counsel and Rules Administrator

Address: Department of Health Services
Office of Administrative Counsel and Rules
1740 W. Adams St., Suite 200
Phoenix, AZ 85007

Telephone: (602) 542-1264

Fax: (602) 364-1150

E-mail: phillik@azdhs.gov

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

A.R.S. § 36-136(H)(1) states that the Arizona Department of Health Services (Department) shall "define and prescribe reasonably necessary measures for detecting, reporting, preventing, and controlling communicable and preventable diseases." The Department has adopted rules to implement this statute in 9 A.A.C. 6. The definitions for terms used throughout 9 A.A.C. 6 are contained in R9-6-101, along with Exhibit I-A, to which reference is made in the definition of "vaccinia-related adverse event." This rulemaking is adding the definition of "medical evaluation," which is currently used in Article 2 and Article 12, and will be used in the amended definition of "vaccinia-related adverse event." With the amended definition of "vaccinia-related adverse event," Exhibit I-A will no longer be used and is being repealed. This rulemaking conforms to rulemaking format and style requirements of the Governor's Regulatory Review Council and the Office of the Secretary of State.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on 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 Department did not review or rely on any study related to this rulemaking package.

8. A showing of good cause why the rules are necessary to promote a statewide interest if the rules 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 summary, annual costs/revenues are designated as minimal when less than \$1,000, moderate from \$1,000 to \$10,000, and substantial when greater than \$10,000. Costs are listed as significant when meaningful or important, but not readily subject to quantification.

The Department believes that the proposed rule will result in at most a minimal cost to the Department, a local health agency, a health care institution, a correctional facility, or a health care provider required to report. The clarification of what a "medical evaluation" means and the amended definition of "vaccinia-related adverse event" will provide a

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minimal benefit to the Department, a local health agency, a health care institution, a correctional facility, and a health care provider.

The Department has determined that the benefits related to public health outweigh any potential costs associated with this rulemaking.

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

No changes were made to the rules between the proposed rule and the final rule.

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

There were no oral comments at the Oral Proceeding, and the Department received no 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:

None

14. Was this rule previously made as an emergency rule? If so, please indicate the Register citation:

No

15. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

CHAPTER 6. DEPARTMENT OF HEALTH SERVICES
COMMUNICABLE DISEASES AND INFESTATIONS

ARTICLE 1. GENERAL

Section

R9-6-101. Definitions

Exhibit I-A. ~~Case Definitions for Suspected Clinically Significant Adverse Events~~ Repealed

ARTICLE 1. GENERAL

R9-6-101. Definitions

In this Chapter, unless otherwise specified:

1. No change
2. No change
3. No change
4. No change
5. No change
6. No change
 - a. No change
 - i. No change
 - (1) No change
 - (2) No change
 - ii. No change
 - (1) No change
 - (2) No change
 - b. No change
 - i. No change
 - ii. No change
7. No change
8. No change
9. No change
10. No change
11. No change
12. No change
13. No change
 - a. No change
 - i. No change

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- ii. No change
- iii. No change
- b. No change
- c. No change
- d. No change
- 14. No change
- 15. No change
- 16. No change
- 17. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
- 18. No change
- 19. No change
- 20. No change
- 21. No change
 - a. No change
 - b. No change
 - c. No change
- 22. No change
- 23. No change
- 24. No change
 - a. No change
 - b. No change
 - c. No change
- 25. No change
- 26. No change
- 27. No change
- 28. No change
- 29. No change
- 30. No change
- 31. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
- 32. No change
- 33. No change
- 34. No change
- 35. No change
- 36. No change
 - a. No change
 - b. No change
- 37. No change
- 38. No change
- 39. No change
- 40. No change
- 41. No change
- 42. No change
 - a. No change
 - b. No change
- 43. No change
- 44. No change
- 45. No change
- 46. No change
- 47. No change
- 48. No change
- 49. No change

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- a. No change
- b. No change
- 50. No change
- 51. No change
 - a. No change
 - b. No change
- 52. No change
- 53. No change
- 54. “Medical evaluation” means an assessment of an individual’s health by a physician, physician assistant, or registered nurse practitioner.
- 54-55. No change
 - a. No change
 - b. No change
- 55-56. No change
- 56-57. No change
- 57-58. No change
- 58-59. No change
- 59-60. No change
- 60-61. No change
- 61-62. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
- 62-63. No change
- 63-64. No change
- 64-65. No change
- 65-66. No change
- 66-67. No change
- 67-68. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
 - g. No change
- 68-69. No change
- 69-70. No change
- 70-71. No change
 - a. No change
 - b. No change
 - c. No change
- 71-72. No change
- 72-73. No change
- 73-74. No change
- 74-75. No change
- 75-76. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
- 76-77. No change
- 77-78. No change
- 78-79. No change
- 79-80. No change
- 80-81. No change
- 81-82. No change
- 82-83. “Vaccinia-related adverse event” means any of the reactions described in Exhibit I-A a reaction to the administra-

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tion of a vaccine against smallpox that requires medical evaluation of the reaction.

83-84. No change

84-85. No change

85-86. No change

86-87. No change

Exhibit I-A. ~~Case Definitions for Suspected Clinically Significant Adverse Events~~ Repealed

Adverse Event	Case Definition
Anaphylaxis	Hypotension, tachycardia, nausea, vomiting, collapse in first hours after smallpox vaccination
Eczema vaccinatum	<ul style="list-style-type: none"> ▲ Extensive vesicular and pustular eruption anywhere, or ▲ More limited vesicular or pustular eruption occurring in more than one site typically affected by atopic dermatitis (inner elbow folds, back of knees, face) <p>Comments: Usually occurs in a patient with a history of skin disease, especially atopic dermatitis. Usually occurs concurrently or shortly after the local vaccinia lesion in a vaccinee or 5-19 days after exposure in a contact. Patients usually have signs of moderate to severe systemic illness, including fever, malaise, prostration.</p>
Fetal vaccinia	Generalized vaccinia type rash (vesicular, pustular, or ulcerative) in newborn of vaccinated mother
Generalized vaccinia (severe)	Disseminated maculopapular or vesicular lesions with either: a. Symptoms of moderate to severe systemic illness, including fever, malaise, prostration; or b. Documented immunodeficiency
Inadvertent inoculation (severe)	Extensive vesicular and pustular lesions at distal sites in a vaccinee or any sites in a contact, which are not generalized but may involve large contiguous areas, including sites of other skin injury. Comments: Sites usually consistent with physical transfer of virus from primary vaccination site and most commonly are the face, eyelids, nose, mouth, lips, genitalia, and anus.
Ocular vaccinia	Inflammation involving peri-ocular soft tissue or the eye itself (blepharitis, conjunctivitis, keratitis, or iritis) in a recent vaccinee or contact of vaccinee
Post-vaccinia encephalitis or encephalomyelitis	Any change in mental status (confusion, delirium, somnolence) or in sensorimotor function (altered sensation, weakness, paresis) occurring 6-15 days after vaccination
Progressive vaccinia	<ul style="list-style-type: none"> ▲ Progressive expansion of the vaccination site lesion, often with necrosis, or ▲ Failure to heal the vaccinia lesion(s), or ▲ Disseminated vaccinia lesions <p>In association with</p> <ul style="list-style-type: none"> ▲ Minimal or no inflammatory response to the vaccinia lesion(s) <p>Comments: Either (a) rapid progression of the vaccination site lesion with minimal inflammation at any time, or (b) progression at any rate with minimal inflammation after 15 days should suggest progressive vaccinia.</p>
Rashes (severe)	Generalized rash with mucosal ulceration or symptoms of moderate to severe systemic illness, including fever, malaise, prostration

NOTICE OF FINAL RULEMAKING

TITLE 9. HEALTH SERVICES

**CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM
ADMINISTRATION**

[R09-14]

PREAMBLE

1. Sections Affected

- R9-22-1902
- R9-22-1903
- R9-22-1904
- R9-22-1905

Rulemaking Action

- Amend
- Amend
- Amend
- Amend

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R9-22-1907	Amend
R9-22-1908	Amend
R9-22-1909	Repeal
R9-22-1909	New Section
R9-22-1910	Repeal
R9-22-1911	Repeal
R9-22-1912	Repeal
R9-22-1913	Amend
R9-22-1914	Repeal
R9-22-1915	Amend
R9-22-1916	Repeal
R9-22-1917	Repeal
R9-22-1919	Amend
R9-22-1920	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. §§ 36-2901, 36-2903.01(F)

Implementing statutes: A.R.S. §§ 36-2903.01(F), 36-2929

3. The effective date of the rules:

March 7, 2009

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

Notice of Rulemaking Docket Opening: 14 A.A.R. 3501, September 5, 2008

Notice of Proposed Rulemaking: 14 A.A.R. 3732, October 3, 2008

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

Name: Mariaelena Ugarte

Address: AHCCCS
Office of Administrative Legal Services
701 E. Jefferson St., Mail Drop 6200
Phoenix, AZ 85034

Telephone: (602) 417-4693

Fax: (602) 253-9115

E-mail: AHCCCSRules@azahcccs.gov

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

The Administration made the following changes to this rulemaking pursuant to a Five-year Review Report approved by the Governor's Regulatory Review Council on August 5, 2008.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on 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:

No study was reviewed during this rulemaking and the Agency does not anticipate reviewing any studies.

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:

It is anticipated that the contractors, private sector, members, providers, small businesses, political subdivisions, and the Administration will be minimally impacted by the changes to the rule language. The areas requiring revision are for clarity as a result of a Five-year Rule Review approved by the Governor's Regulatory Review Council.

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

No substantive changes have been made between the proposed rules and the final rules. The Administration made the rules more clear, concise, and understandable by making grammatical, verb tense, punctuation, and structural changes throughout the rules.

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

No comments were received by the Administration regarding the rules.

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

Not applicable

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

Not applicable

14. Was this rule previously made as an emergency rule? If so, please indicate the Register citation:

No

15. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM
ADMINISTRATION

ARTICLE 19. FREEDOM TO WORK

Section

- R9-22-1902. General Administration Requirements
- R9-22-1903. Application for Coverage
- R9-22-1904. Notice of Approval or Denial
- R9-22-1905. Reporting and Verifying Changes
- R9-22-1907. Notice of Adverse Action Requirements
- R9-22-1908. Request For Hearing
- R9-22-1909. ~~Social Security Number~~ Conditions of Eligibility
- R9-22-1910. ~~State Residency~~ Repealed
- R9-22-1911. ~~Citizenship and Immigrant Status~~ Repealed
- R9-22-1912. ~~Age~~ Repealed
- R9-22-1913. Premium Requirements
- R9-22-1914. ~~Income~~ Repealed
- R9-22-1915. Institutionalized Person
- R9-22-1916. ~~Non Payment of Premium~~ Repealed
- R9-22-1917. ~~Applicant and Member Responsibility~~ Repealed
- R9-22-1919. Additional Eligibility Criteria for the Medically Improved Group
- R9-22-1920. ~~Premium Amount~~ Repealed

ARTICLE 19. FREEDOM TO WORK

R9-22-1902. General Administration Requirements

The Administration shall comply with the confidentiality rule under ~~R9-22-1501(B)~~ and Title VI compliance rule under ~~R9-22-1501(M)~~. Terms used in this Article are defined in Article 1 of this Chapter unless otherwise specified. R9-22-512(C).

R9-22-1903. Application for Coverage

- A. A person may apply by submitting a ~~signed~~ an application to an Administration office.
- B. The application date is the date the application is received at an Administration office or outstation location approved by the Director as described under R9-22-1406(A).
- C. The provisions in ~~R9-22-1405(B), (C) and (E)~~ R9-22-1406(B) and (D) apply to this Section.
- D. The applicant or representative who files the application may withdraw the application for coverage either orally or in writing. An applicant withdrawing an application shall receive a denial notice under R9-22-1904.
- E. Except as provided in 42 CFR 435.911, the Administration shall determine eligibility within 45 days.

R9-22-1904. Notice of Approval or Denial

The Administration shall send an applicant a written notice of the decision regarding the application. This notice shall include a statement of the action, and:

- 1. If approved, the notice shall contain:
 - a. The effective date of eligibility,
 - b. The amount the person shall pay, and
 - c. An explanation of the person's hearing rights specified in ~~Article 8 of this Chapter~~ 9 A.A.C. 34.
- 2. If denied, ~~R9-22-1501(F)(3)~~ R9-22-1501(G)(3) applies.

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R9-22-1905. Reporting and Verifying Changes

An applicant or member shall report and verify changes, as described under ~~R9-22-1501(G)(3), (4), (5), and (6)~~ R9-22-1501(H), to the Administration, ~~the following changes:~~

1. ~~Change of address;~~
2. ~~Change in income;~~
3. ~~Change in employment status;~~
4. ~~Change in school attendance if under age 22;~~
5. ~~Change in Arizona state residency;~~
6. ~~Change in first- or third-party liability which may contribute to the payment of all or a portion of the person's medical costs;~~
7. ~~Admission to a public institution;~~
8. ~~Admission to an Institution for Mental Disease;~~
9. ~~Improvement in the person's medical condition;~~
10. ~~Death;~~
11. ~~Change in U.S. citizenship or immigrant status;~~
12. ~~Change in disability status;~~
13. ~~Change in impairment related work or other expenses; or~~
14. ~~Any other change that may affect the member or applicant's eligibility.~~

R9-22-1907. Notice of Adverse Action Requirements

- A. The requirements under ~~R9-22-1501(J)(1)~~ R9-22-1501(K)(1) apply.
- B. Advance notice of a change in eligibility or premium amount. Advance notice means a notice of proposed action that is issued to the member at least 10 days before the effective date of the proposed action. Except under subsection (C), advance notice shall be issued whenever an adverse action is taken to discontinue eligibility, or increase the premium amount.
- C. Exceptions from advance notice. A notice shall be issued to the member to discontinue eligibility no later than the effective date of action if:
 1. A member provides a clearly written statement, signed by that member, that services are no longer wanted.
 2. A member provides information that requires termination of eligibility or reduction of services, indicates that the member understands that this must be the result of supplying that information, and a ~~the~~ member signs a written statement waiving advance notice;
 3. A member cannot be located and mail sent to the member's last known address has been returned as undeliverable subject to reinstatement of discontinued services under 42 CFR 431.231(d);
 4. A member has been admitted to a public institution where a person is ineligible for coverage;
 5. A member has been approved for Medicaid in another state; or
 6. The Administration receives information confirming the death of a member.

R9-22-1908. Request for Hearing

An applicant or member may request a hearing under 9 A.A.C. 34, Article 8 of this Chapter for the following ~~adverse actions:~~

1. ~~The determination of a premium amount under R9-22-1920, and~~
2. ~~Actions listed in R9-22-803.~~

R9-22-1909. ~~Social Security Number~~ Conditions of Eligibility

As a condition of eligibility, an applicant shall furnish a valid SSN.

An applicant or member shall meet the following conditions to qualify for the Freedom to Work program:

1. Furnish a valid Social Security Number (SSN);
2. Be a resident of Arizona;
3. Be a citizen of the United States, or meet requirements for a qualified alien under A.R.S. § 36-2903.03(B);
4. Be at least 16 years of age, but less than 65 years of age;
5. Have countable income that does not exceed 250 percent of FPL. The Administration shall count the income under 42 U.S.C. 1382a and 20 CFR 416 Subpart K with the following exceptions:
 - a. The unearned income of the applicant or member shall be disregarded,
 - b. The income of a spouse or other family member shall be disregarded, and
 - c. The deduction for a minor child shall not apply;
6. Comply with the member responsibility provisions under R9-22-1502(D) and (F).

R9-22-1910. ~~State Residency~~ Repealed

As a condition of eligibility, an applicant or member shall be a resident of Arizona.

R9-22-1911. ~~Citizenship and Immigrant Status~~ Repealed

As a condition of eligibility an applicant or member shall be a citizen of the United States, or shall meet requirements for qualified alien under A.R.S. § 36-2903.03(B).

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R9-22-1912. ~~Age Repealed~~

~~As a condition of eligibility an applicant or member shall be at least 16 years of age, but less than 65 years of age.~~

R9-22-1913. Premium Requirements

~~As a condition of eligibility, an applicant or member shall pay the premium required under R9-22-1920.~~

A. As a condition of eligibility, an applicant or member shall:

1. Pay the premium required under subsection (B).
2. Not have any unpaid premiums for more than one month's premium amount.

B. The Administration shall process premiums under 9 A.A.C. 31, Article 14 with the following exceptions:

1. A member who has countable income:
 - a. Under \$500, the monthly premium payment shall be \$0.
 - b. Over \$500 but not greater than \$750, the monthly premium payment shall be \$10.
2. The premium for a member shall be increased by \$5 for each \$250 increase in countable income above \$750.

R9-22-1914. ~~Income Repealed~~

~~As a condition of eligibility, an applicant or member's countable income shall not exceed 250 percent of FPL. The Administration shall count the income under 42 U.S.C. 1382a and 20 CFR 416 Subpart K with the following exceptions:~~

- ~~1. The unearned income of the applicant or member shall be disregarded,~~
- ~~2. The income of a spouse or other family members shall be disregarded, and~~
- ~~3. The deduction for a minor child shall not apply.~~

R9-22-1915. Institutionalized Person

A person is not eligible for AHCCCS medical coverage if the person is:

1. An inmate of a public institution if federal financial participation (FFP) is not available, or
2. Age 21 through age 64 and is residing in an Institution for Mental Disease under 42 CFR 435.1009 except when allowed under the Administration's Section 1115 IMD waiver or allowed under a managed care contract approved by with CMS.

R9-22-1916. ~~Non Payment of Premium Repealed~~

~~As a condition of eligibility, an applicant shall not have unpaid premiums as defined under R9-22-1920.~~

R9-22-1917. ~~Applicant and Member Responsibility Repealed~~

~~As a condition of eligibility, an applicant or member shall comply with the provisions under R9-22-1502(D) and R9-22-1502(F).~~

R9-22-1919. Additional Eligibility Criteria for the Medically Improved Group

As a condition of eligibility for the Medically Improved Group, a member shall:

1. Be employed. Under this Section, employed means an individual who:
 - a. Earns at least the minimum wage and works at least 40 hours per month, or
 - b. Has gross monthly earnings at least equal to those earned by an individual who is earning the minimum wage working 40 hours per month.
2. Cease to be eligible for medical coverage under R9-22-1918 or a similar Basic Coverage Group program administered by another state because the member, by reason of medical improvement, is determined at the time of a regularly scheduled continuing disability review to no longer be disabled; and
3. Continues to have a severe medically determinable impairment, as determined under ~~regulations of the federal government~~ Social Security Act section 1902(a)(10)(A)(ii)(XVI).

R9-22-1920. Premium Amount Repealed

~~The Administration shall process premiums under Article 14 of this Chapter with the following exceptions:~~

- ~~1. A member who has countable income:~~
 - ~~a. Under \$500, the monthly premium payment shall be \$0.~~
 - ~~b. Over \$500 but not greater than \$750, the monthly premium payment shall be \$10.~~
- ~~2. The premium for a member shall be increased by \$5 for each \$250 increase in countable income above \$750.~~

NOTICE OF FINAL RULEMAKING

TITLE 17. TRANSPORTATION

CHAPTER 8. DEPARTMENT OF TRANSPORTATION
MOTOR CARRIER AND TAX SERVICES PROGRAM

[R09-09]

PREAMBLE

1. Sections Affected

Chapter 8
Article 4
R17-8-401
R17-8-402
R17-8-403
R17-8-404
R17-8-405

Rulemaking Action

Amend
New Article
New Section
New Section
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. § 28-366

Implementing statutes: A.R.S. §§ 28-374 and 28-5930

3. The effective date of the rules:

March 7, 2009

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

Notice of Rulemaking Docket Opening: 14 A.A.R. 3187, August 8, 2008

Notice of Proposed Rulemaking: 14 A.A.R. 3175, August 8, 2008

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

Name: John Lindley, Administrative Rules Analyst

Address: Administrative Rules Unit
Department of Transportation, Motor Vehicle Division
1801 W. Jefferson St., Mail Drop 530M
Phoenix, AZ 85007

Telephone: (602) 712-8804

Fax: (602) 712-3081

E-mail: jlindley@azdot.gov

Please visit the ADOT web site to track progress of this rule and any other agency rulemaking matters at www.azdot.gov/mvd/mvdrules/rules.asp.

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

The Arizona Department of Transportation, Motor Vehicle Division, initiated this rulemaking to modernize the antiquated electronic funds transfer process currently used by commercial entities to electronically file payments with the Department.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on 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 rules are necessary to promote a statewide interest if the rules 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:

Payers benefit by being able to take advantage of electronic payment methods thereby providing a less paper-oriented environment and potentially saving administrative costs and mailing concerns. For the recommended transfer method, ACH debit, MVD assumes the set-up costs for the remitting party. For the optional transfer method, ACH

Notices of Final Rulemaking

credit, the payer bears minimal costs. Payers will benefit from a less manual process for meeting daily deposit requirements formerly made almost exclusively by hardcopy checks.

The Highway User Revenue Fund, "HURF," benefits through more direct and timely payment of tax liabilities and increased earnings on net revenues. Costs are netted against earnings in the HURF, which results in an overall benefit to the citizens of the state.

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

Minor grammatical and style corrections were made at the request of Governor's Regulatory Review Council staff.

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

Not applicable

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? If so, please indicate the Register citation:

No

15. The full text of the rules follows:

TITLE 17. TRANSPORTATION

CHAPTER 8. DEPARTMENT OF TRANSPORTATION
~~MOTOR CARRIER AND TAX SERVICES PROGRAM FUEL TAXES~~

ARTICLE 4. ELECTRONIC FUNDS TRANSFERS

Section

<u>R17-8-401.</u>	<u>Definitions</u>
<u>R17-8-402.</u>	<u>Applicability</u>
<u>R17-8-403.</u>	<u>Electronic Funds Transfer Declaration</u>
<u>R17-8-404.</u>	<u>Procedures for Payment</u>
<u>R17-8-405.</u>	<u>Remedies</u>

ARTICLE 4. ELECTRONIC FUNDS TRANSFERS

R17-8-401. Definitions

In addition to the definitions provided under A.R.S. §§ 28-101 and 28-5601, the following terms apply to this Article:

"Automated Clearing House," or "ACH," means a central distribution and settlement point for the electronic clearing of debits and credits between financial institutions.

"ACH credit" means an electronic funds transfer:

Generated by a licensee, and

Cleared through an ACH for deposit to the Department account.

"ACH debit" means an electronic transfer of funds from a licensee's account:

Authorized by a licensee-signed authorization agreement,

Generated at a licensee's instruction, and

Cleared through an ACH for deposit to the Department account.

"Cash Concentration or Disbursement Plus," or "CCD Plus," means the standardized data format approved by NACHA for remitting tax payments electronically.

"Electronic Fuel Tax Program" means the Department program for the electronic filing of fuel tax reports and payment of fuel taxes.

"Electronic funds transfer" means a transmission of funds by electronic means to order, instruct, or authorize a financial institution to debit or credit an account pursuant to the Electronic Fuel Tax Program.

"Financial institution" means a licensed bank, savings and loan association, mutual savings bank or credit union.

"Licensee" means a person licensed under A.R.S. Title 28, Chapter 16, Article 1.

Notices of Final Rulemaking

“MVD account number” means a confidential number assigned by the Department that identifies a licensee.

“NACHA” means NACHA - The Electronic Payments Association, which is a not-for-profit association that oversees the Automated Clearing House network.

“Payment information” means data the Department requires of a licensee when making an electronic funds transfer.

“State servicing bank” means the financial institution contracted to perform banking functions on behalf of the state.

R17-8-402. Applicability

- A.** A licensee authorized by the Department to file electronic fuel tax reports under A.R.S. Title 28, Chapter 16, shall remit payments to the Department by electronic funds transfer as provided under A.R.S. §§ 28-374, 28-5930, and this Article.
- B.** Payments subject to this Article include any tax or fee associated with:
 - 1. Filing original or amended tax reports.
 - 2. Taxpayer billings associated with tax reports, or
 - 3. Audit assessments associated with tax reports.

R17-8-403. Electronic Funds Transfer Declaration

- A.** Prior to remitting an initial payment by electronic funds transfer, and within 30 days prior to any change in the method of payment transfer, a licensee shall file with the Department an electronic funds transfer declaration.
- B.** The electronic funds transfer declaration shall be made on a form approved by the Department and shall contain the following:
 - 1. Licensee name.
 - 2. Licensee Employer Identification Number (EIN).
 - 3. Business address.
 - 4. MVD account number.
 - 5. Fee or tax type.
 - 6. Either ACH credit or ACH debit payment method.
 - 7. Name and phone number of contact person, and
 - 8. Any other information required by the Director.

R17-8-404. Procedures for Payment

- A.** All electronic funds transfers shall be in compliance with the NACHA Operating Rules.
- B.** A licensee may remit payments by either ACH credit or ACH debit.
- C.** A licensee using the ACH credit method shall ensure that all ACH credit transfers are in the CCD-Plus addenda format and contain all information required by the Department and the licensee’s financial institution to process the transfer.
- D.** A licensee using the ACH debit method shall electronically communicate the following payment information to the state servicing bank:
 - 1. MVD account number.
 - 2. Payment amount, and
 - 3. Any other information required by the Director.

R17-8-405. Remedies

- A.** Violations of this Article shall result in the assessment of applicable penalties, interest, and late filing fees pursuant to A.R.S. Title 28, Chapter 16.
- B.** Licensure shall be subject to cancellation by the Department upon a licensee’s failure to comply with this Chapter and A.R.S. Title 28, Chapter 16 or 25, for failing to file an electronic report as required under A.R.S. § 28-5930.
- C.** Remedies are cumulative. A cancellation of licensure under this Chapter or A.R.S. Title 28, Chapters 16 and 25, shall not terminate any reporting requirement or fee, tax, penalty or interest obligation.

NOTICE OF FINAL RULEMAKING

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR POLLUTION CONTROL

[R09-13]

PREAMBLE

- 1. Sections Affected**
R18-2-608

Rulemaking Action
Amend
- 2. The statutory authority for the rulemaking, including both the authorizing statute and the statutes the rules are implementing:**
Authorizing statute: A.R.S. § 49-104(A)(10)
Implementing statutes: A.R.S. §§ 49-404, 49-424, 49-425
- 3. The effective date of the rules:**
March 7, 2009
- 4. A list of all previous notices appearing in the Register addressing the final rule:**
Notice of Rulemaking Docket Opening: 14 A.A.R. 1144, April 11, 2008
Notice of Proposed Rulemaking: 14. A.A. R. 3285, August 22, 2008
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking.**

Name: Danielle M. Dancho
Address: Department of Environmental Quality
1110 W. Washington St.
Phoenix, AZ 85007
Telephone: (602) 771-4210 (This number may be reached in-state by dialing 1-800-234-5677 and requesting the seven digit number.)
Fax: (602) 771-2366
- 6. An explanation of the rule, including the agency's reasons for initiating the rule:**

Summary.
The Arizona Department of Environmental Quality (ADEQ) has determined that the current Mineral Tailings rule, Section R18-2-608, needs to be expanded to expressly address maintenance operations at existing mineral tailings piles. The current version of the rule expressly applies to construction and implies rather than states that requirements continue during operation, maintenance, and when the piles are no longer active. ADEQ is therefore updating the Mineral Tailings, rule R18-2-608, to include the language "or own or otherwise operate" in order to clarify that pollution control measures should continue after the construction of mineral tailings piles and for times when tailings piles are inactive.

Background.
The Memorandum of Agreement (MOA) between ADEQ and Phelps Dodge in the early 1990s addressed construction of the mineral tailings piles; however, the agreement was silent concerning the issue of continuing maintenance. Continuing maintenance is required due to the deteriorating effects of stormwater, wind and mechanical damage sustained by the piles over time. The MOA has since expired, and ADEQ is currently working on a Maintenance Plan in effort to convince EPA to re-designate the Ajo area to Attainment Status based on permanent and enforceable control measures.

Section by Section Explanation of the Proposed Rules.
R18-2-608. Mineral Tailings. The proposed rule will add the language "or own or otherwise operate," in order to ensure maintenance operations at existing mineral tailings piles.
- 7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
None

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

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

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

A. Rule Identification

Title 18, Chapter 2, Article 6, Section 608, "Mineral Tailings." This Section was renumbered from R18-2-408, effective November 15, 1993.

B. Summary

ADEQ does not expect the addition of "or own or otherwise operate" to the requirement for controlling particulates in mineral-tailings piles to create significant compliance costs to individual facilities, unless facilities currently are not adequately maintaining their tailings piles. The amendment clarifies that measures to control particulates need to continue after the tailings piles are formed. Control measures that are considered reasonable include: wetting, chemical stabilization, and revegetation.

ADEQ anticipates a public health benefit to accrue from reduced particulate matter (PM10) emissions in Arizona. Individuals with asthma and other diseases could be at greater risk from exposure to PM10. Thus, any efforts undertaken to reduce or mitigate particulates potentially could have a greater benefit for these sensitive subpopulations. ADEQ anticipates that probable benefits will outweigh probable costs of the rulemaking.

C. Entities Directly Affected

ADEQ anticipates this rulemaking to impact facilities that currently are not maintaining, or inadequately maintaining their mineral-tailing piles. It is presumed that the majority of facilities are adequately maintaining their tailing piles. Because "mineral tailings" encompass a broad category that could include any size accumulations of waste rock, an unknown number of smaller facilities could be impacted by this rulemaking. In addition, ADEQ and the general public will be directly impacted.

D. Cost-Benefit Analysis

1. Public Health Impacts

The general public accrues benefits from cleaner air. Air quality regulations that lower concentrations of particulates, for example, have the potential to reduce adverse-health effects from missed school days to premature mortality. Scientific evidence links exposure to ambient particulate matter (PM) to airway inflammation that produces systemic effects. Individuals with asthma and chronic obstructive pulmonary disease could be at greater risk from exposure to particulates. Other sensitive subpopulations include the following: infants, children, elderly, and persons with congenital defects.

Asthma, which is a significant health burden in the U.S., is an inflammation of the lungs that results in intermittent narrowing and blockage of the airways, causing wheezing, coughing, chest tightness, and shortness of breath. Childhood asthma causes missed school days, visits to the emergency room and doctors' offices, as well as hospitalizations (Rimsza et al. 2006).

Asthma rates for 2003 were as follows: 8% for Maricopa County, 8.3% for Arizona, and 7.5% for the U.S. (Rimsza et al. 2006). Although asthma results in lost school days, lost work days, emergency room visits, and hospitalization, the symptoms are not always severe enough to require an emergency room visit or hospitalization. Asthma symptoms; however, can prevent children from living a fully active life.

Between 2006 and 2016, the population of Arizona is projected to grow from 6,239,482 to 8,093,110 (ADES 2006). With the anticipated population growth of the state, pediatric and adult cases of asthma are expected to expand in Arizona from approximately 517,900 to 671,700.

Reducing PM10 can lead to potential cost-saving benefits to the general public, based on a variety of avoided and mitigated adverse-health effects. Thus, reducing PM10 from becoming airborne from these mining-tailing piles has a potential to provide both human health and environmental benefits. The extent of the health benefits involves assessing the probability of the exposure rate to inhabitants living near the mineral-tailing piles and the harm experienced, viz., the value of the monetized, adverse-health effects eliminated or mitigated. Avoided incidents of hospital admissions, for example, for cardiovascular, chronic obstructive pulmonary disease, and asthma are worth \$18,387, \$12,378, and \$6,634, respectively in 1999 dollars (U.S. EPA RIA 2002, pp. 8-23, 8-24).

Some of health effects of human exposure to PM can be quantified while others cannot. Quantified adverse-health effects include: mortality, bronchitis (chronic and acute), new asthma cases, hospital admissions (respiratory and cardiovascular), emergency room visits for asthma, lower and upper respiratory illness, shortness of breath, respiratory symptoms, minor restricted activity days, days of work loss, moderate or worse asthma status of asthmatics. Unquantifiable adverse-health effects include: neonatal mortality, changes in pulmonary function, chronic respiratory diseases (other than chronic bronchitis), morphological changes, altered host defense mechanisms, cancer, and non-asthma respiratory emergency room visits (U.S. EPA 1999, Table 5-1).

Notices of Final Rulemaking

The issue is not that ambient air with reduced particulate matter (PM10) has the potential to lower adverse-health effects, but how much does adequately maintaining mining-tailing piles reduce these risks and for whom. The majority of the risk reductions were considered when the initial regulatory requirement was implemented. The reduction in health risks from facilities that maintained such tailing piles after they were formed likewise captured the risk reductions prior to this amendment. Risk characterization can only be explained following a dose-response assessment of particulates and the completion of an exposure assessment (U.S. EPA 2006, p. 15).

ADEQ anticipates that probable benefits will outweigh probable costs of the rulemaking.

2. Consumer Impacts

Impacts to consumers that purchase products from the inputs of mining activities are expected to be minimal given the current market characteristics and global economy. Generally, industry's response to higher compliance costs is to reduce output and increase prices.

3. Regulated Sources

Mineral tailings can be generated by both small and large facilities. The number of large tailings piles from copper mining in Arizona is approximately 10-20, with the majority being adequately maintained. Therefore, the majority of the economic impacts from this rulemaking could be attributed to smaller facilities, including operations that produce waste rock, and any larger facility that currently is not adequately maintaining its tailing piles.

ADEQ expects annual costs to vary by the type of mining operation and the size of the tailings pile. For larger facilities, the annualized cost could range \$400 - \$1,000 per acre (Freeport McMoRan Copper and Gold Inc. 2008). For smaller operations, costs could be minimal in comparison, e.g., \$1,000 - \$10,000 per site. If water is used, the cost could range \$2.00 - \$5.00 per thousand gallons, depending on the source and type of water.

Maintenance of control measures for tailings piles is also required for stormwater management. Stormwater is managed by individual permit or general permit under the Arizona Pollutant Discharge Elimination System (A.R.S. § 49.255.01).

4. Small Business Impacts

State statutes require agencies to reduce the impact of a rule on small businesses by using certain methods, when they are legal and feasible, in meeting the statutory objectives of the rulemaking. Under § 41-1055(B)(5)(c)(i) through (iii), the methods that agencies may employ to reduce the impact on small businesses include the following: (1) establish less costly compliance requirements; (2) establish less costly schedules or less stringent deadlines for compliance and (3) exempt small businesses from any or all requirements.

Furthermore, under A.R.S. § 41-1035, agencies must consider each of the methods set forth in that section and reduce the impact by using one or more, if the agency finds that the methods are legal and feasible in meeting the statutory objectives of the rulemaking. These methods include: (1) establish less stringent compliance or reporting requirements; (2) establish less stringent schedules or deadlines in the rule for compliance or reporting requirements; (3) consolidate or simplify compliance or reporting requirements; (4) establish performance standards to replace design or operational standards and (5) exempt small businesses from any or all rule requirements.

ADEQ could not exempt small businesses that generate mineral-tailings piles, or implement a less costly alternative to this rulemaking or less costly compliance options.

Some of the businesses impacted will be classified as small businesses. These facilities have several options to control PM10 emissions by taking reasonable precautions.

5. Other Businesses

Businesses that provide consulting services or products and materials to aid in the maintenance of tailing piles could be impacted by increased revenues. ADEQ expects that these businesses will not require additional employees to handle any increases in transactions. Some of these businesses could be classified as small businesses.

6. ADEQ; Other State Agencies; Political Subdivisions

ADEQ, as the implementing agency is expected to be impacted minimally. No other agency or political subdivision of the state is anticipated to be directly impacted by this rulemaking. If sources adequately maintained their mineral-tailing piles, ADEQ potentially could realize cost-saving benefits from avoided costs of preparing new nonattainment areas and maintenance plans.

7. Employment and Revenue Impacts

ADEQ does not expect this rulemaking to impact short- or long-run employment, production, or industrial growth in Arizona. No impacts are anticipated on either public or private employment; hence, no business is expected to close or reduce the level of employment.

Even though some facilities could be adversely affected, ADEQ does not expect this rule to impact energy, water usage, job creation, or the competitiveness of goods and services. In addition, ADEQ does not expect this rulemaking to impact business' accounts receivable, payroll, profitability, or capital availability.

Notices of Final Rulemaking

For some facilities, compliance could result in expenditures for consulting services and capital expenditures for maintaining tailings piles. In most cases, ADEQ anticipates the impact will be minimal to none.

Due to the potential for this rule to impose real-resource costs upon a few facilities, some revenues may be affected, but they should be minimal in comparison to total revenues. As noted; however, expenditures by some facilities would represent revenues for other entities, such as service, equipment, or materials. Finally, this rulemaking is not expected to have an impact on state revenues.

8. County Impacts

No county government is anticipated to be impacted as a direct result of this rulemaking.

References

Arizona Department of Economic Security (ADES). 2006. Research Administration, Population Statistics Unit. Population projected by demographic cohort-component population model.

Freeport McMoRan Copper and Gold Inc. 2008. Telephone conversation with Sherry Burt-Kested (April 21).

Rimsza ME, Bartels A, Bannister W. 2006. Asthma in Maricopa County, a report to the Maricopa County community from Arizona HealthQuery, Center for Health Information and Research, Division of the Seidman Research Institute School of Health Management and Policy, ASU.

U.S. EPA 2006. 2006-2011 EPA strategic plan: charting our course. Washington, D.C. Available from: <http://www.epa.gov/ocfo/plan/plan.htm>.

U.S. EPA RIA. 2002. Regulatory impact analysis for the proposed reciprocating internal combustion engines NESHAP, OAQPS. Washington D.C. Report # EPA-452/R-02-012.

U.S. EPA 1999. The benefits and costs of the Clean Air Act, 1990-2010, Office of Air and Radiation/Office of Policy Analysis and Review. Washington, D.C. (November). Report # EPA-410-R-99-001.

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

Minor technical and grammatical changes were made in order to improve the rules' clarity, conciseness, and understandability and to conform to the formatting style required by the Secretary of State.

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

No comments were submitted during the comment period.

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

None

13. Incorporation by reference and their location in the rule:

There are no incorporations by reference in the Final Rulemaking.

14. Was this rule previously made as an emergency rule? If so, please indicate the Register citation:

No

15. The full text of the rule follows:

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR POLLUTION CONTROL

ARTICLE 6. EMISSIONS FROM EXISTING AND NEW NONPOINT SOURCES

Section

R18-2-608. Mineral Tailings

ARTICLE 6. EMISSIONS FROM EXISTING AND NEW NONPOINT SOURCES

R18-2-608. Mineral Tailings

No person shall cause, suffer, allow, ~~or~~ permit construction of, or otherwise own or operate, mineral tailing piles without taking reasonable precautions to prevent excessive amounts of particulate matter from becoming airborne. Reasonable precautions shall mean wetting, chemical stabilization, revegetation or such other measures as are approved by the Director.

NOTICE OF FINAL RULEMAKING

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 7. DEPARTMENT OF ENVIRONMENTAL QUALITY
REMEDIAL ACTION

[R09-12]

PREAMBLE

- 1. Sections Affected**
R18-7-401

Rulemaking Action
Repeal
- 2. The statutory authority for the rulemaking, including both the authorizing statutes (general) and the implementing statute (specific):**
Authorizing statutes: A.R.S. §§ 41-1003; 49-104; and Laws 1997, Ch. 296, § 11B
Implementing statutes: A.R.S. §§ 49-153 through 49-157
- 3. The effective date of the rules:**
March 7, 2009
- 4. A list of all previous notices appearing in the Register addressing the final rule:**
Notice of Rulemaking Docket Opening: 14 A.A.R. 3132, August 1, 2008
Notice of Proposed Rulemaking: 14 A.A.R. 2975, August 1, 2008
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name:	Peggy J. Guichard-Watters
Address:	Department of Environmental Quality Waste Programs Division 1110 W. Washington St. Phoenix, AZ 85007
Telephone:	(602) 771-4117, or (800) 234-5677, enter 771-4117 (Arizona only)
Fax:	(602) 771-4138
TTD:	(602) 771-4829
E-mail:	pgw@azdeq.gov
- 6. An explanation of the rules, including the agency's reasons for initiating the rules:**
The Arizona Department of Environmental Quality (DEQ) is proposing to repeal the Greenfields Pilot Program rules. The statutes which authorized this program were repealed on January 1, 2008. Further, during the 10 years that the program was in effect, no entity entered the program.
- 7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
None
- 8. A showing of good cause why the rules are necessary to promote a statewide interest if the rules 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:**
Pursuant to A.R.S. § 41-1055(D)(3), an economic, small business and consumer impact statement is not required as the repeal of this rule is deregulatory in nature and decreases the monitoring, recordkeeping, and reporting burdens on the agency. Additionally, the repeal of this rule will not impose any financial impact on businesses and consumers in Arizona. As evidenced by the lack of participation in the Greenfields Pilot Program, the program did not interest those that were eligible to use it. During the 10 year period of the pilot program, no entity applied to enter into the program.
- 10. A description of the changes between the proposed rules, including supplemental notices, and the final rules:**
There are no changes between the proposed rule and the final rule.
- 11. A summary of the comments made regarding the rule and the agency response to them:**
No comments were received during the public comment period.

Notices of Final Rulemaking

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? If so, please indicate the Register citation:

No

15. The full text of the rules follows:

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 7. DEPARTMENT OF ENVIRONMENTAL QUALITY
REMEDIAL ACTION

ARTICLE 4. ~~GREENFIELDS PILOT PROGRAM~~ **REPEALED**

Section

R18-7-401. ~~Greenfields Pilot Program Fee~~ **Repealed**

ARTICLE 4. ~~GREENFIELDS PILOT PROGRAM~~ **REPEALED**

R18-7-401. ~~Greenfields Pilot Program Fee~~ **Repealed**

- ~~**A.** A certified remediation specialist who participates in the Greenfields Pilot Program pursuant to A.R.S. §§ 49-153 through 49-157 and who submits the documentation that states that no further action is required to remediate the known releases on the site shall remit the review fee required under subsection B together with the documentation.~~
- ~~**B.** The Department shall charge a flat fee of \$2,200 per accepted site participating in the Greenfields Pilot Program.~~