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About this Publication

The paper copy of the Administrative Register (A.A.R.) is the official publication for rules and rulemaking activity in the state of Arizona.

Rulemaking is defined in Arizona Revised Statutes known as the Arizona Administrative Procedure Act (APA), A.R.S. Title 41, Chapter 6, Articles 1 through 10.

The Office of the Secretary of State does not interpret or enforce rules published in the Arizona Administrative Register or Code. Questions should be directed to the state agency responsible for the promulgation of the rule as provided in its published filing.

The Register is cited by volume and page number. Volumes are published by calendar year with issues published weekly. Page numbering continues in each weekly issue.

In addition, the Register contains the full text of the Governor’s Executive Orders and Proclamations of general applicability, summaries of Attorney General opinions, notices of rules terminated by the agency, and the Governor’s appointments of state officials and members of state boards and commissions.

About Rules

Rules can be: made (all new text); amended (rules on file, changing text); repealed (removing text); or renumbered (moving rules to a different Section number). Rules activity published in the Register includes: proposed, final, emergency, expedited, and exempt rules as defined in the APA.

Rulemakings initiated under the APA as effective on and after January 1, 1995, include the full text of the rule in the Register. New rules in this publication (whether proposed or made) are denoted with underlining; repealed text is stricken.

Where is a “Clean” Copy of the Final or Exempt Rule Published in the Register?

The Arizona Administrative Code (A.A.C) contains the codified text of rules. The A.A.C. contains rules promulgated and filed by state agencies that have been approved by the Attorney General or the Governor’s Regulatory Review Council. The Code also contains rules exempt from the rulemaking process.

The printed Code is the official publication of a rule in the A.A.C. is prima facie evidence of the making, amendment, or repeal of that rule as provided by A.R.S. § 41-1012. Paper copies of rules are available by full Chapter or by subscription. The Code is posted online for free.

Legal Citations and Filing Numbers

On the cover: Each agency is assigned a Chapter in the Arizona Administrative Code under a specific Title. Titles represent broad subject areas. The Title number is listed first; with the acronym A.A.C., which stands for the Arizona Administrative Code; following the Chapter number and Agency name, then program name. For example, the Secretary of State has rules on rulemaking in Title 1, Chapter 1 of the Arizona Administrative Code. The citation for this chapter is 1 A.A.C. 1, Secretary of State, Rules and Rulemaking.

Every document filed in the office is assigned a file number. This number, enclosed in brackets, is located at the top right of the published documents in the Register. The original filed document is available for 10 cents a copy.
Participate in the Process

Look for the Agency Notice
Review (inspect) notices published in the Arizona Administrative Register. Many agencies maintain stakeholder lists and would be glad to inform you when they proposed changes to rules. Check an agency’s website and its newsletters for news about notices and meetings.

Feel like a change should be made to a rule and an agency has not proposed changes? You can petition an agency to make, amend, or repeal a rule. The agency must respond to the petition. (See A.R.S. § 41-1033)

Attend a public hearing/meeting
Attend a public meeting that is being conducted by the agency on a Notice of Proposed Rulemaking. Public meetings may be listed in the Preamble of a Notice of Proposed Rulemaking or they may be published separately in the Register. Be prepared to speak, attend the meeting, and make an oral comment.

An agency may not have a public meeting scheduled on the Notice of Proposed Rulemaking. If not, you may request that the agency schedule a proceeding. This request must be put in writing within 30 days after the published Notice of Proposed Rulemaking.

Write the agency
Put your comments in writing to the agency. In order for the agency to consider your comments, the agency must receive them by the close of record. The comment must be received within the 30-day comment timeframe following the Register publication of the Notice of Proposed Rulemaking.

You can also submit to the Governor’s Regulatory Review Council written comments that are relevant to the Council’s power to review a given rule (A.R.S. § 41-1052). The Council reviews the rule at the end of the rulemaking process and before the rules are filed with the Secretary of State.

Arizona Regular Rulemaking Process

START HERE
APA, statute or ballot proposition is passed. It gives an agency authority to make rules. It may give an agency an exemption to the process or portions thereof.

Agency opens a docket. Agency files a Notice of Rulemaking Docket Opening; it is published in the Register. Often an agency will file the docket with the proposed rulemaking.

Agency drafts proposed rule and Economic Impact Statement (EIS); informal public review/comment.

Agency files Notice of Proposed Rulemaking. Notice is published in the Register. Notice of meetings may be published in Register or included in Preamble of Proposed Rulemaking. Agency opens comment period.

Substantial change? If no change then Rule must be submitted for review or terminated within 120 days after the close of the record.

Agency decides not to proceed and does not file final rule with G.R.R.C. within one year after proposed rule is published. A.R.S. § 41-1021(A)(4).

Agency decides not to proceed and files Notice of Termination of Rulemaking for publication in Register. A.R.S. § 41-1021(A)(2).

Agency decides not to proceed; files Notice of Supplemental Proposed Rulemaking. Notice published in Register.

Oral proceeding and close of record. Comment period must last at least 30 days after publication of notice. Oral proceeding (hearing) is held no sooner than 30 days after publication of notice of hearing.

Rule must be submitted for review or terminated within 120 days after the close of the record.

A final rulemaking package is submitted to G.R.R.C. or A.G. for review. Contains final preamble, rules, and Economic Impact Statement.

G.R.R.C. has 90 days to review and approve or return the rule package, in whole or in part; A.G. has 60 days.

After approval by G.R.R.C. or A.G., the rule becomes effective 60 days after filing with the Secretary of State (unless otherwise indicated).

Final rule is published in the Register and the quarterly Code Supplement.
Definitions


**Arizona Administrative Register (A.A.R.):** The official publication that includes filed documents pertaining to Arizona rulemaking. Available online at www.azsos.gov.

**Administrative Procedure Act (APA):** A.R.S. Title 41, Chapter 6, Articles 1 through 10. Available online at www.azleg.gov.

**Arizona Revised Statutes (A.R.S.):** The statutes are made by the Arizona State Legislature during a legislative session. They are compiled by Legislative Council, with the official publication codified by Thomson West. Citations to statutes include Titles which represent broad subject areas. The Title number is followed by the Section number. For example, A.R.S. § 41-1001 is the definitions Section of Title 41 of the Arizona Administrative Procedures Act. The “§” symbol simply means “section.” Available online at www.azleg.gov.

**Chapter:** A division in the codification of the Code designating a state agency or, for a large agency, a major program.

**Close of Record:** The close of the public record for a proposed rulemaking is the date an agency chooses as the last date it will accept public comments, either written or oral.


**Docket:** A public file for each rulemaking containing materials related to the proceedings of that rulemaking. The docket file is established and maintained by an agency from the time it begins to consider making a rule until the rulemaking is finished. The agency provides public notice of the docket by filing a Notice of Rulemaking Docket Opening with the Office for publication in the Register.

**Economic, Small Business, and Consumer Impact Statement (EIS):** The EIS identifies the impact of the rule on private and public employment, on small businesses, and on consumers. It includes an analysis of the probable costs and benefits of the rule. An agency includes a brief summary of the EIS in its preamble. The EIS is not published in the Register but is available from the agency promulgating the rule. The EIS is also filed with the rulemaking package.

**Governor’s Regulatory Review (G.R.R.C.):** Reviews and approves rules to ensure that they are necessary and to avoid unnecessary duplication and adverse impact on the public. G.R.R.C. also assesses whether the rules are clear, concise, understandable, legal, consistent with legislative intent, and whether the benefits of a rule outweigh the cost.

**Incorporated by Reference:** An agency may incorporate by reference standards or other publications. These standards are available from the state agency with references on where to order the standard or review it online.

**Federal Register (FR):** The Federal Register is a legal newspaper published every business day by the National Archives and Records Administration (NARA). It contains federal agency regulations; proposed rules and notices; and executive orders, proclamations, and other presidential documents.

**Session Laws or “Laws”:** When an agency references a law that has not yet been codified into the Arizona Revised Statutes, use the word “Laws” is followed by the year the law was passed by the Legislature, followed by the Chapter number using the abbreviation “Ch.”, and the specific Section number using the Section symbol (§). For example, Laws 1995, Ch. 6, § 2. Session laws are available at www.azleg.gov.

**United States Code (U.S.C.):** The Code is a consolidation and codification by subject matter of the general and permanent laws of the United States. The Code does not include regulations issued by executive branch agencies, decisions of the federal courts, treaties, or laws enacted by state or local governments.

### Acronyms

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
</tr>
</thead>
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<tr>
<td>A.A.C.</td>
<td>Arizona Administrative Code</td>
</tr>
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<td>Arizona Administrative Register</td>
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<tr>
<td>APA</td>
<td>Administrative Procedure Act</td>
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<td>Arizona Revised Statutes</td>
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<td>CFR</td>
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<td>G.R.R.C.</td>
<td>Governor’s Regulatory Review Council</td>
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</tbody>
</table>

### About Preambles

The Preamble is the part of a rulemaking package that contains information about the rulemaking and provides agency justification and regulatory intent. It includes reference to the specific statutes authorizing the agency to make the rule, an explanation of the rule, reasons for proposing the rule, and the preliminary Economic Impact Statement.

The information in the Preamble differs between rulemaking notices used and the stage of the rulemaking.
NOTICES OF PROPOSED RULEMAKING

This section of the Arizona Administrative Register contains Notices of Proposed Rulemakings. A proposed rulemaking is filed by an agency upon completion and submittal of a Notice of Rulemaking Docket Opening. Often these two documents are filed at the same time and published in the same Register issue.

When an agency files a Notice of Proposed Rulemaking under the Administrative Procedure Act (APA), the notice is published in the Register within three weeks of filing. See the publication schedule in the back of each issue of the Register for more information.

Under the APA, an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the Register before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the interpretation of the proposed rules should be addressed to the agency that promulgated the rules. Refer to item #4 below to contact the person charged with the rulemaking and item #10 for the close of record and information related to public hearings and oral comments.

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 19. BOARD OF NURSING

[R16-198]

PREAMBLE

1. Article, Part or Section Affected (as applicable)           Rulemaking Action
   R4-19-101     Amend
   Table 1       Amend
   R4-19-201     Amend
   R4-19-205     Amend
   R4-19-207     Amend
   R4-19-209     Amend
   R4-19-216     Amend
   R4-19-301     Amend
   R4-19-305     Amend
   R4-19-312     Amend
   R4-19-511     Amend
   R4-19-801     Amend
   R4-19-802     Amend

2. Citations to the agency’s statutory rulemaking authority to include the authorizing statutes (general) and the implementing statutes (specific):
   Authorizing statutes: A.R.S. §§ 32-1605.01(B)(3); 32-1606(A)(1), (B)(1), (B)(2), (B)(9), (B)(11), (B)(12), (B)(21) and (23); and 32-1650.01(A).
   Implementing statutes: A.R.S. §§ 32-1601(19), 32-1668, and 41-1002.01.

3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:

4. The agency’s contact person who can answer questions about the rulemaking:
   Name: Joey Ridenour RN, MS, FAAN
   Executive Director
   Address: Board of Nursing
   4747 N. 7th St., Suite 200
   Phoenix, AZ 85014
   Telephone: (602) 771-7801
   Fax: (602) 771-7888
   E-mail: jridenour@azbn.gov
   Website: azbn.gov
Notices of Proposed Rulemaking

5. An agency’s justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:
   R4-19-101. Definitions
   The Board amended this Section to include the definition of “family” as it is used in Chapter 19. This action was identified in the five year rule review of Article 1 which was approved by Council on June 3, 2014. This definition clarifies the persons who would be considered part of the family of either the patient or nurse depending on the context of the rule. This definition will allow the Board to enforce limitations on the prescribing of controlled substances to family members by nurse practitioners (see below R4-19-511).

   Table 1. Time-frames
   Amendments to this rule are for the purpose of deleting time frames for those licenses the Board no longer issues and reducing time-frames for approval of a CES agency. These changes were identified in a report to the Governor in 2015 regarding EO 2015-01, paragraph 5. Technical changes were also made consistent with statutory changes allowing the board to issue nursing assistant licenses.

   R-19-201. Organization and Administration
   The Board amended this section to reduce regulatory burdens on schools related to clinical contracts. The Board has enforced these requirements for over a decade, however they the Board enforcement has neither resulted in increased clinical opportunities for students nor assured that contractual provisions were actually followed such as allowing faculty to determine assignments. While Board staff believes that the presence of a contract is necessary to obtain clinical placement, the details of a clinical contract are best left to the parties bound by the contract. Regardless of the contents of any agreement, schools and programs are responsible to obtaining appropriate clinical experiences for each enrolled student.

   R4-19-205. Students; Policies and Admissions
   R4-19-207. New Programs, Proposal Approval; Provisional Approval
   R4-19-209. Nursing Program Change
   References to limitations on program admissions were deleted from these rules because they were rendered obsolete by HB2634 (52nd Legislature, Second Regular Session) which prohibits state agencies from limiting enrollments in any school or program.

   R4-19-216. Refresher Programs
   The Board amended the language for bonding and fire inspections to be consistent with R4-19-802 which decreased the bond rating from A to A-minus.

   R4-19-301. Licensure by Examination
   The Board amended this Section to require applicants to provide an e-mail address. This provision would apply to applicants by exam and endorsement because R4-19-303 (Licensure by Endorsement) references this Section. Having an e-mail address allows the Board to communicate with its licensing base with timeliness and efficiency. This will increase communications with licensees and simultaneously decrease costs associated with mailing.

   R4-19-305. License Renewal
   The Board amended this Section to require renewal applicants to provide an e-mail address. Having a means to efficiently communicate with licensees allows the Board to inform nurses of renewal, request additional applicant information and provide pertinent information that affects licensure or nursing practice. This will decrease Board costs associated with mailing and may improve licensure time-frames.

   R4-19-312. Practice Requirement
   The Board amended this Section to allow graduates of international nursing programs to meet the same practice requirement as domestic graduates.

   R4-19-511. Prescribing and Dispensing Authority; Prohibited Acts
   The Board amended this Section for the purpose of prohibiting nurse practitioners from prescribing controlled substances to family members, and to prohibit prescribing of controlled substances to any person with whom the nurse has a relationship that could affect the nurse practitioner’s judgment when prescribing.

   R4-19-801. Common Standards for Certified Nursing Assistants (CNA) and Certified Medication Assistants (CMA)
   The Board amended this section to reduce regulatory burdens on schools related to clinical agreements and to correct subsection (A) (6) which relates to the felony bar for CNAs which was rendered obsolete by House Bill 2196 which was adopted by the 52nd Legislature, First Regular Session and signed by the Governor. Regarding clinical agreements, while Board staff believes that the presence of a written agreement is necessary to obtain clinical placement, the details of the agreement are best left to the parties bound by the agreement. Regardless of the contents of any agreement, schools and programs are responsible to obtaining appropriate clinical experiences for each enrolled student.
R4-19-802. CNA Program Requirements
The Board added an option for private businesses who operate CNA programs to hold insurance in lieu of a bond. This is consistent with R4-19-216 which allows an insurance option for refresher program owners.

6. A reference to any study relevant to the rules that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:
There are no studies that the Board either relied on or did not rely on in its evaluation or justification for the rules.

7. 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

8. The preliminary summary of the economic, small business, and consumer impact:
The Board does not anticipate a substantial economic impact from the majority of the amendments in this rulemaking. The Board regulates approximately 85,000 RNs, 6,000 Registered Nurse Practitioners, 11,000 LPNs, 27,000 CNAs and 23 CMAs. The Board regulates five LPN programs, 31 RN programs, 101 CNA programs, 2 CMA programs and 13 refresher programs. The Board, regulated parties and the public are all expected to benefit from the clarity and reduced regulatory burden of this rulemaking.
The following amendments are not expected to have a substantial economic impact on the Board, regulated parties, or the general public.

- R4-19-101 was amended to provide a definition of family and is not expected to have and economic impact.
- R4-19-201 and R4-19-801 and may have a modest economic benefit for programs by decreasing costs of negotiating contracts related to Board requirements. These amendments will also decrease administrative burdens on Board staff for ensuring these elements are included in all contracts. Amendments to R4-19-801 clarify NA an program’s responsibility related to felony bar information provided to students.
- R4-19-216 was amended to ensure consistency with R4-19-802 and may decrease costs for refresher programs.
- R4-19-511 clarifies prohibitions against prescribing controlled substances to family members and others with whom a nurse practitioner may have relationship and is not expected to have an economic impact.
- R4-19-301 and R4-19-305 requires applicants to furnish an e-mail address consistent with current requirements for advanced practice RNs and CNAs and will allow the Board to efficiently communicate with its licensees regarding renewal dates and other pertinent information related to practice and regulation. With timely notification of more nurses, the Board may experience decreased revenues from late fines, however processing late applications utilizes more Board resources, so overall effects will be negligible. In FY 2014 the Board collected approximately $13,650 in late fees from RN/LPN applicants. Additionally the Board may save in mailing costs to applicants, although most applicants now voluntarily include their e-mail address, so savings are estimated to be minimal.
- R4-19-312 Clarifies that foreign-educated nurses are under the same practice requirements and U.S. Educated nurses and is not expected to have an economic impact
- R4-19-802 may have a modest economic benefit for programs by allowing programs a choice of a bond or insurance.

9. The agency’s contact person who can answer questions about the economic, small business, and consumer impact statement:
Name: Joey Ridenour RN, MS, FAAN
Executive Director
Address: Board of Nursing
4747 N. 7th St., Suite 200
Phoenix, AZ 85014
Telephone: (602) 771-7801
Fax: (602) 771-7888
E-mail: jridenour@azbn.gov
Website: azbn.gov

10. The time, place, and nature of the proceedings to make, repeal or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rules:
The Board will hold an oral proceeding on November 21, 2016 at 3:30 p.m., in the Board offices at 4747 N. 7th St., Suite 200, Phoenix, AZ 85014. The Board will accept written comments submitted to Joey Ridenour, Executive Director, 4747 N. 7th St., Suite 200, Phoenix, AZ 85014 until the close of record at 5 p.m., on November 21, 2016.
11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. § 41-1052 and 41-1055 shall respond to the following question:

There are no other matters prescribed by statute applicable to the Board or this specific class of rules.

a. Whether the rules requires a permit, whether a general permit is used and if not the reasons why a general permit is not used:

This rulemaking does not require a permit, however Sections R4-19-201, R4-19-203, R4-19-204, R4-19-207, R4-19-209, R4-19-216, R4-19-301, R4-19-305, R4-19-312, and R4-19-801 relate to issuing licenses, certificates and approvals all of which can be considered a general permit under § 41-1001(10).

b. Whether a federal law is applicable to the subject of the rule, whether the rules is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of the federal law:

Federal laws (42 CFR 483.150, 42 CFR 483.151, 42 CFR 483.152, 42 CFR 483.154, 42 CFR 483.156, 42 CFR 483.158.) contain the federal minimum requirements for nursing assistant programs and inclusion on the nursing assistant register. Except for proof of legal presence, as required under A.R.S. §41-1080, the requirements to be listed on the nursing assistant registry are no more stringent than minimal federal requirements.

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

No analysis was submitted.

12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

There is no material incorporated by reference.

13. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 19. BOARD OF NURSING

ARTICLE 1. DEFINITIONS AND TIME-FRAMES

ARTICLE 2. ARIZONA REGISTERED AND PRACTICAL NURSING PROGRAMS; REFRESHER PROGRAMS

ARTICLE 3. LICENSURE

ARTICLE 5. ADVANCED PRACTICE REGISTERED NURSING

ARTICLE 8. CERTIFIED AND LICENSED NURSING ASSISTANTS AND CERTIFIED MEDICATION ASSISTANTS

ARTICLE 1. DEFINITIONS AND TIME-FRAMES

In addition to the definitions in A.R.S. § 32-1601, in this Chapter:

“Abuse” No change
“Administer” No change
“Admission cohort” No change
“Applicant” No change
“Approved national nursing accrediting agency” No change
“Assign” No change
“Certificate or diploma in practical nursing” No change
“CES” No change
“Client” No change
“Clinical instruction” No change
“CMA” No change
“CNA” No change
“CNS” No change
“Collaborate” No change
“Contact hour” No change
“Continuing education activity” No change
“CRNA” No change
“DEA” No change
“Dispense” No change
“Dual relationship” No change
“Eligibility for graduation” No change
“Endorsement” No change
“Episodic nursing care” No change
“Failure to maintain professional boundaries” No change
“Family” means individuals who are related by blood, marriage, cohabitation and adoption including direct ancestors and descendants, any parent, sibling, child, grandparent, grandchild, spouse, sibling of a parent and children of a sibling, domestic partners, significant others, or persons sharing a residence including in a guardian or other supervisory relationship.
“Full approval” No change
“Good standing” No change
“Independent nursing activities” No change
“Initial approval” No change
“Licensure by examination” No change
“LPN” No change
“NATCEP” No change
“NCLEX” No change
“Nurse” No change
“Nursing diagnosis” No change
“Nursing practice” No change
“Nursing process” No change
“Nursing program” No change
“Nursing program administrator” No change
“Nursing program faculty member” No change
“Nursing-related activities or duties” No change
“P & D” No change
“Parent institution” No change
“Patient” No change
“Pharmacology” No change
“Physician” No change
“Preceptor” No change
“Preceptorship” No change
“Prescribe” No change
“Proposal approval” No change
“Provisional approval” No change
“Refresher program” No change
“Regionally accredited” No change
“Register” No change
“Resident” No change
“RN” No change
“RNP” No change
“SBTPE” No change
“School nurse” No change
“Self-study” No change
“Standards related to scope of practice” No change
“Substance use disorder” No change
“Supervision” No change
“Traineeship” No change
Table 1. Time-frames

<table>
<thead>
<tr>
<th>Time-frames (in days)</th>
<th>Type of License, Certificate, or Approval</th>
<th>Applicable Statute and Section</th>
<th>Board Overall Time-frame Without Investigation</th>
<th>Board Overall Time-frame With Investigation</th>
<th>Board Administrative Completeness Review Time-frame</th>
<th>Applicant Time to Respond to Deficiency Notice</th>
<th>Board Substantive Review Time-frame Without Investigation</th>
<th>Board Substantive Review Time-frame With Investigation</th>
<th>Applicant Time to Respond to Comprehensive Written Request</th>
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<tr>
<td></td>
<td>Nursing Program Proposal Approval</td>
<td>A.R.S. §§ 32-1606(B)(2), 32-1644; R4-19-207</td>
<td>150</td>
<td>Not applicable</td>
<td>60</td>
<td>180</td>
<td>90</td>
<td>Not applicable</td>
<td>120</td>
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<td>Nursing Program Provisional Approval</td>
<td>A.R.S. §§ 32-1606(B)(2), 32-1644; R4-19-207</td>
<td>150</td>
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<td>90</td>
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<td>120</td>
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<td></td>
<td>Nursing Program Full Approval or Re-approval</td>
<td>A.R.S. §§ 32-1606(B)(2), 32-1644; R4-19-208, R4-19-210</td>
<td>150</td>
<td>Not applicable</td>
<td>60</td>
<td>180</td>
<td>90</td>
<td>Not applicable</td>
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<td>Nursing Program Change</td>
<td>A.R.S. § 32-1606(B)(1); R4-19-209</td>
<td>150</td>
<td>Not applicable</td>
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<td>Refresher Program Approval or Re-approval</td>
<td>A.R.S. § 32-1606(B)(21); R4-19-216</td>
<td>150</td>
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<td>A.R.S. §§ 32-1634.01(A)(1), 32-1634.02(A)(1), 32-1639.01(1), 32-1639.02(1); R4-19-303</td>
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<td>Licensure by Exam</td>
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<td>Licensure by Endorsement</td>
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<td>Re-issuance or Subsequent Issuance of License</td>
<td>A.R.S. § 32-1664(O); R4-19-404</td>
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<td>RNP Prescribing and Dispensing Privilege</td>
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<td>CRNA Certification or Renewal</td>
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### Notices of Proposed Rulemaking

#### Arizona Administrative Register

<table>
<thead>
<tr>
<th>Nursing Assistant and Medication Assistant Training Programs Approval or Re-approval</th>
<th>A.R.S. § 32-1606(B)(11), 32-1650.01; R4-19-803, R4-19-804</th>
<th>120</th>
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<td>Licensed or Certified Nursing Assistant and Medication Assistant Certification by Examination</td>
<td>A.R.S. §§ 32-1606(B)(11), 32-1647, 32-1650.02, 32-1650.03; R4-19-806</td>
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<td>Licensed or Certified Nursing Assistant and Medication Assistant Certification by Endorsement</td>
<td>A.R.S. §§ 32-1606(B)(11), 32-1648, 32-1650.04; R4-19-807</td>
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<td>A.R.S. §§ 32-1646(A)(5), 32-1650; R4-19-808</td>
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<td>Licensed or Certified Nursing Assistant and Certified Medication Assistant Certificate Renewal</td>
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#### ARTICLE 2. ARIZONA REGISTERED AND PRACTICAL NURSING PROGRAMS; REFRESHER PROGRAMS

**R4-19-201. Organization and Administration**

A. No change  
B. No change  
C. No change  
D. No change  
E. No change  
F. A nursing program shall have a written agreement between the program and each clinical agency where clinical experience is provided to the program's students, that:  
   1. Defines the rights and responsibilities of both the clinical agency and the nursing program;  
   2. Lists the role and authority of the governing bodies of both the clinical agency and the nursing program;  
   3. Allows faculty members of the program the right to participate in selecting learning experiences for students, and
4. Contains a termination clause that provides sufficient time for enrolled students to complete the clinical experience upon termination of the agreement.

G. No change
H. No change
I. No change
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      c. No change
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  10. No change
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      b. No change
      c. No change
      d. No change

J. No change
K. No change
L. No change
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   2. No change
M. No change
N. No change

R4-19-205. Students; Policies and Admissions
A. The number of students admitted to a nursing program shall be determined by the number of qualified faculty, the size, number and availability of educational facilities and resources, and the availability of the appropriate clinical learning experiences for students. The number of students admitted shall not exceed the number for which the program was approved plus minor increases allowed under R4-19-209 without Board approval.

B. No change
C. No change
D. No change
E. No change
   1. No change
   2. No change
   3. No change
   4. No change
   5. No change
F. No change

R4-19-207. New Programs; Proposal Approval; Provisional Approval
A. No change
   1. No change
   2. No change
   3. No change
      a. No change
      b. No change
      c. No change
      d. No change
      e. No change
      f. No change
         i. No change
         ii. No change
         iii. No change
      g. No change
      h. No change
      i. No change
Notices of Proposed Rulemaking

A. The program administrator shall ensure that the following changes to a nursing education program are evidence-based and supported by rationale. A nursing program administrator shall receive approval from the Board before implementing any of the following nursing program changes:

1. Substantive change in the mission or goals of the program that requires revision of curriculum or program delivery method;
2. Increasing or decreasing the academic credits or units of the program excluding pre-requisite credits;
3. Adding a geographical location of the program;
4. Increasing the student admission capacity annually by more than 30 students;
5. Changing the level of educational preparation provided;
6. Transferring the nursing program from one institution to another; or
7. Establishing different admission, progression or graduation requirements for specific cohorts of the program.

B. No change

C. No change

D. At a minimum of 180 days before planned enrollment of students, a parent institution that received proposal approval within the previous year may submit to the Board one electronic copy and one paper copy of an application for provisional approval. The parent institution shall ensure that the provisional approval application was written by or under the direction of a registered nurse who meets the requirements of R4-19-203(A) and includes the following information and documentation:

1. No change
2. No change
3. No change
4. No change
5. No change
6. Final program implementation plan including dates and number of planned student admissions not to exceed 60 per calendar year, recruitment and hire dates for didactic and clinical faculty for the period of provisional approval. An increase in student admissions may be sought under subsection (H) of this Section;
7. No change
8. No change
9. No change
10. No change

E. No change

F. No change

G. No change

H. Following receipt of the report, a representative of the Board shall conduct a site survey visit under A.R.S. § 41-1009 to determine compliance with this Article. A report of the site visit shall be provided to the Board. After reviewing the consultant report and at the request of the program under R4-19-209, the Board may grant permission to increase admissions.

I. No change

J. A nursing program or the parent institution or governing body of a nursing program under provisional approval may not admit additional students other than those specifically provided for in the application or subsequently approved by the Board under subsection (H) of this Section and R4-19-209 and may not expand to another geographical location.

K. A nursing program whose provisional approval is rescinded may request a hearing by filing a written request with the Board within 30 days of service of the Board's order rescinding the provisional approval. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. 19, Article 6.

R4-19-209. Nursing Program Change

A. The program administrator shall ensure that the following changes to a nursing education program are evidence-based and supported by rationale. A nursing program administrator shall receive approval from the Board before implementing any of the following nursing program changes:

1. Substantive change in the mission or goals of the program that requires revision of curriculum or program delivery method;
2. Increasing or decreasing the academic credits or units of the program excluding pre-requisite credits;
3. Adding a geographical location of the program;
4. Increasing the student admission capacity annually by more than 30 students;
5. Changing the level of educational preparation provided;
6. Transferring the nursing program from one institution to another; or
7. Establishing different admission, progression or graduation requirements for specific cohorts of the program.

B. No change

1. No change
2. No change
3. No change
4. No change

C. No change

R4-19-216. Approval of a Refresher Program

A. No change
   1. No change
   2. No change
   3. No change
   4. No change
   5. No change
   6. No change

B. No change
   1. No change
      a. No change
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      e. No change
   3. No change
      a. No change
      b. No change
      c. No change
      d. No change
      e. No change

C. No change
   1. No change
      a. No change
      b. No change
   2. No change
      a. No change
      b. No change
   3. No change
   4. No change
   5. No change

D. Program types; bonding
   1. A refresher program may be offered by:
      a. A private educational institution that is accredited by the private post-secondary board,
      b. A public post-secondary educational institution,
      c. A licensed health care institution,
      d. A private individual, partnership or corporation
   2. If the refresher program is offered by a private individual, partnership or corporation, business, the program shall meet the following requirements:
      a. Submit proof of insurance covering any potential or future claims for damages resulting from any aspect of the program or provide evidence of a surety bond from a surety company

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with a rating of "A" or "A minus" or better by either Best’s Credit Ratings, Moody’s Investor Service, or Standard and Poor’s rating service in the amount of a minimum of $15,000. The program shall ensure that:

i. Bond or insurance distributions are limited to students or former students with a valid claim for instructional or program deficiencies;

ii. The amount of the bond or insurance coverage is sufficient to reimburse the full amount of collected tuition and fees for all students during all enrollment periods of the program; and

iii. The bond or insurance is maintained for an additional 24 months after program closure.

b. For programs offering on-ground instruction, provide a fire inspection report of the classroom and building by the Arizona State Fire Marshall or an entity approved by the Arizona State Fire Marshall for each program location.

e. Subsection (D) is effective immediately for new programs and within one year of the effective date for approved programs.

ARTICLE 3. LICENSURE

R4-19-301. Licensure by Examination

A. An applicant for licensure by examination shall:

1. Submit a verified application to the Board on a form furnished by the Board that provides the following information about the applicant:

a. No change

b. Mailing address, including declared primary state of residence, e-mail address, and telephone number;

c. No change

d. Ethnic category, marital status and e-mail address, at the applicant's discretion;

e. No change

f. No change

g. No change

h. No change

i. No change

j. No change

k. No change

i. No change

ii. No change

iii. No change

iv. No change

v. No change

vi. No change

vii. No change

l. No change

m. No change

2. No change

3. No change

4. No change
C. No change
   1. No change
      a. No change
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      c. No change
   2. No change
   3. No change
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      a. No change
      b. No change
      c. No change
      d. No change
      e. No change
      f. No change
      g. No change

D. No change
   1. No change
   2. No change
   3. No change

E. No change
   1. No change
   2. No change
   3. No change

F. No change

G. No change
   1. No change
   2. No change
   3. No change

R4-19-305. License Renewal
A. An applicant for renewal of a registered or practical nursing license shall:
   1. Submit a verified application to the Board on a form furnished by the Board that provides all of the following information about the applicant:
      a. Full legal name, mailing address, e-mail address, telephone number and declared primary state of residence;
      b. No change
      c. Marital status, and ethnic category and e-mail address, at the applicant’s discretion;
      d. No change
         i. No change
         ii. No change
         iii. No change
         iv. No change
      e. No change
         i. No change
         ii. No change
         iii. No change
         iv. No change
         v. No change
         vi. No change
         vii. No change
      f. No change
      g. No change
      h. No change
         i. No change
      2. No change
      3. No change

B. No change

C. No change

D. No change

E. No change

R4-19-312. Practice Requirement
A. No change
B. An applicant for licensure by endorsement or renewal shall either have completed a post-licensure nursing program or practiced nursing at the applicable level of licensure for a minimum of 960 hours in the five years before the date on which the application is received. This requirement is satisfied if the applicant verifies that the applicant has:
   1. No change
   2. No change
      a. No change
      b. No change
      c. No change
   3. No change
   4. No change
      a. No change
      b. No change
   5. No change

C. An applicant for licensure by either examination or endorsement, who is a graduate of a nursing program located in the U.S. or its territories and who does not meet the requirements of subsection (B), shall have completed the clinical portion of a pre-licensure nursing program within two years of the date of licensure. Examination applicants who were previously licensed in an international jurisdiction shall meet the applicable requirements of subsection (B) or (E).

ARTICLE 5. ADVANCED PRACTICE REGISTERED NURSING

R4-19-511. Prescribing and Dispensing Authority; Prohibited Acts

A. No change
   1. No change
   2. No change
   3. No change
      a. No change
      b. No change
      c. No change
      d. No change
      e. No change
   4. No change
      a. No change
      b. No change
   5. No change

B. No change

ARTICLE 8. CERTIFIED AND LICENSED NURSING ASSISTANTS AND CERTIFIED MEDICATION ASSISTANTS

R4-19-801. Common Standards for Certified Nursing Assistant (CNA) and Certified Medication Assistant (CMA) Training Programs

A. Program Administrative Responsibilities
   1. No change
   2. No change
   3. No change
   4. A training program that uses external clinical facilities shall execute a written agreement with each external clinical facility that:
      a. Provides the program instructor the ability to assign patient care experiences to students after consultation with facility staff, and
b. Contains a termination clause that provides sufficient time for enrolled students to complete their clinical training upon termination of the agreement.

5. No change
   a. No change
   b. No change
   c. No change
   d. No change

6. Before collecting any tuition or fees from a student, a training program shall notify each prospective student of Board requirements for certification and licensure including:
   a. Legal presence in the United States; and
   b. For licensure, criminal background check requirements, and ineligibility for certification under A.R.S. § 32-1606 (B) (15) and (17).

7. No change
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   6. No change
   7. No change
      a. No change
      b. No change
   8. No change
R4-19-802. CNA Program Requirements

A. Organization and Administration

1. No change
   a. No change
   b. No change
   c. No change
   d. No change
   e. No change

2. If a nursing assistant program is offered by a private business, the program shall meet the following requirements.
   a. Hold insurance covering any potential or future claims for damages resulting from any aspect of the program or hold a surety bond from a surety company with a financial strength rating of “A minus” or better by Best’s Credit Ratings, Moody’s Investors Service, Standard and Poor’s rating service or another comparable rating service as determined by the Board in the amount of a minimum of $15,000. The program shall ensure that:
      i. Bond or insurance distributions are limited to students or former students with a valid claim for instructional or program deficiencies;
      ii. The amount of the bond or insurance is sufficient to reimburse the full amount of collected tuition and fees for all students during all enrollment periods of the program; and
      iii. The bond or insurance is maintained for an additional 24 months after program closure; and
   b. No change

3. No change

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B. No change

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I. No change
J. No change
NOTICES OF FINAL RULEMAKING

This section of the Arizona Administrative Register contains Notices of Final Rulemaking. Final rules have been through the regular rulemaking process as defined in the Administrative Procedures Act. These rules were either approved by the Governor’s Regulatory Review Council or the Attorney General’s Office. Certificates of Approval are on file with the Office.

The final published notice includes a preamble and text of the rules as filed by the agency. Economic Impact Statements are not published.

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the interpretation of the final rules should be addressed to the agency that promulgated the rules. Refer to Item #5 to contact the person charged with the rulemaking. The codified version of these rules will be published in the Arizona Administrative Code.

NOTICE OF FINAL RULEMAKING

TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING

CHAPTER 3. ARIZONA STATE LOTTERY COMMISSION

[R16-199]

PREAMBLE

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2. Citations to the agency’s statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):
   Authorizing statute: A.R.S. § 5-554(B)
   Implementing statutes: A.R.S. §§ 5-559, 41-2501(G)

3. The effective date of the rules:
   November 21, 2016

4. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rules:
   Notice of Rulemaking Docket Opening: 22 A.A.R. 582, March 11, 2016

5. The agency's contact person who can answer questions about the rulemaking:
   Name: Pam DiNunzio
   Address: Arizona State Lottery
   4740 E. University Drive
   Phoenix, AZ 85034
   Telephone: (480) 921-4489
   Fax: (480) 921-4488
   E-mail: pdinunzio@azlottery.gov
   Website: www.arizonalottery.com

6. An agency’s justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:
   The Lottery’s Procurement rules establish the policies and procedures for procurements relating to the design and operation of the Lottery or purchase of Lottery equipment, tickets and related materials. The Lottery is amending these rules to conform to state procurement rule changes approved by the Governor’s Regulatory Review Council and effective February 2015. A.R.S. § 41-2501(G) requires the Lottery director to adopt rules substantially equivalent to the policies and procedures of the Arizona Procurement Code for procurements relating to the design and operation of the Lottery or purchase of Lottery equipment, tickets, or related materials. Changes have also been made where necessary to clarify existing language and procedures after review by a representative of the State Procurement Office.
   An exemption from the rulemaking moratorium outlined in Executive Order 2015-01 was approved by the Governor’s Office on June 4, 2015.

7. A reference to any study relevant to the rules 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 rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:
   Not applicable

9. A summary of the economic, small business, and consumer impact:
   1. Identification of the proposed rulemaking:
   The rules for Article 5, Procurements, prescribe procurement policies and procedures relating to the design and operation of the Lottery or the purchase of Lottery equipment, tickets, and related materials. These rules govern the Lottery’s procurement processes and provide open access to procurement opportunities. The rulemaking clarifies existing language and procedures and makes changes that conform to approved amendments to state procurement rules. This rulemaking does not change the Lottery’s procurement authority. The Governor’s Office approved an exemption from the rulemaking moratorium on June 4, 2015.
   a. The conduct and its frequency of occurrence that the rule is designed to change:
      There is no specific conduct this rulemaking is designed to change. The intent is to create consistency with state procurement rules and to clarify procurement procedures.
   b. The harm resulting from the conduct the rule is designed to change and the likelihood it will continue to occur if the rule is not changed:
      The harm is that discrepancies in procedures will exist, detracting from clarity. If the rules are not changed, it may create confusion for vendors as a result of inconsistencies between Lottery rules and state rules that govern procurement procedures.
c. The estimated change in frequency of the targeted conduct expected from the rule change:

Not applicable. There is no specific targeted conduct prompting the rule amendments.

2. Persons who will be directly affected by, bear the costs of, or directly benefit from the proposed rulemaking.

The Lottery anticipates this rulemaking will primarily impact the agency and businesses supplying products or services to the Lottery.


a. Probable costs and benefits to the implementing agency and other agencies directly affected by the implementation and enforcement of the proposed rulemaking, including the number of new full-time employees necessary to implement and enforce the proposed rules.

A.R.S. § 41-2501(G) exempts the Lottery from provisions of the Arizona Procurement Code for procurements relating to the design and operation of the Lottery or purchase of Lottery equipment, tickets, and related materials. A.R.S. § 41-2501(G) also requires the Lottery director to adopt rules substantially equivalent to the policies and procedures of the Arizona Procurement Code for these types of procurements. In FY15, the expenditure for procurement contracts was approximately $34.7 million, of which about 54% ($18.6 million dollars) was expended on contracts awarded under the Lottery procurement rules.

The Lottery has one full-time Procurement position. Costs to the Lottery related to this rulemaking include time spent by procurement staff to process purchases and secure contracts for the agency, in addition to the cost of the procurement itself. These costs are included in the agency’s appropriated budget allocation for operating expenses. The rule amendments are primarily administrative and conforming in nature and the Lottery does not anticipate any additional costs to the agency or procurement functions as a result of this rulemaking.

The agency has only had one procurement appeal within the last five years. This appeal involved the Lottery’s procurement for draw game services and was not completely unexpected due to the multi-million dollar value of the contract. The protest was unsuccessful.

The benefits of this rulemaking are greater efficiency in Lottery procurements and consistency with state procurement rules. In addition, the agency benefits from improved procedures related to approval authority as reflected in amendments to sections R19-3-544, R19-3-545, R19-3-546, and R19-3-549. The State Procurement Office provided input for strengthening these provisions, which will serve to protect the Lottery’s interest in procurement actions. In general, the Lottery will benefit from updated, consistent rules that govern procurement processes, thus reducing the potential for protests and appeals, and improving rule clarity and ease of use.

Impact on Other Agencies: The rules have no identifiable impact on other agencies.

Full-Time Employees: The Lottery does not anticipate the need to hire any additional full-time employees; existing staff resources will be used to implement the proposed rules.

b. Probable costs and benefits to a political subdivision of this state directly affected by the implementation and enforcement of the proposed rulemaking.

This rulemaking will not have any identifiable impact on political subdivisions of the state.

c. Probable costs and benefits to businesses directly affected by the proposed rulemaking, including any anticipated effect on the revenues or payroll expenditure of employers who are subject to the proposed rulemaking.

Businesses impacted by these rules are vendors supplying products or services to the Lottery. The impact on these businesses, including small businesses, should be positive. The rules provide for competition and consistency with respect to procurement procedures. The proposed amendments should improve efficiency and provide better understanding and ease of use as compared to the existing rules. Consistent with state procurement amendments, key provisions include requiring a best and final offering if negotiations are conducted, adjusting the quotations threshold requirement to $10,000 from $5,000, changing the time frame for publication of contract awards from 10 day to 3 days, and introducing an option for informal settlement conferences during a procurement appeal. These provisions serve to improve the efficiency and transparency of the procurement process. Expanded levels of Lottery procurement oversight and approvals will serve to protect the interests of potential suppliers, in addition to the Lottery. Businesses will also benefit from consistency between Lottery procurement rules and state procurement rules.

Costs to businesses include any operational expenses necessary to comply with procurement procedures, in addition to the cost of providing supplies or services to the Lottery. These operational expenses are a cost of conducting business and are presumed to have been reflected in vendor pricing.

4. Probable impact on private and public employment in businesses, agencies, and political subdivisions of the state directly affected by the proposed rulemaking.

This rulemaking is not expected to have any identifiable impact on private and public employment.

5. Probable impact of the proposed rulemaking on small business.

a. Identification of the small businesses subject to the proposed rulemaking.
Small businesses impacted by these rules are also vendors supplying products or services to the Lottery. The impact on small businesses should be positive. These businesses will benefit from procurements specifically targeted to small businesses as provided in R19-3-532, consistent with state procurement rules. Requests for quotation must be distributed to small businesses only, and except in specific instances, contracts must be awarded to a small business. In FY15, small businesses accounted for about $13.5 million of expended funds. Small businesses will also benefit from consistency between Lottery procurement rules and state procurement rules.

b. Administrative and other costs required for compliance with the rulemaking.
Any administrative costs incurred to comply with procurement procedures will apply to all businesses, including small businesses.

c. A description of methods that may be used to reduce the impact on small businesses and reasons for the agency's decision to use or not use each method.
Not applicable to this rulemaking; the rules are expected to have a positive impact on small businesses. Requests for quotation must be disseminated specifically to small businesses, and unless specific exceptions apply, the contract must be awarded to a small business.

6. Probable cost and benefit to private persons and consumers who are directly affected by the proposed rulemaking.
There are no direct costs to consumers or the general public associated with this rulemaking. Private persons and consumers will benefit from lower costs as a result of a more efficient procurement process and the ability to secure the best value for the Lottery.

7. Probable effect on state revenues.
This rulemaking is not anticipated to have any immediate measurable impact on state revenues or expenses. However, efficient procurement procedures will help ensure the best long-term value to the state when purchasing goods and services.

8. Less intrusive or less costly alternative methods of achieving the purpose of the proposed rulemaking.
The Lottery is unaware of any other less intrusive or less costly methods for achieving the purpose of the rulemaking. The Lottery does not require additional funding or personnel resources to implement the amended rules and is required by A.R.S. § 41-2501(G) to adopt rules that are consistent with the policies and procedures of the Arizona Procurement Code. Procurement procedures are designed to ensure fairness to vendors while providing the best value to the Lottery and the state.

9. Description of any data on which the rule is based.
Not applicable to this rulemaking.

10. The agency’s contact person who can answer questions about the economic, small business, and consumer impact statement:
Name: Pam DiNunzio
Address: Arizona State Lottery
4740 E. University Drive
Phoenix, AZ 85034
Telephone: (480) 921-4489
Fax: (480) 921-4488
E-mail: pdinunzio@azlottery.gov

11. A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:
There are no substantive changes between the proposed rules and the final rules. Technical and clarifying changes were made to the rules at the request of Governor’s Regulatory Review Council staff.

12. An agency’s summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:
No oral or written comments were received regarding the rulemaking.

13. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:
No other matters are applicable.
a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:
Not applicable
b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:
There is no corresponding federal law that is applicable to the subject matter. The rules are based on state law
c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness
14. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

None

15. The full text of the rules follows:

TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING

CHAPTER 3. ARIZONA STATE LOTTERY COMMISSION

ARTICLE 5. PROCUREMENTS

Section
R19-3-501. Definitions
R19-3-505. Prospective Suppliers List
R19-3-506. Source Selection Method: Determination Factors
R19-3-508. Bid Solicitation Requirements
R19-3-509. Request for Proposal Solicitation Requirements
R19-3-510. Pre-Offer Conferences
R19-3-514. Receipt, Opening, and Recording of Offers
R19-3-517. One Offer Received
R19-3-518. Offer Mistakes Discovered After Offer Opening and Before Award
R19-3-520. Determination of Not Susceptible for Award
R19-3-521. Bid Evaluation
R19-3-523. Proposal Negotiations with Responsible Offerors and Revisions of Offers
R19-3-524. Final Proposal
R19-3-525. Evaluation of Proposal Offers
R19-3-526. Responsibility Determinations
R19-3-527. Bid Contract Award
R19-3-528. Proposal Contract Award
R19-3-531. Procurements not Exceeding the Amount Prescribed in A.R.S. § 41-2535
R19-3-532. Solicitation – Request for Quotation
R19-3-533. Request for Quotation Issuance Repealed
R19-3-534. Quotation Contract Award
R19-3-535. Sole Source Procurements
R19-3-544. Contract Change Orders and Amendments
R19-3-545. Multi-term Contracts
R19-3-546. Terms and Conditions
R19-3-547. Mandatory Statewide Contracts
R19-3-549. Remedies by the Director
R19-3-553. Defective Cost or Pricing Data
R19-3-554. Informal Settlement Conference
R19-3-564. Dismissal Before Hearing
R19-3-565. Controversies Involving Contract Claims Against the Lottery
R19-3-566. Procurement Officer’s Decision Regarding Contract Claims
R19-3-567. Appeals and Reports to the Director Regarding Contract Claims
R19-3-568. Controversies Involving Lottery Claims Against the Contractor
R19-3-569. Guidance

ARTICLE 5. PROCUREMENTS

R19-3-501. Definitions
In this Article, unless the context otherwise requires:
1. “Affiliate” means any person whose governing instruments require it to be bound by the decision of another person or whose governing board includes enough voting representatives of the other person to cause or prevent action, whether or not the power is exercised. The term applies to persons doing business under a variety of names, persons in a parent-subsidiary relationship, or persons that are similarly affiliated.
2. “Aggregate dollar amount” means purchase price, including taxes and delivery charges, for the term of the contract and accounting for all allowable extensions and options.
3. “Best and Final Offer” means a revision to an offer submitted after negotiations are completed that contain the offeror’s most favorable terms for price, service, and products to be delivered.
4. “Best interests of the Lottery” means advantageous to the Lottery.
5. “Bid” means an offer in response to solicitation.
5.6. “Business” means a corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or other private legal entity.

6.7. “Change order” means a document, written order that is signed by the Director, which procurement officer and that directs the contractor to make a change that changes that the changes clause of the contract authorizes the Director procurement officer to order.

7. “Competitive range” is a range determined by the procurement officer on the basis of the criteria stated in the solicitation and an initial review of the proposals submitted. Those proposals that are susceptible for award after the initial review of all original proposals in accordance with the evaluation criteria and a comparison and ranking of original proposals shall be in the competitive range. Those proposals that have no reasonable chance for award when compared on a relative basis with more highly ranked proposals will not be in the competitive range. Proposals to be considered within the competitive range must, at a minimum, demonstrate the following:
   a. Affirmative compliance with mandatory requirements designated in the solicitation.
   b. An ability to deliver goods or services on terms advantageous to the Lottery sufficient to be entitled to continue in the competition.
   c. That the proposal is technically acceptable as submitted.

8. “Contract” means an agreement, regardless of what it is called, for the procurement of Lottery equipment, tickets, and related materials.

9. “Contract amendment” means a written alteration in the terms or conditions of a contract accomplished by mutual action of the parties to the contract or a unilateral exercise of a right contained in the contract.

10. “Contractor” means a person who has a contract with the Lottery.

11. “Cost data” means information concerning the actual or estimated cost of labor, material, overhead, and other cost elements that have been incurred or are expected to be incurred by the contractor in performing the contract.

12. “Cost-plus-a-percentage-of-cost-contract” means the parties to a contract agree that the fee will be a predetermined percentage of the cost of work performed and the contract does not limit the cost and fee before authorization of performance.

13. “Cost reimbursement contract” means a contract under which a contractor is reimbursed for costs that are reasonable, allowable, and allocable in accordance with the contract terms and the provisions of this Article, and a fee, if provided for in the contract.

14. “Day” means a calendar day and is computed under A.R.S. § 1-243, unless otherwise specified in the solicitation or contract.

15. “Defective data” means data that is inaccurate, incomplete, or outdated.

16. “Director” means the Executive Director of the State Lottery.

17. “Discussions” means oral or written negotiation between the Lottery and an offeror during which information is exchanged about specifications, scope of work, terms and conditions, and price included in an initial proposal. Communication with an offeror for the sole purpose of clarification does not constitute “discussions.”

18. “Filed” means delivered to the Arizona Lottery, 4740 E. University Dr., Phoenix, AZ 85034. A time/date stamp affixed to a document by the procurement officer or procurement officer’s delegate when the document is delivered determines the time of filing. Procurement officer or the procurement officer’s delegate when the document is delivered determines the time of filing procurement officer or to the Director, whichever is applicable, in a manner specified by the Arizona Procurement Code or a solicitation.

19. “Governing instruments” means legal documents that establish the existence of an organization and define its powers, including articles of incorporation or association, constitution, charter, bylaws, or similar documents.

20. “Interested party” means an offeror or prospective offeror whose economic interest may be affected substantially and directly by the issuance of a solicitation, the award of a contract, or by the failure to award a contract. Whether an offeror or prospective offeror has an economic interest depends upon the circumstances of each case.

21. “Invitation for bids” means all documents, whether attached or incorporated by reference, that are used to solicit bids in accordance with R19-3-508.

22. “Minor informalities” means any mistake, excluding a judgmental error, that has negligible effect on price, quantity, quality, delivery, or other contractual terms and the waiver or correction of which does not prejudice other bidders or offerors.

23. “Multiple award” means a grant of an indefinite quantity contract for one or more similar materials or services to more than one bidder or offeror.

24. “Multi-step sealed bidding” means a two-phase bidding process consisting of a technical phase and a price phase.

25. “Negotiation” means an exchange or series of exchanges, including a request for a best and final offer, between the Lottery and an offeror or contractor that allows the Lottery or the offeror or contractor to revise an offer or contract, unless revision is specifically prohibited by these rules or statutes.


27. “Offeror” means a person who responds to a solicitation.

28. “Person” means any corporation, limited liability company, limited liability partnership, partnership, business, individual, union, committee, club, other organization, or group of individuals.
29. “Price data” means information concerning prices, including profit, for materials, services, or construction substantially similar to the materials, services, or construction to be procured under a contract or subcontract. In this definition, “prices” refers to offered selling prices, historical selling prices, or current selling prices of the items to be purchased.

30. “Procurement” means all functions that pertain to obtaining any materials or services for the design or operation of a Lottery game or the purchase of Lottery equipment, tickets, and related materials.

31. “Procurement file” means the official records file of the Lottery. The procurement file shall include (electronic or paper) the following:
   a. List of notified vendors;
   b. Final solicitation;
   c. Solicitation amendments;
   d. Bids and offers;
   e. Final proposal revisions; Offer revisions and best and final offers;
   f. Discussions;
   g. Clarifications;
   h. Final evaluation reports; and
   i. Additional information, if requested by the procurement officer.

32. “Proposal” means an offer submitted in response to a solicitation.

33. “Prospective offeror” means a person that expresses an interest in a specific solicitation.

34. “Purchase description” means the words used in a solicitation to describe Lottery materials to be procured and includes specifications attached to, or made a part of, the solicitation.

35. “Purchase request” or “purchase requisition” means a document or electronic transmission in which the Director requests that a contract be entered into for a specific need and may include a description of a requested item, delivery schedule, transportation data, criteria for evaluation, suggested sources of supply, and information needed to make a written determination required by this Article.

36. “Request for proposals” means all documents, whether attached or incorporated by reference, that are used to solicit proposals in accordance with R19-3-509.

37. “Responsible bidder or offeror” means a person who has the capability to perform contract requirements and the integrity and reliability necessary to ensure a good faith performance.

38. “Responsive bidder or offeror” means a person who submits a bid that conforms in all material respects to the invitation for bids or request for proposals.

39. “Reverse auction” means a procurement method in which offerors are invited to bid on specified goods or services through online bidding and real-time electronic bidding. During an electronic bidding process, offerors’ prices or relative ranking are available to competing offerors and offerors may modify their offer prices until the closing date and time.

40. “Services” means the labor, time, or effort furnished by a contractor with no expectation that a specific end product other than required reports and performance will be delivered. Services does not include employment agreements or collective bargaining agreements.

41. “Significant procurement role”:
   a. Means any role that includes any of the following duties:
      i. Participating in the development of a procurement.
      ii. Participating in the development of an evaluation tool.
      iii. Approving a procurement or an evaluation tool.
      iv. Soliciting quotes greater than ten thousand dollars for the provision of materials or services.
      v. Serving as a technical advisor or an evaluator who evaluates a procurement.
      vi. Recommending or selecting a vendor that will provide materials or services to the Lottery.
      vii. Serving as a decision maker or designee on a protest or an appeal by a party regarding a Lottery procurement selection or decision.
   b. Does not include making a decision on developing specifications and the scope of work for a procurement if the decision is based on the application of commonly accepted industry standards or known published standards of the Lottery as applied to the project, services, goods, or materials.

42. “Small business” means a for-profit or not-for-profit organization, including its affiliates, with fewer than 100 full-time employees or gross annual receipts of less than four million dollars for the last complete fiscal year.

43. “Solicitation” means an invitation for bids, a request for technical offers, a request for proposals, a request for quotations, or any other invitation or request issued by the Lottery to invite a person to submit an offer.

44. “Specification” means a description of the physical or functional characteristics, or of the nature of a Lottery material or service. Specification includes a description of any requirement for inspecting, testing, or preparing a Lottery material for delivery.
44.45. “Subcontractor” means a person who contracts to perform work or render service to a contractor or to another subcontractor as a part of a contract with the Lottery.

44.46. “Suspension” means an action taken by the Director of the Department of Administration under R2-7-C901 that temporarily disqualifies a person from participating in a state procurement process.

46.47. “Technical offer” means unpriced written information from a prospective contractor stating the manner in which the prospective contractor intends to perform certain work, its qualifications, and its terms and conditions.

47.48. “Trade secret” means information, including a formula, pattern, device, compilation, program, method, technique, or process, that is the subject of reasonable efforts to maintain its secrecy and that derives independent economic value, actual or potential, as a result of not being generally known to and not being readily ascertainable by legal means.

R19-3-505. Prospective Suppliers List
A. The procurement officer shall compile and maintain a prospective suppliers list maintained by the state procurement administrator as a resource for selection of suppliers. To be included on the prospective suppliers list, a person shall register with the procurement officer the company name, address, e-mail, contact name, and area of product or service interest.

B. The procurement officer may remove suppliers from the prospective suppliers list if a notice or e-mail sent to the supplier is returned. The procurement officer shall maintain a record of the date and reason for removal of a supplier from the prospective suppliers list. The procurement officer may refer to a prospective suppliers list maintained by the state procurement administrator as a resource for selection of suppliers.

R19-3-506. Source Selection Method: Determination Factors
A. The procurement officer shall determine the applicable source selection method for a procurement, estimating the aggregate dollar amount of the contract and ensuring that the procurement is not artificially divided, fragmented, or combined to circumvent A.R.S. §§ 5-559 and 41-2501(F) 41-2501(G).

B. If the procurement officer believes that an existing Arizona state contract is sufficient to satisfy the Lottery’s requirements, the procurement officer may procure those materials and services covered by such contracts.

C. The procurement officer shall determine in writing that an invitation for bid is not practicable or advantageous to the Lottery before soliciting for offers for a competitive sealed proposal. An invitation for bid may not be practicable or advantageous if it is necessary to:
1. Use a contract other than a fixed-price type;
2. Permit offerors to revise their offers or any other aspects of their offer or the solicitation;
3. Compare the different price, quality, and contractual factors of the offers submitted.

D. The procurement officer may make a class determination that it is either not practicable or not advantageous to the Lottery to procure specified types of materials or services by invitation for bid. The procurement officer may modify or revoke a class determination at any time.

E-C. The procurement officer shall not award a contract or incur an obligation on behalf of the Lottery unless sufficient funds are available for the procurement, consistent with A.R.S. § 35-154. If it is reasonable to believe that sufficient funds will become available for a procurement, the procurement officer may issue a notice with the solicitation indicating that funds are not currently available and that any contract awarded will be conditioned upon the availability of funds.

R19-3-508. Bid Solicitation Requirements
The procurement officer shall include the following in the solicitation:
1. Instruction to offerors, including:
a. Instructions and information to offerors concerning the offer submission requirements, offer due date and time, the location where offers or other documents will be received, and the offer acceptance period;
b. The deadline date for requesting a substitution or exception to the solicitation;
c. The manner by which the offeror is required to acknowledge amendments;
d. The minimum required information in the offer;
e. The specific requirements for designating trade secrets and other proprietary information as confidential;
f. Any specific responsibility criteria;
g. Whether the offeror is required to submit samples, descriptive literature, or technical data with the offer;
h. Any evaluation criteria;
i. A statement of where documents incorporated by reference are available for inspection and copying;
j. A statement that the agency may cancel the solicitation or reject an offer in whole or in part;
k. Certification by the offeror that submission of the offer did not involve collusion or other anticompetitive practices;
l. Certification by the offeror of compliance with A.R.S. § 41-3532 when offering electronics or information technology products, services, or maintenance;
m. That the offeror is required to declare whether the offeror has been debarred, suspended, or otherwise lawfully prohibited from participating in any public procurement activity, including, but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body;

n. Any bid security required;

o. The means required for submission of an offer. The solicitation shall specifically indicate whether hand delivery, U.S. mail, electronic mail, facsimile, or other means are acceptable methods of submission;

p. Any designation of the specific bid items and amounts to be recorded at offer opening; and

q. Any other offer submission requirements;

2. Specifications, including:
   a. Any purchase description, specifications, delivery or performance schedule, and inspection and acceptance requirements;
   b. If a brand name or equal equivalent specification is used, instructions that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition. The solicitation shall state that products substantially equivalent to the brands designated qualify for consideration; and
   c. Any other specification requirements;

3. Terms and Conditions, including:
   a. Whether the contract will include an option for extension, and
   b. Any other contract terms and conditions.

R19-3-509. Request for Proposal Solicitation Requirements

The procurement officer shall include the following in the solicitation:

1. Instructions to offerors, including:
   a. Instructions and information to offerors concerning the offer submission requirements, offer due date and time, the location where offers will be received, and the offer acceptance period;
   b. The deadline date for requesting a substitution or exception to the solicitation;
   c. The manner by which the offeror is required to acknowledge amendments;
   d. The minimum information required in the offer;
   e. The specific requirements for designating trade secrets and other proprietary information as confidential;
   f. Any specific responsibility or susceptibility criteria;
   g. Whether the offeror is required to submit samples, descriptive literature, and technical data with the offer;
   h. Evaluation factors and the relative order of importance;
   i. A statement of where documents incorporated by reference are available for inspection and copying;
   j. A statement that the agency may cancel the solicitation or reject an offer in whole or in part;
   k. Certification by the offeror that submission of the offer did not include collusion or other anticompetitive practices;
   l. Certification by the offeror of compliance with A.R.S. § 41-3532 when offering electronics or information technology products, services, or maintenance;
   m. That the offeror is required to declare whether the offeror has been debarred, suspended, or otherwise lawfully prohibited from participating in any public procurement activity, including, but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body;
   n. Any offer security required;
   o. The means required for submission of offer. The solicitation shall specifically indicate whether hand delivery, U.S. mail, electronic mail, facsimile, or other means are acceptable methods of submission;
   p. Any cost or pricing data required;
   q. The type of contract to be used;
   r. A statement that negotiations may be conducted with offerors reasonably susceptible of being selected for award and that fall within the competitive range; and
   s. Any other offer requirements specific to the solicitation.

2. Specifications, including:
   a. Any purchase description, specifications, delivery or performance schedule, and inspection and acceptance requirements;
   b. If a brand name or equal equivalent specification is used, instructions that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition. The solicitation shall state that products substantially equivalent to those brands designated shall qualify for consideration; and
   c. Any other specification requirements specific to the solicitation.

3. Terms and Conditions, including:
   a. Whether the contract is to include an extension option, and
   b. Any other contract terms and conditions.
R19-3-510. Pre-Offer Conferences
The procurement officer may conduct one or more pre-offer conferences. If a pre-offer conference is conducted for a solicitation, it shall be at least seven days before the offer due date and time, unless the procurement officer makes a written determination that the specific needs of the procurement require a shorter time. Statements made during a pre-offer conference are not amendments to the solicitation, unless the procurement officer makes a written determination within a reasonable time prior to the offer due date and time to discuss the procurement requirements and solicit comments from prospective offerors. Amendments to the solicitation may be issued, if necessary, in accordance with R19-3-511.

R19-3-514. Receipt, Opening, and Recording of Offers
A. The procurement officer shall maintain a record of offers received for each solicitation and shall record the time and date when an offer is received. The procurement officer shall store each unopened offer in a secure place until the offer due date and time.
B. The Lottery may open an offer to identify the offeror. If this occurs, the procurement officer shall record the reason for opening the offer, the date and time the offer was opened, and the solicitation number. The procurement officer shall secure the offer and retain it for public opening.
C. For a bid solicitation, the procurement officer shall open offers publicly, in the presence of one or more witnesses, after the offer due date and time. The procurement officer shall announce the name of the offeror, the amount of each offer, and any other relevant information as determined by the procurement officer. The procurement officer shall record the name of each offeror, and the amount of each offer, and any other relevant information as determined by the procurement officer. The reader and the witness shall sign the record of offers and place it in the procurement file. The procurement officer shall make the record of offers available for public viewing.
D. For a proposal solicitation, the procurement officer shall open offers publicly, in the presence of one or more witnesses, after the offer due date and time. The procurement officer shall announce and record the name of each offeror and any other relevant information as determined by the procurement officer. The procurement officer shall make the record of offers available for public viewing.
E. Except for the information identified in subsections (C) and (D), the procurement officer shall ensure that information contained in the offer remains confidential until the contract becomes effective and binding and is shown only to those persons assisting in the evaluation process and the Lottery Commissioners, after award, and before the contract becomes effective and binding.

R19-3-517. One Offer Received
A. If only one offer is received in response to a solicitation, the procurement officer shall review the offer and either:
1. award the contract to the offeror and prepare a written determination that:
   a. The price submitted is fair and reasonable under R19-3-550,
   b. The offer is responsive, and
   c. The offeror is responsible, or
2. reject the offer and:
   a. Resolicit for new offers,
   b. Cancel the procurement, or
   c. Use a different source selection method authorized under these rules.
B. If the procurement officer awards a contract for a solicitation under (A)(1), the award shall comply with R19-3-527 for a bid solicitation and R19-3-528 for a proposal solicitation.

R19-3-518. Offer Mistakes Discovered After Offer Opening and Before Award
A. If an apparent mistake in an offer, relevant to the award determination, is discovered after opening and before award, the procurement officer shall contact the offeror for written confirmation of the offer. The procurement officer shall designate a time-frame within which the offeror shall either:
1. Confirm that no mistake was made and assert that the offer stands as submitted; or
2. Acknowledge that a mistake was made, and include all of the following in a written response:
   a. Explanation of the mistake and any other relevant information,
   b. A request for correction including the corrected offer or a request for withdrawal, and
   c. The reasons why correction or withdrawal is consistent with fair competition and in the best interest of the Lottery.
B. An offeror who discovers a mistake in its offer may request correction or withdrawal in writing and shall include all of the following in the written request:
1. Explanation of the mistake and any other relevant information,
2. A request for correction including the corrected offer or a request for withdrawal, and
3. The reasons why correction or withdrawal is consistent with fair competition and in the best interest of the Lottery.
C. The procurement officer may permit an offeror to correct a mistake if the mistake involves a minor informality or if the mistake and the intended offer are evident in the uncorrected offer; for example, an error in the extension of unit prices.
D. The procurement officer shall permit an offeror to furnish information called for in the solicitation but not supplied if the intended offer is evident and submittal of the information is not prejudicial to other offerors.
E. The procurement officer shall make a written determination of whether correction or withdrawal is permitted, based on whether the action is consistent with fair competition and in the best interest of the Lottery.
F. If the offeror fails to act under subsection (A) the offeror is considered nonresponsive and the procurement officer shall
place a written determination that the offeror is nonresponsive in the procurement file.

R19-3-520. Determination of Not Susceptible for Award
A. The procurement officer may determine at any time during the evaluation period and before award that an offer is not susceptible for award or not within the competitive range. The procurement officer shall place a written determination, based on one or more of the following, in the procurement file:
1. The offer fails to substantially meet one or more of the mandatory requirements of the solicitation;
2. The offer fails to comply with any susceptibility criteria identified in the solicitation; or
3. The offer is not susceptible for award or is not within the competitive range in comparison to other offers based on the criteria set forth in the solicitation. When there is doubt as to whether an offer is susceptible for award or is in the competitive range, the offer should be included for further consideration.

B. The procurement officer shall promptly notify the offeror in writing of the final determination that the offer is not susceptible for award or not within the competitive range, unless the procurement officer determines notification to the offeror would compromise the Lottery’s ability to negotiate with other offerors.

R19-3-521. Bid Evaluation
A. The procurement officer shall evaluate offers to determine which offer provides the lowest cost to the Lottery in accordance with any objectively measurable factors set forth in the solicitation. Examples of such factors include, but are not limited to, transportation cost, energy cost, ownership cost, and any other identifiable cost or life cycle cost formula. The factors need not be precise predictors of actual future costs, but to the extent possible the factors shall be reasonable estimates based upon information the procurement officer has available concerning future use.

B. The procurement officer shall consider life cycle costs and application benefits when evaluating offers for the procurement of material or services, information systems, and telecommunication systems.

C. The procurement officer shall conduct an evaluation to determine whether an offeror is responsive, based upon the requirements set forth in the solicitation. The procurement officer shall reject as nonresponsive any offer that does not meet the solicitation requirements.

D. If there are two or more low, responsive offers from responsible offerors that are identical in price, the procurement officer shall make the award by drawing lots. If time permits, the procurement officer shall provide the offerors involved an opportunity to attend the drawing. The procurement officer shall ensure that the drawing is witnessed by at least one person other than the procurement officer.

R19-3-523. Proposal Negotiations with Responsible Offerors and Revisions of Offers
A. The procurement officer shall establish procedures and schedules for conducting negotiations. The procurement officer shall ensure there is no disclosure of one offeror’s price or any information derived from competing offers to another offeror.

B. Negotiations may be conducted orally or in writing. If oral negotiations are conducted, the procurement officer shall confirm the negotiations in writing and provide the document to the offeror.

C. If negotiations are conducted, negotiations shall be conducted with all offerors determined to be in the competitive range or reasonably susceptible for award. Offerors may revise offers based on negotiations provided that any revision is confirmed in writing.

D. The procurement officer may conduct negotiations with responsible offerors to improve offers in such areas as cost, price, specifications, performance, or terms, to achieve best value for the Lottery based on the requirements and the evaluation factors set forth in the solicitation.

E. Responsible offerors determined to be susceptible for award and within the competitive range, with which negotiations have been held, may revise their offer in writing during negotiations.

F. An offeror may withdraw an offer at any time before the final proposal revision is due and time by submitting a written request to the procurement officer.

R19-3-524. Final Proposal Revisions and Best and Final Offers
A. The procurement officer shall request written final proposal revisions from any offeror with whom negotiations have been conducted, unless the offeror has been determined not within the competitive range or not susceptible for award under R19-3-520 or non-responsive under R19-3-526 to an offer. The procurement officer shall include in the written request:
1. The date, time, and place for submission of final proposal offer revisions; and
2. A statement that if offerors do not submit a written notice of withdrawal or a written final proposal offer revision, their immediate previous written proposal revision offer will be accepted as their final proposal revision offer.

B. The procurement officer shall request best and final offers from any offeror with whom negotiations have been conducted, however it is not mandatory to conduct negotiations prior to requesting a best and final offer. The procurement officer shall include in the written request:
1. The date, time, and place for submission of best and final offer; and
2. A statement that if offerors do not submit a written best and final offer, their immediate previous written offer will be accepted as their best and final offer.

B. C. The procurement officer shall request written final proposal revisions only once, unless the procurement officer makes a written determination that it is advantageous to the Lottery to conduct further negotiations or change the Lottery’s requirements.

C. D. If an apparent mistake, relevant to the award determination, is discovered after opening of final proposal revisions, the procurement officer shall contact the offeror for written confirmation. The procurement officer shall
designate a time-frame within which the offeror shall either:
1. Confirm that no mistake was made and assert that the offer stands as submitted; or
2. Acknowledge that a mistake was made, and include the following in a written response:
   a. Explanation of the mistake and any other relevant information,
   b. A request for correction including the corrected offer or a request for withdrawal, and
   c. The reasons why correction or withdrawal is consistent with fair competition and in the best interest of the Lottery.

D. An offeror who discovers a mistake in their final proposal revision after an award is effective may request withdrawal or correction in writing, and shall include the following in the written request:
1. Explanation of the mistake and any other relevant information,
2. A request for correction including the corrected offer or a request for withdrawal, and
3. The reasons why correction or withdrawal is consistent with fair competition and in the best interest of the Lottery.

E. In response to a request made under subsections (C) (D) or (E), the procurement officer shall make a written determination of whether correction or withdrawal will be allowed based on whether the action is consistent with fair competition and in the best interest of the Lottery. If an offeror does not provide written confirmation of the final proposal revision after an award is effective, the procurement officer shall make a written determination that the most recent written proposal revision submitted is the final proposal revision best and final offer.

R19-3-525. Evaluation of Proposal Offers
A. The procurement officer shall evaluate offers and final proposal revisions based on the evaluation criteria contained in the request for proposals. The procurement officer shall not modify evaluation criteria or their relative order of importance after offer due date and time.
B. The procurement officer may appoint an evaluation committee to assist in the evaluation of offers. If offers are evaluated by an evaluation committee, the evaluation committee shall prepare an evaluation report for the procurement officer. This evaluation report shall supersede all previous draft evaluations or evaluation reports. The procurement officer may:
1. Accept or reject the findings of the evaluation committee,
2. Request additional information from the evaluation committee, or
3. Replace the evaluation committee.
C. The procurement officer shall prepare an award determination and place the determination, including any evaluation report or other supporting documentation, in the procurement file.

R19-3-526. Responsibility Determinations
A. The procurement officer shall determine before an award whether an offeror is responsible or nonresponsible.
B. The procurement officer shall consider the following factors before determining that an offeror is responsible or nonresponsible:
1. The offeror’s financial, business, personnel, or other resources, such as subcontractors;
2. The offeror’s record of performance and integrity;
3. Whether the offeror has been debarred or suspended;
4. Whether the offeror is legally qualified to contract with the Lottery;
5. Whether the offeror promptly supplied all requested information concerning its responsibility; and
6. Whether the offeror meets the responsibility criteria specified in the solicitation.
C. If the procurement officer determines an offeror is nonresponsible, the procurement officer shall promptly send a determination to the offeror stating the basis for the determination, except when notification to the offeror would compromise the Lottery’s ability to negotiate with other offerors. The procurement officer shall file a copy of the determination in the procurement file.
D. The procurement officer shall only disclose responsibility information furnished by an offeror in accordance with A.R.S. § 41-2540.
E. For the offeror awarded a contract, the procurement officer’s signature on the contract constitutes a determination that the offeror is responsible.

R19-3-527. Bid Contract Award
A. The procurement officer shall award the contract to the lowest responsible and responsive offeror whose offer conforms in all material respects to the requirements and criteria set forth in the solicitation. Unless otherwise provided in the solicitation, an award may be made for an individual line item, any group of line items, or all line items.
B. The procurement officer shall keep a record showing the basis for determining the successful offeror or offerors in the procurement file.
C. The procurement officer shall notify the Director and the Lottery Commission of an award. The award will be final and binding unless rejected by the Lottery Commission at a meeting held within 14 calendar days after the award is communicated to the Commissioners. The procurement officer shall send notice of the meeting to all offerors.
D. After an award becomes effective and binding, the procurement officer shall return any bid security provided by the offeror.
E. Within 30 days after an award is effective and binding, the procurement officer shall make the procurement file, including all offers, available for public inspection, redacting information that is confidential under R19-3-503.
R19-3-528. Proposal Contract Award

A. The procurement officer shall award the contract to the responsible offeror whose offer is determined to be most advantageous to the Lottery based on the evaluation factors set forth in the solicitation. The procurement officer shall make a written determination explaining the basis for the award and place it in the procurement file.

B. Before awarding any cost reimbursement contract, the procurement officer shall determine in writing that:
   1. The offeror’s accounting system will permit timely development of all necessary cost data in the form required by the specific contract type contemplated, and
   2. It is adequate to allocate costs under R19-3-550 through R19-3-553.

C. The procurement officer shall notify the Director and the Lottery Commission of an award. The award will be final and binding unless rejected by the Lottery Commission at a meeting held within 14 calendar days after the award is communicated to the Commissioners. The procurement officer shall send notice of the meeting to all offerors.

D. If the procurement officer makes a written determination that it is in the best interest of the Lottery that the award not be made public until reviewed by the Lottery Commission, the Director may authorize a meeting of the Lottery Commission to be held for consideration of the award.
   1. The Director shall provide notice of the meeting in compliance with Open Meeting Law, including notice of an executive session to provide information concerning the award and the procurement officer’s evaluation of the offers.
   2. The Lottery Commission shall not take action in the executive session.
   3. In open meeting the Lottery Commission may vote to approve or reject the award. The Lottery Commission may also direct that it will reject the award unless further negotiations occur regarding specified issues. If further negotiations are directed, the procurement officer shall withhold the recommended award from public inspection.

E. The procurement officer shall notify all offerors of an award that has become effective and binding.

F. After an award becomes effective and binding, the procurement officer shall return any offer security provided by the offeror.

G. Within 3 days after an award is effective and binding, the procurement officer shall make the procurement file, including all offers, available for public inspection, redacting information that is confidential under R19-3-503.

R19-3-531. Procurements not Exceeding the Amount Prescribed in A.R.S. § 41-2535

For purchases not exceeding the amount prescribed in A.R.S. § 41-2535, the procurement officer shall issue a request for quotation under R19-3-533 unless any of the following apply:
   1. The purchase can be made from a state or agency contract,
   2. The purchase can be made from a set-aside organization as established in A.R.S. § 41-2636,
   3. The purchase is not expected to exceed $5,000.00, $10,000.00, or
   4. The purchase is made as a sole-source procurement.

§4. The procurement officer makes a written determination that competition is not practicable under the circumstances.
   The purchase shall be made with as much competition as is practicable under the circumstances.

R19-3-532. Solicitation – Request for Quotation

A. A request for quotation shall be issued for purchases estimated to exceed $5,000 $10,000 but less than that specified in A.R.S. § 41-2535. The procurement officer shall include the following in the solicitation:
   1. Offer submission requirements, including offer due date and time, where offers will be received, and offer acceptance period;
   2. Any purchase description, specifications, delivery or performance schedule, and inspection and acceptance requirements;
   3. The minimum information that the offer shall contain;
   4. Any evaluation factors;
   5. Whether negotiations may be held;
   6. Any contract options including renewal or extension;
   7. The uniform terms and conditions by text or reference; and
   8. Any other terms, conditions, or instructions specific to the procurement.

B. The procurement officer shall issue the request for quotation by distributing the request for quotation to a minimum of three small businesses registered on the prospective suppliers list.

C. The request for quotation shall include a statement that only a small business, as defined in R19-3-501, shall be awarded a contract, unless any of the following apply:
   1. The purchase has been unsuccessfully competed under R19-3-533 Subsection (B) of this Section, including failure to obtain fair and reasonable prices; or
   2. The procurement officer has made a written determination that less than three small businesses are registered on the prospective suppliers list; or
   2-3. The procurement officer has made a written determination prior to issuing a request for quotation that restricting the procurement to small business is not practical under the circumstances.

R19-3-533. Request for Quotation Issuance Repealed

The procurement officer shall issue the request for quotation by distributing the request for quotation to a minimum of three small businesses. The procurement officer shall rotate suppliers invited to submit quotations. The procurement officer may cancel the request for quotation at any time.
R19-3-534. Quotation Contract Award
A. If only one responsive offer is received, the procurement officer shall explain in writing whether award of the contract is advantageous to the Lottery and place the determination in the procurement file. If time permits, the procurement officer may initiate a second request for quotation if it is reasonable to believe that additional responses will be received.
B. The procurement officer shall award a contract to the small business determined to be most advantageous to the Lottery in accordance with any evaluation factors identified in the request for quotation.
C. The procurement officer shall notify the Director and the Lottery Commission of an award. The award will be final and binding unless rejected by the Lottery Commission at a meeting held within 14 calendar days after the award is communicated to the Commissioners. The procurement officer shall send notice of the meeting to all offerors.
D. The procurement officer shall make the procurement file available to the public on the date the contract award becomes effective and binding.

R19-3-535. Sole Source Procurements
A. For the purposes of this Section, the term “sole-source procurement” means a material or service procured without competition when:
1. There is only a single source for the material or service, or
2. No reasonable alternative source exists.
B. This Section applies only to sole source procurements, estimated to exceed the amount prescribed in A.R.S. § 41-2535.
C. The procurement officer shall make a written determination that includes the following information:
1. A description of the procurement need and the reason why there is only a single source available or no reasonable alternative exists,
2. The name of the proposed supplier,
3. The duration and estimated total dollar value of the proposed procurement,
4. Documentation that the price submitted is fair and reasonable pursuant to R19-3-550, and
5. A description of efforts made to seek other sources.
D. The procurement officer shall post the request on the Lottery web site and send notice to registered vendors on the state’s electronic system to invite comments on the sole-source request for three working days. Following this period, the procurement officer shall either:
1. Issue a written determination with any conditions or restrictions, or
2. Retract the determination if input or information received shows that more than one source is available or a reasonable alternative source exists for the procurement need.
E. If the sole-source procurement is determined, the procurement officer shall negotiate a contract advantageous to the Lottery.
F. The procurement officer shall notify the Director and the Lottery Commission of a contract award. The award will be final and binding unless rejected by the Lottery Commission at a meeting held within 14 calendar days after the award is communicated to the Commissioners. The procurement officer shall send notice of the meeting to the sole source.
G. The procurement officer shall keep a record of all sole-source procurements.

R19-3-544. Contract Change Orders and Amendments
A. The procurement officer may extend or authorize options in a contract provided the price of the extension or option was evaluated under the contractor’s original offer.
B. Any contract change order or amendment or aggregate change orders or amendments of a contract not covered under subsection (A) that exceeds $100,000 and 25% of the original contract amount may be executed only if approved by the budget manager and the procurement officer determines in writing that the change order or amendment is advantageous to the Lottery and the price is determined fair and reasonable pursuant to R19-3-550.
C. The procurement officer may, in situations in which time or economic considerations preclude re-solicitation, negotiate a reduction to the contract, including scope, price, and contract requirements in accordance with A.R.S. § 41-2537.

R19-3-545. Multi-term Contracts
A. Unless otherwise provided by law, a contract may be entered into for a period of time up to five years, if the term of the contract and conditions of renewal or extension, if any, are included in the solicitation and monies are available for the first fiscal period at the time of contracting.
B. A contract may be entered into for a period exceeding five years if the procurement officer makes a written determination that such a contract would be advantageous to the Lottery and the Lottery Commission pre-approves the extended contract period. The written determination shall include:
1. The initial and renewal option periods for the contract,
2. Documentation that the estimated requirements are reasonable and continuing, and
3. Documentation that such a contract will serve the best interests of the Lottery by encouraging effective competition or otherwise promoting economies in Lottery procurement.
C. The procurement officer shall include in all multi-term contracts a clause specifying that the contract shall be cancelled if monies are not appropriated or otherwise made available to support the continuation of performance in a subsequent fiscal year. If the contract is cancelled under this Section, the contractor may only be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the materials or services delivered under the contract or which are otherwise not recoverable.
R19-3-546. Terms and Conditions
A. The procurement officer shall use the uniform terms and conditions published by the state procurement administrator for state contracts.
B. The procurement officer may make changes to uniform terms and conditions by making a written determination that it is in the best interest of the Lottery and does not conflict with any statutory requirements, provided that the procurement officer gives notice to the state procurement administrator of those changes.

R19-3-547. Mandatory Statewide Contracts
The Lottery shall use existing Arizona state contracts to satisfy the need for materials and services covered under such contracts, unless a written determination is made by the procurement officer that the available statewide contracts do not meet the Lottery’s needs. For all non-Lottery specific materials and services, unless an off-contract request is approved by the state procurement administrator.

R19-3-549. Conflict of Interest
A. A person preparing or assisting in the preparation of specifications, plans, or scopes of work shall not receive any direct benefit from the utilization of those specifications, plans, or scopes of work.
B. The procurement officer may waive the restriction set forth in subsection (A) if the procurement officer determines in writing that the rule’s application would not be in the Lottery’s best interest. The determination shall state the specific reasons that the restriction in subsection (A) has been waived. If the procurement officer is the individual with the restriction, the Director may waive the restriction set forth in subsection (A) if the Director determines in writing that the rule’s application would not be in the Lottery’s best interest. If the Director is the person with the restriction, the restriction may be waived by a determination of the office of the Governor.

R19-3-553. Defective Cost or Pricing Data
A. The procurement officer may reduce the contract price if, upon written determination, the cost or pricing data is defective.
B. The procurement officer shall reduce the contract price in the amount of the defect plus related overhead and profit or fee, if the defective data was used in awarding the contract or contract modification.
C. The offeror or contractor may appeal any dispute regarding the existence of defective cost or pricing data or the amount of an adjustment due to defective cost or pricing data as a contract claim under R19-3-564 R19-3-565 through R19-3-566 R19-3-567. The price, as adjusted by the procurement officer, shall remain in effect until any claim is settled or resolved under A.R.S. Title 41, Chapter 6, Article 10.

R19-3-562. Remedies by the Director
If the Director sustains the appeal in whole or part and determines that a solicitation, a not susceptible for award not susceptible-for-award determination, or an award does not comply with procurement statutes and rules, the Director shall implement remedies as provided in R19-3-557 or R19-3-563.

R19-3-563. Informal Settlement Conference
A. In any protest, claim or debarment proceeding, the Director may request to hold an informal settlement conference with all interested parties. The conference may be held at any time prior to a final administrative decision.
B. If an informal settlement conference is held, a person with the authority to act on behalf of the interested party must be present. The procurement officer shall notify the interested parties in writing that statements, either written or oral, made at the conference, including a written document, created or expressed solely for the purpose of settlement negotiations are inadmissible in any subsequent administrative or judicial hearing.
C. If any interested party chooses not to participate in an informal settlement conference, the Director, or the Director’s designee, in his or her discretion, may conduct the conference with those interested parties that appear, or reschedule the conference, or terminate the conference.
D. If the informal settlement conference results in a full settlement agreement between all interested parties, that agreement shall be reduced to writing, signed by the interested parties, and entered as the final administrative decision in the proceeding. If the interested parties do not reach agreement on all matters at issue in the proceedings, but do agree to resolve one or some of the issues, that partial agreement shall be reduced to writing, be signed by the interested parties, and bind the interested parties through the remainder of the proceedings.
E. If the Director, or the Director’s designee, participates in an informal settlement conference, the Director, or the Director’s designee, may not participate in or attempt to influence the outcome of the final administrative decision.
F. When making a final administrative decision, the Director shall not give any weight to whether or not an informal settlement conference has been held, or to any consideration of the perceived success or failure of the informal settlement conference.

R19-3-564, R19-3-564. Dismissal Before Hearing
A. The Director may dismiss, upon written determination, an appeal in whole or in part before scheduling a hearing if:
   1. The appeal does not state a valid basis for protest,
   2. The appeal is untimely as prescribed under R19-3-558, or
   3. The appeal attempts to raise issues not raised in the protest.
B. The procurement officer shall notify the interested party in writing of a determination to dismiss an appeal before hearing.

R19-3-565. Controversies Involving Contract Claims Against the Lottery
A. A claimant shall file a contract claim with the procurement officer within 180 days after the claim arises. The claim shall
include the following:
1. The name, address, and telephone number of the claimant;
2. The signature of the claimant or claimant’s representative;
3. Identification of the solicitation or contract number;
4. A detailed statement of the legal and factual grounds of the claim including copies of the relevant documents; and
5. The form and dollar amount of the relief requested.

B. The procurement officer shall have the authority to settle and resolve contract claims.

**R19-3-565, R19-3-566. Procurement Officer’s Decision Regarding Contract Claims**

A. If a claim cannot be resolved under R19-3-564, the procurement officer shall, upon a written request by the claimant for a final decision, issue a written decision no more than 60 days after the request is filed. Before issuing a final decision, the procurement officer shall review the facts pertinent to the claim and secure any necessary assistance from legal, fiscal, and other advisors.

B. The procurement officer shall furnish the decision to the claimant, by certified mail, return receipt requested, or by any other method that provides evidence of receipt, with a copy to the Director. The decision shall include:
1. A description of the claim;
2. A reference to the pertinent contract provision;
3. A statement of the factual areas of agreement or disagreement;
4. A statement of the procurement officer’s decision, with supporting rationale; and
5. A paragraph which substantially states: “This is the final decision of the procurement officer. This decision may be appealed under A.R.S. Title 41, Chapter 6, Article 10 within 30 days from receipt of the decision. If you appeal, you must file a written notice of appeal containing the information required in R19-3-566(B), R19-3-567(B) with the procurement officer within 30 days from the date you receive this decision.”

C. If the procurement officer fails to issue a decision on a contract claim within 60 days after the request is filed, the claimant may proceed as if the procurement officer had issued an adverse decision.

**R19-3-566, R19-3-567. Appeals and Reports to the Director Regarding Contract Claims**

A. The claimant may appeal the final decision of the procurement officer to the Director within 30 days from the date the decision is received. The claimant shall file a copy of the appeal with the Director and the procurement officer.

B. The claimant shall file the appeal in writing and shall include the following:
1. A copy of the decision of the procurement officer,
2. A statement of the factual areas of agreement or disagreement, and
3. The precise factual or legal error in the decision of the procurement officer from which an appeal is taken.

C. The procurement officer shall file a complete report on the appeal with the Director within 14 days from the date the appeal is filed, providing a copy to the claimant at that time by certified mail, return receipt requested, or by any other method that provides evidence of receipt. The report shall include a copy of the claim, a copy of the procurement officer’s decision, if applicable, and any other documents that are relevant to the claim.

D. The Director shall resolve appeals on claim decisions as contested cases under A.R.S. § 41-1092.07.

**R19-3-567, R19-3-568. Controversies Involving Lottery Claims Against the Contractor**

If the procurement officer is unable to resolve, by mutual agreement, a claim asserted by the Lottery against a contractor, the procurement officer shall seek resolution under A.R.S. § 41-1092.07. The procurement officer shall furnish a copy of the claim to the Director.

**R19-3-568, R19-3-569. Guidance**

If a procedure is not provided by these rules, the procurement officer may issue a written determination using for guidance A.R.S. § 41-2501 through § 41-2591 or A.A.C. R2-7-101 through R2-7-1009 2 A.A.C. 7, including, but not limited to a procurement utilizing a cooperative contract.
NOTICES OF EXPIRATION OF RULES
UNDER A.R.S. § 41-1056(E)

This section of the Arizona Administrative Register contains Notices of Expiration of Rules. Under A.R.S. § 41-1056(E), if an agency does not file a five-year rule review report with the Governor’s Regulatory Review Council (including a revised report); or if an agency does not file an extension before the due date of the report; or if an agency files an extension but does not submit a report within the extension period; the rules scheduled for review expire. The Council is required to notify the Secretary of State that the rules have expired and are no longer enforceable. The notice is published in the Register, and the rules are removed from the Code.

GOVERNOR’S REGULATORY REVIEW COUNCIL
NOTICE OF RULE EXPIRATION

[R16-200]

1. Agency name: State Retirement System Board
2. Title and its heading: Administration
3. Chapter and its heading: 8, State Retirement System Board
4. Articles and their headings: 7, Contributions Not Withheld
5. As required by A.R.S. § 41-1056(J), the Council provides notice that the agency expired the following rule as of September 15, 2016:

R2-8-708. Dispute of an ASRS Determination Regarding Contributions Not Withheld

6. Signature is of Nicole A. Ong Date of Signing
   /s/ Sept. 19, 2016
   Nicole A. Ong
   G.R.R.C. Chair

GOVERNOR’S REGULATORY REVIEW COUNCIL
NOTICE OF RULE EXPIRATION

[R16-201]

1. Agency name: Department of Environmental Quality
2. Title and its heading: Environmental Quality
3. Chapter and its heading: 2, Department of Environmental Quality - Air Pollution Control
4. Articles and their headings: 3, Permits and Permit Revisions
5. As required by A.R.S. § 41-1056(J), the Council provides notice that the agency expired the following rule as of September 15, 2016:

R18-2-306.02. Establishment of an Emissions Cap

6. Signature is of Nicole A. Ong Date of Signing
   /s/ Sept. 19, 2016
   Nicole A. Ong
   G.R.R.C. Chair
GOVERNOR’S REGULATORY REVIEW COUNCIL  
NOTICE OF RULE EXPIRATION  

1. Agency name: Department of Environmental Quality  
2. Title and its heading: 18, Environmental Quality  
3. Chapter and its heading: 8, Department of Environmental Quality - Hazardous Waste Management  
4. Articles and their headings: 2, Hazardous Wastes  
5. As required by A.R.S. § 41-1056(J), the Council provides notice that the agency expired the following rule as of September 15, 2016:  
   R18-8-201. Hazardous Waste Fees for Fiscal Year 2011  

6. Signature is of Nicole A. Ong  
   Date of Signing  
   /s/ Sept. 19, 2016  
   Nicole A. Ong  
   G.R.R.C. Chair  

GOVERNOR’S REGULATORY REVIEW COUNCIL  
NOTICE OF RULE EXPIRATION  

1. Agency name: Department of Environmental Quality  
2. Title and its heading: 18, Environmental Quality  
3. Chapter and its heading: 12, Department of Environmental Quality - Underground Storage Tanks  
4. Articles and their headings: 8, Tank Service Provider Certification  
5. As required by A.R.S. § 41-1056(J), the Council provides notice that the agency expired the following rule as of September 15, 2016:  
   R18-12-802. Transition  

6. Signature is of Nicole A. Ong  
   Date of Signing  
   /s/ Sept. 19, 2016  
   Nicole A. Ong  
   G.R.R.C. Chair  

GOVERNOR’S REGULATORY REVIEW COUNCIL  
NOTICE OF RULE EXPIRATION  

1. Agency name: Department of Environmental Quality  
2. Title and its heading: 18, Environmental Quality  
3. Chapter and its heading: 13, Department of Environmental Quality - Solid Waste Management  
4. Articles and their headings: 9, Solid Waste Management Lanning  
5. As required by A.R.S. § 41-1056(J), the Council provides notice that the agency expired the following rule as of September 15, 2016:  
   R18-13-902. Regional Boundaries  

6. Signature is of Nicole A. Ong  
   Date of Signing  
   /s/ Sept. 19, 2016  
   Nicole A. Ong  
   G.R.R.C. Chair
GOVERNOR’S REGULATORY REVIEW COUNCIL
NOTICE OF RULE EXPIRATION

[R16-205]

1. Agency name: Department of Environmental Quality
2. Title and its heading: 18, Environmental Quality
3. Chapter and its heading: 13, Department of Environmental Quality - Solid Waste Management
4. Articles and their headings: 27, Solid Waste Fees for FY 2011
5. As required by A.R.S. § 41-1056(J), the Council provides notice that the agency expired the following rule as of September 15, 2016:

   R18-13-2701. Special Waste Management Fees for Fiscal Year 2011
   R18-13-2702. Increased Landfill Registration Fees for Fiscal Year 2011

6. Signature is of Nicole A. Ong
/s/
Nicole A. Ong
G.R.R.C. Chair

Date of Signing
Sept. 19, 2016
NOTICES OF RULEMAKING DOCKET OPENING

This section of the Arizona Administrative Register contains Notices of Rulemaking Docket Opening. A docket opening is the first part of the administrative rulemaking process. It is an “announcement” that the agency intends to work on its rules.

When an agency opens a rulemaking docket to consider rulemaking, the Administrative Procedure Act (APA) requires the publication of the Notice of Rulemaking Docket Opening.

Under the APA effective January 1, 1995, agencies must submit a Notice of Rulemaking Docket Opening before beginning the formal rulemaking process. Many times an agency may file the Notice of Rulemaking Docket Opening with the Notice of Proposed Rulemaking.

The Office of the Secretary of State is the filing office and publisher of these notices. Questions about the interpretation of this information should be directed to the agency contact person listed in item #4 of this notice.

NOTICE OF RULEMAKING DOCKET OPENING

STATE BOARD OF NURSING

1. Title and its heading:
   4, Professions and Occupations

Chapter and its headings:
   19, State Board of Nursing

Articles and their headings:
   1, Definitions and Time-frames
   2, Arizona Registered and Practical Nursing Programs; Refresher Programs
   3, Licensure
   5, Advanced Practice Registered Nursing
   8, Nursing Assistants; Certified Medication Assistants

Section numbers:
   R4-19-101, Table 1, R4-19-201, R4-19-205, R4-19-207, R4-19-209, R4-19-216, R4-19-301, R4-19-305, R4-19-312, R4-19-511, R4-19-801, R4-19-802 (Sections may be added, deleted or modified as necessary.)

2. The subject matter of the proposed rule:
The Arizona State Board of Nursing is opening a docket on these Sections for the following reasons:
   1. To adopt a definition of “family” as it is used in Chapter 19
   2. To change the provision of an e-mail address from “optional” to “required”
   3. To delete obsolete rules and to modify existing rules consistent with statutory changes
   4. To decrease regulatory burdens

3. A citation to all published notices relating to the procedure:

4. The name and address of agency personnel with whom persons may communicate regarding the rule:
   Name: Joey Ridenour, Executive Director
   State Board of Nursing
   Address: 4747 N. 7th St., Suite 200
   Phoenix, AZ 85020
   Telephone: (602) 771-7801
   Fax: (602) 771-7888
   E-mail: jridenour@azbn.gov

5. The time during which the agency will accept written comments and the time and place where oral comments may be made:
The Board will hold an oral proceeding on November 21, 2016 at 3:30 p.m., in the Board offices at 4747 N. 7th St., Suite 200, Phoenix, AZ 85014. The Board will accept written comments submitted to Joey Ridenour, Executive Director, 4747 N. 7th St., Suite 200, Phoenix, AZ 85014 until the close of record at 5 p.m., on November 21, 2016.

6. A time table for agency decisions or other action on the proceeding, if known:
   Has not yet been determined.
NOTICE OF PUBLIC INFORMATION

DEPARTMENT OF HEALTH SERVICES

1. Title of the substantive policy statements and the substantive policy statements numbers by which the substantive policy statements are referenced:
   SP-038-PHS-VRS: Eligibility for Certified Copies of Death Certificates - Clarification of term “other vital interests” used in R9-19-405
   SP-094-PHS-VRS: Clarification of Requirements for Delayed Birth Certificate Registration for Native Americans Born Before 1970

2. The public information relating to the substantive policy statements:
   The Arizona Department of Health Services (Department) is rescinding the substantive policy statements specified in paragraph 1, effective October 1, 2016, because the recent rulemaking for the rules in Arizona Administrative Code Title 9, Chapter 19, which become effective on October 1, 2016, will make these substantive policy statements obsolete. Section R9-19-405 will no longer exist in the new rules, and the eligibility for a certified copy of a certificate of death registration is clearly specified in the new R9-19-314. Requirements for delayed birth registration for Native Americans born before 1970 are included in the new R9-19-204(I).

3. The name and address of agency personnel with whom persons may communicate regarding this notice of public information:
   Name: Krystal Colburn, Assistant State Registrar
   Address: Arizona Department of Health Services
            Public Health Licensing
            Office of Vital Records
            1818 W. Adams Ave.
            Phoenix, AZ 85007
   Telephone: (602) 364-1225
   Fax: (602) 364-1257
   E-mail: Krystal.Colburn@azdhs.gov
   or
   Name: Robert Lane, Manager
   Address: Arizona Department of Health Services
            Office of Administrative Counsel and Rules
            1740 W. Adams, Suite 203
            Phoenix, AZ 85007
   Telephone: (602) 542-1020
   Fax: (602) 364-1150
   E-mail: Robert.Lane@azdhs.gov
NOTICE OF PUBLIC INFORMATION

DEPARTMENT OF HEALTH SERVICES

1. Title of the guidance document and the guidance document number by which the guidance document is referenced:
   GD-109-PHS-VRS: Certificate of Birth Resulting in Stillbirth

2. The public information relating to the guidance documents:
   The Arizona Department of Health Services (Department) is rescinding the guidance document specified in paragraph 1, effective October 1, 2016, because the guidance document is no longer needed. The subject in this guidance document has been addressed in the recent rulemaking for Arizona Administrative Code Title 9, Chapter 19 in R9-19-317.

3. The name and address of agency personnel with whom persons may communicate regarding this notice of public information:
   Name: Krystal Colburn, Assistant State Registrar
   Address: Arizona Department of Health Services
            Public Health Licensing
            Office of Vital Records
            1818 W. Adams Ave.
            Phoenix, AZ 85007
   Telephone: (602) 364-1225
   Fax: (602) 364-1257
   E-mail: Krystal.Colburn@azdhs.gov
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   Name: Robert Lane, Manager
   Address: Arizona Department of Health Services
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            1740 W. Adams, Suite 203
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   E-mail: Robert.Lane@azdhs.gov
NOTICES OF SUBSTANTIVE POLICY STATEMENT

The Administrative Procedure Act (APA) requires the publication of Notices of Substantive Policy Statement issued by agencies (A.R.S. § 41-1013(B)(14)). Substantive policy statements are written expressions which inform the general public of an agency’s current approach to rule or regulation practice. Substantive policy statements are advisory only. A substantive policy statement does not include internal procedural documents that only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the APA.

If you believe that a substantive policy statement does impose additional requirements or penalties on regulated parties you may petition the agency under A.R.S. § 41-1033 for a review of the statement.

NOTICE OF SUBSTANTIVE POLICY STATEMENT

DEPARTMENT OF HEALTH SERVICES

[16-222]

1. Title of the substantive policy statement and the substantive policy statement number by which the substantive policy statement is referenced:
   SP-064-PHL-VRS: Clarification of a Procurement Organization as a “Responsible Person”

2. Date the substantive policy statement was issued and the effective date of the substantive policy statement if different from the issuance date:
   Date of issuance: September 23, 2016
   Effective date: October 1, 2016

3. Summary of the contents of the substantive policy statement:
   The purpose of this substantive policy statement is to notify the public of the Department's interpretation of the term “responsible person” as it applies to the completion and submission of information for the registration of a deceased individual’s death, when a procurement organization is authorized to provide final disposition of human remains according to Arizona Revised Statutes (A.R.S.) § 36-844 or 36-849.

4. Federal or state constitutional provision; federal or state statute, administrative rule, or regulation; or final court judgment that underlies the substantive policy statement:
   A.R.S. §§ 36-325, 36-831, 36-844, and 36-849

5. A statement as to whether the substantive policy statement is a new statement or a revision:
   The substantive policy statement is a revised document. The substantive policy statement has been revised to update references and clarify the content of the substantive policy statement. The substantive policy has also been renamed from SP-064-PHS-VRS: Clarification of the Term “Responsible Person” to SP-064-PHL-VRS: Clarification of a Procurement Organization as a “Responsible Person” to reflect its contents and organizational changes within the Department.

6. The agency contact person who can answer questions about the substantive policy statement:
   Name: Krystal Colburn, Assistant State Registrar
   Address: Department of Health Services
   Bureau of Vital Records
   1818 W. Adams St.
   Phoenix, AZ 85007
   Telephone: (602) 364-1225
   Fax: (602) 364-1257
   E-mail: Krystal.Colburn@azdhs.gov
   or
   Name: Robert Lane, Manager
   Address: Arizona Department of Health Services
   Administrative Counsel and Rules
   1740 W. Adams St., Suite 203
   Phoenix, AZ 85007
   Telephone: (602) 542-1020
   Fax: (602) 364-1150
   E-mail: Robert.Lane@azdhs.gov
7. **Information about where a person may obtain a copy of the substantive policy statement and the costs for obtaining the statement:**

The substantive policy statement is available, free of charge, on the Arizona Department of Health Services website at: [http://azdhs.gov/director/administrative-counsel-rules/rules/index.php#sps-licensing](http://azdhs.gov/director/administrative-counsel-rules/rules/index.php#sps-licensing). Copies of the substantive policy statement may also be obtained from the Arizona Department of Health Services, Division of Public Health Licensing, Bureau of Vital Records, 150 N. 18th Ave., Suite 550, Phoenix, AZ 85007, for 25 cents per page. Payment is accepted in cash or money order made payable to the Arizona Department of Health Services.
EXECUTIVE ORDER 2016-03

Internal Review of Administrative Rules; Moratorium to Promote Job Creation and Customer-Service-Oriented Agencies

Editor’s Note: This Executive Order is being reproduced in each issue of the Administrative Register until its expiration on December 31, 2016, as a notice to the public regarding state agencies’ rulemaking activities.

WHEREAS, Arizona is poised to lead the nation in job growth;
WHEREAS, burdensome regulations inhibit job growth and economic development;
WHEREAS, small businesses and startups are especially hurt by regulations;
WHEREAS, each agency of the State of Arizona should promote customer-service-oriented principles for the people that it serves;
WHEREAS, each State agency should undertake a critical and comprehensive review of its administrative rules and take action to reduce the regulatory burden, administrative delay, and legal uncertainty associated with government regulation;
WHEREAS, overly burdensome, antiquated, contradictory, redundant, and nonessential regulations should be repealed;
WHEREAS, Article 5, Section 4 of the Arizona Constitution and Title 41, Chapter 1, Article 1 of the Arizona Revised Statutes vests the executive power of the State of Arizona in the Governor;
NOW, THEREFORE, I, Douglas A. Ducey, by virtue of the authority vested in me by the Constitution and laws of the State of Arizona hereby declare the following:

1. A State agency subject to this Order, shall not conduct any rulemaking except as permitted by this Order.
2. A State agency subject to this Order, shall not conduct any rulemaking, whether informal or formal, without the prior written approval of the Office of the Governor. In seeking approval, a State agency shall address one or more of the following as justification for the rulemaking:
   a. To fulfill an objective related to job creation, economic development, or economic expansion in this State.
   b. To reduce or ameliorate a regulatory burden while achieving the same regulatory objective.
   c. To prevent a significant threat to the public health, peace, or safety.
   d. To avoid violating a court order or federal law that would result in sanctions by a court or the federal government against an agency for failure to conduct the rulemaking action.
   e. To comply with a federal statutory or regulatory requirement if such compliance is related to a condition for the receipt of federal funds or participation in any federal program.
   f. To comply with a state statutory requirement.
   g. To fulfill an obligation related to fees or any other action necessary to implement the State budget that is certified by the Governor’s Office of Strategic Planning and Budgeting.
   h. To promulgate a rule or other item that is exempt from Title 41, Chapter 6, Arizona Revised Statutes, pursuant to section 41-1005, Arizona Revised Statutes.
   i. To address matters pertaining to the control, mitigation, or eradication of waste, fraud, or abuse within an agency or wasteful, fraudulent, or abusive activities perpetrated against an agency.
   j. To eliminate rules that are antiquated, redundant or otherwise no longer necessary for the operation of state government.
3. For the purposes of this Order, the term “State agencies,” includes without limitation, all executive departments, agencies, offices, and all state boards and commissions, except for: (a) any State agency that is headed by a single elected State official, (b) the Corporation Commission and (c) any board or commission established by ballot measure during or after the November 1998 general election. Those State agencies, boards and commissions excluded
from this Order are strongly encouraged to voluntarily comply with this Order in the context of their own rulemaking processes.

4. This Order does not confer any legal rights upon any persons and shall not be used as a basis for legal challenges to rules, approvals, permits, licenses or other actions or to any inaction of a State agency. For the purposes of this Order, “person,” “rule,” and “rulemaking” have the same meanings prescribed in Arizona Revised Statutes Section 41-1001.

5. This Executive Order expires on December 31, 2016.

   IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona.

   Douglas A. Ducey
   GOVERNOR

   DONE at the Capitol in Phoenix on this Eighth day of February in the Year Two Thousand and Fifteen and of the Independence of the United States of America the Two Hundred and Thirty-Fourth.

   ATTEST:
   Michele Reagan
   Secretary of State
REGISTER INDEXES

The Register is published by volume in a calendar year (See “Information” in the front of each issue for a more detailed explanation).

Abbreviations for rulemaking activity in this Index include:

**PROPOSED RULEMAKING**

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**SUPPLEMENTAL PROPOSED RULEMAKING**

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**SUMMARY RULEMAKING**

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**EXPEDITED RULEMAKING**

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**RECODIFICATION OF RULES**

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**REJECTION OF RULES**

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See also “emergency expired” under emergency rulemaking

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The Secretary of State’s Office publishes the Register weekly. There is a three-week turnaround period between a deadline date and the publication date of the Register. The weekly deadline dates and issue dates are shown below. Council meetings and Register deadlines do not correlate. Also listed are the earliest dates on which an oral proceeding can be held on proposed rulemakings or proposed delegation agreements following publication of the notice in the Register.

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GOVERNOR’S REGULATORY REVIEW COUNCIL DEADLINES

The following deadlines apply to all Five-Year-Review Reports and any adopted rule submitted to the Governor’s Regulatory Review Council. Council meetings and Register deadlines do not correlate. We publish these deadlines as a courtesy.

All rules and Five-Year Review Reports are due in the Council office by noon of the deadline date. The Council’s office is located at 100 N. 15th Ave., Suite 402, Phoenix, AZ 85007. For more information, call (602) 542-2058 or visit www.grrc.state.az.us.

GOVERNOR’S REGULATORY REVIEW COUNCIL DEADLINES FOR 2016

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<th>DEADLINE TO BE PLACED ON COUNCIL AGENDA</th>
<th>FINAL MATERIALS DUE FROM AGENCIES</th>
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<td>February 12, 2016</td>
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<td>January 4, 2017 (Wednesday)</td>
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*Materials must be submitted by **noon** on dates listed as a deadline for placement on a particular agenda. Placement on a particular agenda is not guaranteed.