



# Arizona Administrative REGISTER

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Vol. 23, Issue 18

~ Administrative Register Contents ~

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# From the Publisher

## 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Rules can be: made (all new text); amended (rules on file, changing text); repealed (removing text); or renumbered (moving rules to a different Section number).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 New rules in this publication (whether proposed or made) are denoted with underlining; repealed text is stricken.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.

# Arizona Administrative REGISTER

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This publication is available online for free at [www.azsos.gov](http://www.azsos.gov).

**ADMINISTRATIVE CODE**  
A price list for the *Arizona Administrative Code* is available online. You may also request a paper price list by mail. To purchase a paper Chapter, contact us at (602) 364-3223.

**PUBLICATION DEADLINES**  
Publication dates are published in the back of the *Register*. These dates include file submittal dates with a three-week turnaround from filing to published document.

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# 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.

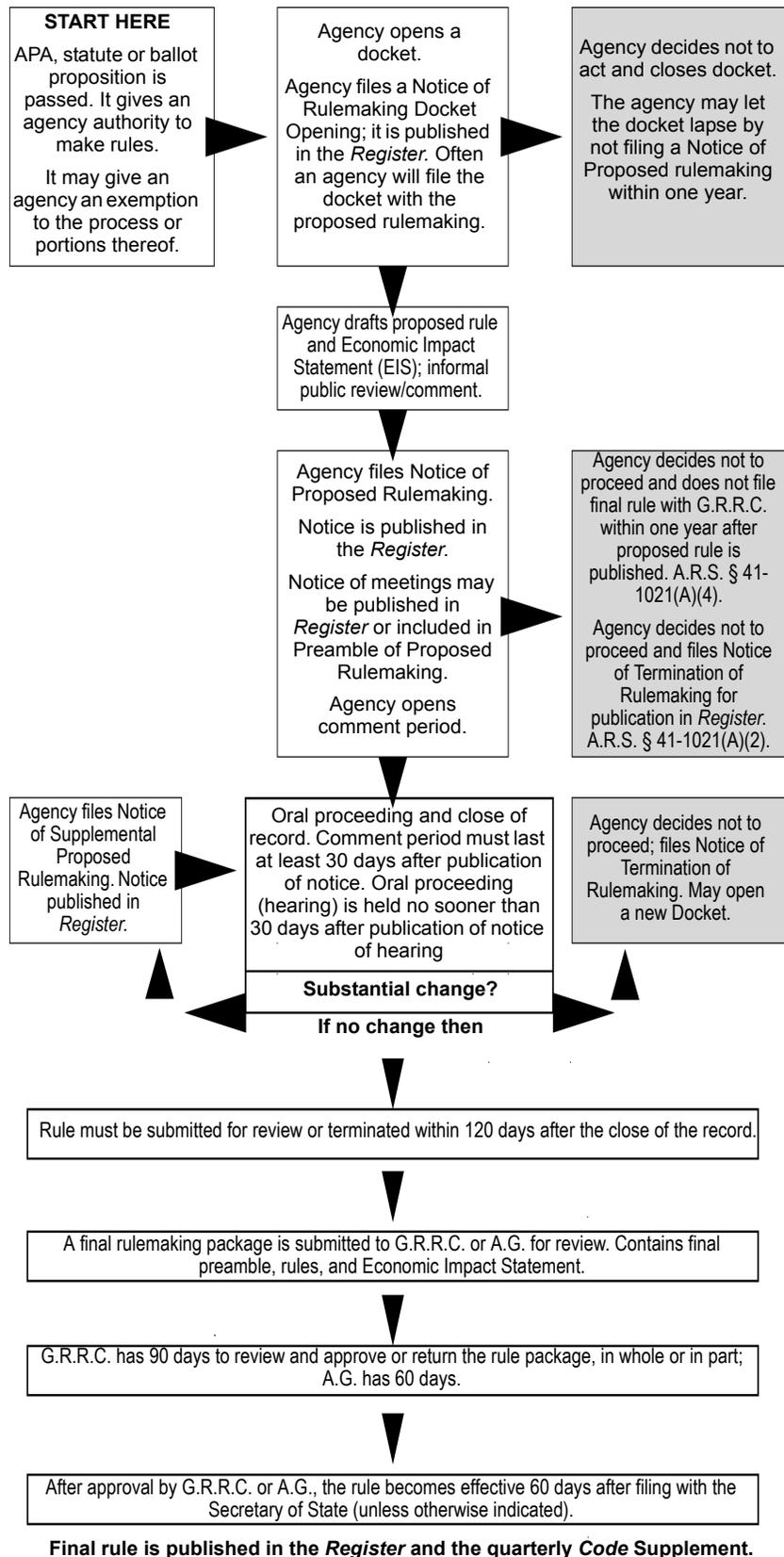
An agency may not have a public meeting scheduled on the Notice of Proposed Rulemaking. If not, you may request that the agency schedule a proceeding. This request must be put in writing within 30 days after the published Notice of Proposed Rulemaking.

## 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



## Definitions

**Arizona Administrative Code (A.A.C.):** Official rules codified and published by the Secretary of State's Office. Available online at [www.azsos.gov](http://www.azsos.gov).

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

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

**Code of Federal Regulations (CFR):** The *Code of Federal Regulations* is a codification of the general and permanent rules published in the *Federal Register* by the executive departments and agencies of the federal government.

**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](http://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

A.A.C. – *Arizona Administrative Code*

A.A.R. – *Arizona Administrative Register*

APA – *Administrative Procedure Act*

A.R.S. – *Arizona Revised Statutes*

CFR – *Code of Federal Regulations*

EIS – *Economic, Small Business, and Consumer Impact Statement*

FR – *Federal Register*

G.R.R.C. – *Governor's Regulatory Review Council*

U.S.C. – *United States Code*

## 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 2. ADMINISTRATION  
CHAPTER 8. STATE RETIREMENT SYSTEM BOARD**

[R17-65]

**PREAMBLE**

- |  |  |
|--|--|
| <p><b>1. <u>Article, Part or Section Affected (as applicable)</u></b><br/>R2-8-401</p> | <p><b><u>Rulemaking Action</u></b><br/>Amend</p> |
|--|--|
- 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. § 38-714(E)  
 Implementing statutes: A.R.S. §§ 41-1092 et seq.
- 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 rules:**  
 Notice of Rulemaking Docket Opening: 23 A.A.R. 1045, May 5, 2017 (*in this issue*)
- 4. The agency’s contact person who can answer questions about the rulemaking:**  
 Name: Jessica A.R. Thomas, Rules Writer  
 Address: Arizona State Retirement System  
 3300 N. Central Ave., Suite 1400  
 Phoenix, AZ 85012-0250  
 Telephone: (602) 240-2039  
 E-mail: JessicaT@azasrs.gov
- 5. An agency’s justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:**  
 R2-8-401 contains definitions that are applicable to this Article. R2-8-401 needs to be amended to reflect that for purposes of appeals, the “Board” may refer to the Committee designated by the Board to hear appeals. This amendment will make the rule more consistent with A.R.S. § 38-714(E)(1).
- 6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or 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
- 7. 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
- 8. The preliminary summary of the economic, small business, and consumer impact:**  
 The ASRS promulgates rules that allow the agency to provide for the proper administration of the state retirement trust fund. ASRS rules affect ASRS members and ASRS employers regarding how they contribute to, and receive benefits from, the ASRS. The ASRS effectively administers how public-sector employers and employees participate in the ASRS. As such, the ASRS does not issue permits or licenses, or charge fees, and its rules have little to no economic impact on private-sector businesses, with the exception of some employer partner charter schools, which have voluntarily contracted to join the ASRS. Thus, there is little to no economic, small business, or consumer impact, other than the minimal cost to the ASRS to prepare the rule package. The rule will have minimal economic impact, if any, because it merely clarifies the appeals process. Clarifying the appeals process will increase understandability of how a person may submit an appeal and will ensure members of the public understand how an appeal will be handled with the ASRS, which will increase the effectiveness and efficiency of the appeals process, thus, reducing the regulatory



burden and the economic impact.

**9. The agency's contact person who can answer questions about the economic, small business, and consumer impact statement:**

Name: Jessica A.R. Thomas, Rules Writer  
Address: Arizona State Retirement System  
3300 N. Central Ave., Suite 1400  
Phoenix, AZ 85012-0250  
Telephone: (602) 240-2039  
E-mail: JessicaT@azasrs.gov

**10. The time, place, and nature of the proceedings for to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request and oral proceedings on the proposed rule:**

An oral proceeding regarding the proposed rule will be held as follows:

Date: June 6, 2017  
Time: 9:00 a.m.  
Location: Arizona State Retirement System  
10th Floor Board Room  
3300 N. Central Ave.  
Phoenix, AZ 85012-0250

**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 questions:**

None

**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:**

None of the rules require a permit.

**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 are no federal laws applicable to these rules.

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

No analysis was submitted.

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

None

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

**TITLE 2. ADMINISTRATION**

**CHAPTER 8. STATE RETIREMENT SYSTEM BOARD**

**ARTICLE 4. PRACTICE AND PROCEDURE BEFORE THE BOARD**

Section  
R2-8-401. Definitions

**ARTICLE 4. PRACTICE AND PROCEDURE BEFORE THE BOARD**

**R2-8-401. Definitions**

The following definitions apply to this Article, unless otherwise specified:

1. "Appealable agency action" has the same meaning as in A.R.S. § 41-1092.
2. "Board" means, if established, a Committee designated by the Board to take action on appeals as described in A.R.S. § 38-714(E)(1) or, if a Committee is not established, the same as in A.R.S. § 38-711(6).
3. "Final administrative action" has the same meaning as in A.R.S. § 41-1092 and is rendered by the Board.





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

An oral proceeding regarding the proposed rules will be held as follows:

Date: June 21, 2017
Time: 9:00 a.m.
Location: Board of Behavioral Health Examiners
3443 N. Central Ave., Suite 1705
Phoenix, AZ 85012

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 questions:

None

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:

For all four disciplines, the licenses issued by the Board are general permits consistent with A.R.S. § 41-1037 because they are issued to qualified individuals or entities to conduct activities that are substantially similar in nature.

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:

None of the rules is more stringent than federal law. No federal law is directly applicable to the subject of any of the rules in this rulemaking.

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:

None

13. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS
CHAPTER 6. BOARD OF BEHAVIORAL HEALTH EXAMINERS

ARTICLE 2. GENERAL PROVISIONS

Section R4-6-215. Fees and Charges Fees and Charges

ARTICLE 2. GENERAL PROVISIONS

R4-6-215. Fees and Charges Fees and Charges

- A. Under the authority provided by A.R.S. § 32-3272, the Board establishes and shall collect the following fees:
1. Application for license by examination: \$250;
2. Application for license by endorsement: \$250;
3. Issuance of license for non-independent level of practice (LBSW, LMSW, LAC, LSAT, LASAC, and LAMFT): \$100;
4. Issuance of license for independent level of practice (LCSW, LPC, LISAC, and LMFT): \$250;
5. Application for a temporary license: \$50;
6. Application for approval of educational program: \$500;
7. Application for approval of an educational program change: \$250;
8. Biennial renewal of first area of licensure: \$350;
9. Biennial renewal of each additional area of licensure if all licenses are renewed at the same time: \$175;
10. Late renewal penalty: \$100 in addition to the biennial renewal fee;
11. Inactive status request: \$100; and
12. Late inactive status request: \$100 in addition to the inactive status request fee.
B. The Board shall charge the following amounts for the services it provides:
1. Issuing a duplicate license: \$25;
2. Criminal history background check: \$40;
3. Paper copy of records: \$.50 per page after the first four pages;
4. Electronic copy of records: \$25;



- 5. Copy of a Board meeting audio recording: \$20;
- 6. Verification of licensure: \$20 per discipline or free if downloaded from the Board's web site;
- 7. Board's rules and statutes book: \$10 or free if downloaded from the Board's web site;
- 8. Mailing list of licensees: \$150; and
- 9. Returned check due to insufficient funds: \$50.
- ~~C. The application fees in subsections (A)(1) and (2) are non-refundable. Other fees established in subsection (A) are not refundable unless the provisions of A.R.S. § 41-1077 apply.~~
- ~~D. The Board shall accept payment of fees and charges as follows:
 
  - 1. For an amount of \$40 or less, a personal or business check;
  - 2. For amounts greater than \$40, a certified check, cashier's check, or money order; and
  - 3. By proof of online payment by credit card for the following:
    - a. All fees in subsection (A);
    - b. The charge in subsection (B)(2) for a criminal history background check; and
    - c. The charge in subsection (B)(8) for a mailing list of licensees.~~
- ~~E. An applicant shall make payment for a criminal history background check separate from payment for other fees and charges.~~
- A. Under the authority provided by A.R.S. § 32-3272, the Board establishes and shall collect the following fees:
  - 1. Application for license by examination: \$250;
  - 2. Application for license by endorsement: \$250;
  - 3. Issuance of license for non-independent level of practice (LBSW, LMSW, LAC, LSAT, LASAC, and LAMFT): \$100;
  - 4. Issuance of license for independent level of practice (LCSW, LPC, LISAC, and LMFT): \$250;
  - 5. Application for a temporary license: \$50;
  - 6. Application for approval of educational program: \$500;
  - 7. Application for approval of an educational program change: \$250
  - 8. Biennial renewal of first area of licensure: \$350;
  - 9. Biennial renewal of each additional area of licensure if all licenses are renewed at the same time: \$175;
  - 10. Late renewal penalty: \$100 in addition to the biennial renewal fee;
  - 11. Inactive status request: \$100; and
  - 12. Late inactive status request: \$100 in addition to the inactive status request fee.
- B. The Board shall charge the following amounts for the services it provides:
  - 1. Issuing a duplicate license: \$25;
  - 2. Criminal history background check: \$40;
  - 3. Paper copy of records: \$.50 per page after the first four pages;
  - 4. Electronic copy of records: \$25;
  - 5. Copy of a Board meeting audio recording: \$20;
  - 6. Verification of licensure: \$20 per discipline or free if downloaded from the Board's web site;
  - 7. Board's rules and statutes book: \$10 or free if downloaded from the Board's web site;
  - 8. Mailing list of licensees: \$150; and
  - 9. Returned check due to insufficient funds: \$50.
- ~~C. The application fees in subsections (A)(1) and (2) are non-refundable. Other fees established in subsection (A) are not refundable unless the provisions of A.R.S. § 41-1077 apply.~~
- ~~D. The Board shall accept payment of fees and charges as follows:
 
  - 1. For an amount of \$40 or less, a personal or business check;
  - 2. For amounts greater than \$40, a certified check, cashier's check, or money order; and
  - 3. By proof of online payment by credit card for the following:
    - a. All fees in subsection (A);
    - b. The charge in subsection (B)(2) for a criminal history background check; and
    - c. The charge in subsection (B)(8) for a mailing list of licensees.~~
- ~~E. An applicant shall make payment for a criminal history background check separate from payment for other fees and charges.~~

**NOTICE OF PROPOSED RULEMAKING  
TITLE 4. PROFESSIONS AND OCCUPATIONS  
CHAPTER 23. BOARD OF PHARMACY**

[R17-68]

**PREAMBLE**

<b><u>1. Article, Part, or Section Affected (as applicable)</u></b>	<b><u>Rulemaking Action</u></b>
R4-23-402	Amend
R4-23-1104	Amend
R4-23-1104.01	New Section
<b><u>2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):</u></b>	
Authorizing statute: A.R.S. § 32-1904(A)(1)	
Implementing statute: A.R.S. § 32-1961(A)	



**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:**

Notice of Rulemaking Docket Opening: 22 A.A.R. 3196, November 11, 2016

**4. The agency's contact person who can answer questions about the rulemaking:**

Name: Kamlesh Gandhi  
Address: Board of Pharmacy  
1616 W. Adams St., Suite 120  
Phoenix, AZ 85007  
Telephone: (602) 771-2740  
Fax: (602) 771-2749  
E-mail: kgandhi@azpharmacy.gov  
Web site: www.azpharmacy.gov

**5. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:**

This rulemaking will create efficiencies in a pharmacy by enabling a licensed pharmacy technician working under the supervision of a pharmacist to use technology to verify the accuracy of medications prepared for dispensing. Current law requires a pharmacist do this verification. The technology required to verify the accuracy of medications prepared for dispensing exists and is simple to use. It involves scanning a bar code and visually comparing the prepared medication with the result on a computer screen. By enabling a licensed pharmacy technician to perform routine technology-assisted verification, this rulemaking will remove a regulatory burden and provide additional time in which the pharmacist is able to perform tasks such as patient counseling that require the pharmacist's skills.

An exemption from Executive Order 2016-03 was provided for this rulemaking by Christina Corieri, Policy Advisor for Health and Human Services in the Governor's office, in an e-mail dated July 14, 2016.

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

The Board does not intend to review or rely on a study in its evaluation of or justification for any rule in this rulemaking.

**7. 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

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

The Board believes the economic impact will be positive for pharmacy permittees and pharmacy technicians. There will be cost savings for pharmacy permittees able to have pharmacy technicians perform technology-assisted verification of product. There may be a voluntary cost for pharmacy permittees to obtain equipment necessary to perform technology-assisted verification. Pharmacy technicians will benefit from the opportunity to expand their role. The rulemaking will have little or no economic impact on consumers.

**9. The agency's contact person who can answer questions about the economic, small business, and consumer impact statement:**

Name: Kamlesh Gandhi  
Address: Board of Pharmacy  
1616 W. Adams St., Suite 120  
Phoenix, AZ 85007  
Telephone: (602) 771-2740  
Fax: (602) 771-2749  
E-mail: kgandhi@azpharmacy.gov  
Web site: www.azpharmacy.gov

**10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

An oral proceeding regarding the proposed rules will be held as follows:

Date: Monday, June 12, 2017  
Time: 9:00 a.m.  
Location: Board of Pharmacy  
1616 W. Adams St., Suite 120  
Phoenix, AZ 85007

**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 questions:**

None

**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:**

The rulemaking does not require a permit.

**b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than fed-**



**eral law and if so, citation to the statutory authority to exceed the requirements of federal law:**

There are federal laws relating to selling and dispensing of drugs. However, none is specifically applicable to this rulemaking. No rule in the rulemaking is more stringent than federal law.

**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:**

None

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

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 23. BOARD OF PHARMACY**

**ARTICLE 4. PROFESSIONAL PRACTICES**

Section

R4-23-402. Pharmacist, Graduate Intern, and Pharmacy Intern

**ARTICLE 11. PHARMACY TECHNICIANS**

Section

R4-23-1104. Pharmacy Technicians and Pharmacy Technician Trainees

R4-23-1104.01. Technology-assisted Verification of Product

**ARTICLE 4. PROFESSIONAL PRACTICES**

**R4-23-402. Pharmacist, Graduate Intern, and Pharmacy Intern**

**A. No change**

1. No change
2. Obtain and record the name of ~~an~~ the individual who communicates an oral prescription order;
3. No change
  - a. No change
  - b. No change
4. No change
5. No change
  - a. ~~A patients'~~ The patient's allergies,
  - b. Incompatibilities with medications ~~a patient's~~ the patient currently ~~taken medications~~ takes,
  - c. ~~A~~ The patient's use of unusual quantities of dangerous drugs or narcotics,
  - d. No change
  - e. No change
6. No change
7. No change
8. No change
9. No change
  - a. No change
  - b. No change
  - c. No change
  - d. No change
  - e. No change
10. No change
  - a. No change
  - b. No change
  - c. No change
  - d. No change
11. ~~Make~~ Except as provided in subsection (A)(12), make a final accuracy check on of the completed prescription ~~medication~~ label including verification of medication, accuracy of patient's name, consistency with prescription order, and drug utilization review and initial in handwriting or by another method approved by the Board or its designee the finished label: Manual initialing of a finished label is not required if the pharmacy's computer system complies with the computer documentation requirements of R4-23-408(B)(4);
12. If a technology-assisted verification of product program is used, make a final accuracy check of the completed prescription label including accuracy of patient's name, consistency with prescription order, and drug utilization review and initial in handwriting or by another method approved by the Board or its designee the finished label. If a technology-assisted verification of product program is used, verification of product is not required.

~~12-13.~~ No change

~~13-14.~~ No change



- a. No change
- b. No change
- c. No change
- ~~14-15.~~ No change
  - a. ~~Fa~~esimile, Fax
  - b. ~~Computer modem~~ E-mail, or
  - c. No change
- ~~15-16.~~ No change
- ~~16-17.~~ No change
- ~~17-18.~~ No change
- B.** No change
  - 1. No change
  - 2. No change
  - 3. No change
- C.** No change
  - 1. No change
  - 2. No change
  - 3. No change
  - 4. No change
- D.** When, in the professional ~~judgement~~ judgment of the pharmacist or graduate intern or pharmacy intern under the supervision of a pharmacist, or when circumstance precludes it, oral consultation may be omitted if the pharmacist, graduate intern, or pharmacy intern:
  - 1. No change
  - 2. No change
  - 3. No change
- E.** No change
  - 1. No change
  - 2. No change
  - 3. No change
  - 4. No change
- F.** No change
- G.** No change
- H.** No change
  - 1. No change
  - 2. No change
  - 3. No change
  - 4. No change
- I.** No change
  - 1. No change
  - 2. No change
  - 3. No change
  - 4. No change
  - 5. No change
- J.** No change
- K.** No change
- L.** No change

**ARTICLE 11. PHARMACY TECHNICIANS**

**R4-23-1104. Pharmacy Technicians and Pharmacy Technician Trainees**

- A.** Permissible ~~activities~~ tasks of a pharmacy technician trainee. Acting in compliance with all applicable statutes and rules and under the supervision of a pharmacist, a pharmacy technician trainee licensed under R4-23-1103 may assist a graduate intern, pharmacy intern, or pharmacist with the following when applicable to the pharmacy practice site:
  - 1. Record on the original prescription order the ~~prescription~~ serial number of the prescription medication and date dispensed;
  - 2. No change
  - 3. No change
  - 4. ~~Type and affix a label for a prescription medication or enter~~ Enter information for a new or refill prescription medication ~~into a computer, as required under A.R.S. § 32-1964;~~
  - 5. ~~Type and affix a label for the prescription medication, if a~~ A pharmacist or graduate or pharmacy intern working under the supervision of a pharmacist ~~verifies shall verify~~ the accuracy of the label as described under R4-23-402(A)(11) and initials in hand-writing or by another method approved by the Board or its designee the finished label prepared by the technician before the prescription medication is dispensed to the patient;
  - ~~5-6.~~ No change
  - ~~6-7.~~ No change
  - ~~7-8.~~ No change
  - ~~8-9.~~ No change



- B. Permissible ~~activities~~ tasks of a pharmacy technician. Acting in compliance with all applicable statutes and rules and under the supervision of a pharmacist, a pharmacy technician licensed under R4-23-1102 may:
1. Perform the ~~activities~~ tasks listed in subsection (A); ~~and~~
  2. After completing a pharmacy technician drug compounding training program developed by the pharmacy permittee or pharmacist-in-charge under R4-23-1105(C), assist a pharmacist, graduate intern, or pharmacy intern in compounding prescription medications and sterile or non-sterile pharmaceuticals in accordance with written policies and procedures, if the preparation, accuracy, and safety of the final product is verified by a pharmacist before dispensing;
  3. Perform a final technology-assisted verification of product if the pharmacy technician is qualified under R 4-23-1104.01(D); and
  4. If technology-assisted verification is performed, type and affix a label for the prescription medication. A pharmacist or graduate or pharmacy intern shall verify the accuracy of the label as described under R4-23-402(A)(12).
- C. ~~When performing the activities listed in A trained and licensed pharmacy technician or pharmacy technician trainee who performs a task as authorized under subsections (A) and (B) for which the pharmacy technician or pharmacy technician trainee has been trained, the pharmacy technician or pharmacy technician trainee shall perform those functions shall ensure the task is performed accurately.~~
- D. Prohibited activities. A pharmacy technician or pharmacy technician trainee shall not perform a ~~function~~ professional practice reserved for a pharmacist, graduate intern, or pharmacy intern in accordance with R4-23-402 or R4-23-653.
- E. No change
- F. Before employing a pharmacy technician or pharmacy technician trainee, a pharmacy permittee or pharmacist-in-charge shall develop, implement, review, and revise in the ~~same~~ manner described in R4-23-653(A) and comply with policies and procedures outlined in subsection (G) for pharmacy technician and pharmacy technician trainee ~~activities as tasks specified in subsection (G).~~
- G. ~~The A pharmacy permittee or pharmacist-in-charge shall ensure policies and procedures shall required under subsection (F)~~ include the following:
1. No change
    - a. No change
    - b. No change
    - c. ~~The activities tasks~~ a pharmacy technician or pharmacy technician trainee may perform as specified ~~in R4-23-1104~~ under subsections (A) and (B);
    - d. No change
    - e. No change
    - f. No change
      - i. No change
      - ii. No change
    - g. No change
    - h. No change
    - i. No change
  2. No change
    - a. No change
      - i. Accepting a new written prescription order,
      - ii. No change
      - iii. No change
      - iv. No change
      - v. No change
      - vi. Obtaining refill authorization; ~~and~~
    - b. Computer ~~data entry~~ data-entry procedures for:
      - i. No change
      - ii. No change
      - iii. No change
      - iv. No change
      - v. No change
      - vi. No change
      - vii. No change
      - viii. No change
      - ix. No change
  3. No change
    - a. No change
    - b. No change
    - c. No change
    - d. No change

#### **R4-23-1104.01 Technology-assisted Verification of Product**

- A.** By complying with this Section, the permittee of a retail, institutional, or limited-service pharmacy may implement a technology-assisted verification of product program that allows a pharmacy technician licensed under R4-23-1102 and qualified under subsection (D) to perform final product verification.
- B.** Written program description required. Before implementing a technology-assisted verification of product program the permittee of a retail, institutional, or limited-service pharmacy shall prepare a written program description that includes the following:
1. Responsibility of both the pharmacist in charge and permittee to ensure compliance with this Section;
  2. Responsibility of the permittee to ensure the accuracy and safety of the product dispensed;
  3. Duties of a verification technician;



- 4. The training necessary to qualify and remain qualified as a verification technician;
- 5. The monitoring and evaluation procedures to be used to ensure competency of the verification technician; and
- 6. Prohibition of a verification technician performing a final accuracy check of a completed prescription label.
- C. The permittee of a retail, institutional, or limited-service pharmacy implementing a technology-assisted verification of product program shall:
  - 1. Post the written program description required under subsection (B) in the pharmacy area;
  - 2. Provide a copy of the written program description to the pharmacist in charge and verification technician;
  - 3. Obtain the signature of the pharmacist in charge and verification technician on a copy of the written program description and place the signed copy in the personnel file of the pharmacist in charge and verification technician;
  - 4. Ensure scanning technology used in the technology-assisted verification program captures both product and patient information; and
  - 5. Update the written program description as needed and repeat subsections (C)(1) through (4) after each update.
- D. Verification technician training: The permittee of a retail, institutional, or limited-service pharmacy implementing a technology-assisted verification of product program shall ensure a pharmacy technician does not perform the duties of a verification technician unless the pharmacy technician has the following qualifications:
  - 1. Is licensed under R4-23-1102;
  - 2. Has at least 1,000 hours of pharmacy technician work experience in the same kind of pharmacy practice site in which the technology-assisted verification of product will be performed;
  - 3. Completes a training program that includes at least the following:
    - a. Role of a verification technician in the dispensing process.
    - b. Legal requirements of a verification technician.
    - c. How to use the technology-assisted verification system.
    - d. Primary causes of medication errors, and
    - e. Identifying and resolving dispensing errors; and
  - 4. Completes at least four hours of the continuing education required under R4-23-1106 on patient safety.
- E. The permittee of a retail, institutional, or limited-service pharmacy implementing a technology-assisted verification of product program shall ensure the pharmacy practice site has a computer data storage and retrieval system that meets the standards in R4-23-408(B).
- F. The permittee of a retail, institutional, or limited-service pharmacy implementing a technology-assisted verification of product program shall ensure a verification technician verifies only the following:
  - 1. A product with scanning technology that identifies product, or
  - 2. A robotically prepared unit-dose product.
- G. The permittee of a retail, institutional, or limited-service pharmacy implementing a technology-assisted verification of product program shall ensure a verification technician does not verify the following:
  - 1. A product that involves a combination of drugs resulting from compounding or mixing two or more ingredients or products.
  - 2. A product that involves or results from an alteration of a drug, or
  - 3. A DEA schedule II controlled substance.
- H. The permittee of a retail, institutional, or limited-service pharmacy implementing a technology-assisted verification of product program shall perform an unannounced evaluation of the competency of a verification technician at least twice a year and take steps to remediate any deficiencies identified including removing verification duties from the technician.
- I. The permittee of a retail, institutional, or limited-service pharmacy implementing a technology-assisted verification of product program shall maintain the following records:
  - 1. Date the pharmacy technician was designated as a verification technician.
  - 2. Date the pharmacy technician completed the training required under subsection (D)(3).
  - 3. Dates and results of the evaluations conducted under subsection (H), and
  - 4. Date and reason for any disciplinary action against the verification technician arising from performing the duties of a verification technician.
- J. A verification technician shall wear identification that includes the title “Verification Technician” while on duty.
- K. As used in this Section, the term “verification technician” means an individual who:
  - 1. Is qualified under subsection (D).
  - 2. Uses a combination of scanning technology and visual confirmation to verify a product prepared to be dispensed is the product prescribed and indicated on the prescription label, and
  - 3. Performs verification of work performed by other pharmacy technicians before a pharmacist or graduate or pharmacy intern working under the supervision of a pharmacist performs the final accuracy check required under R4-23-402(A).



**NOTICE OF PROPOSED RULEMAKING**  
**TITLE 9. HEALTH SERVICES**  
**CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)**  
**ADMINISTRATION**

[R17-58]

**PREAMBLE**

- 1. Article, Part, or Section Affected (as applicable)**                      **Rulemaking Action**
- |              |       |
|--------------|-------|
| R9-22-712.35 | Amend |
| R9-22-712.61 | Amend |
| R9-22-712.71 | Amend |
- 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. § 36-2903.01(A)  
 Implementing statute: A.R.S. § 36-2903.01(G)(12)
- 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:**
- Notice of Rulemaking Docket Opening: 23 A.A.R. 1046, May 5, 2017 (*in this issue*)  
 Notice of Rulemaking Docket Opening: 22 A.A.R. 784, April 8, 2016  
 Notice of Proposed Rulemaking: 22 A.A.R. 761, April 8, 2016  
 Notice of Final Rulemaking: 22 A.A.R. 2187, August 19, 2016
- 4. The agency's contact person who can answer questions about the rulemaking:**
- Name: Gina Relkin  
 Address: AHCCCS  
 Office of Administrative Legal Services  
 701 E. Jefferson, Mail Drop 6200  
 Phoenix, AZ 85034  
 Telephone: (602) 417-4232  
 Fax: (602) 253-9115  
 E-mail: AHCCCSRules@azahcccs.gov  
 Web site: www.azahcccs.gov
- 5. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**
- AHCCCS Value Based Purchasing (VBP) initiatives are strategically designed to reward quality outcomes and reduce growth in the cost of health care. The objective of VBP Differential Adjusted Payments delineated in this proposed rulemaking is to reward hospital providers that have taken designated actions to improve patients' care experience, improve members' health, and reduce the growth of the cost of care. Hospitals which satisfy the requirements delineated in rule will receive increased payments from the AHCCCS Administration and Contractors for inpatient and outpatient services. The proposed VBP rules represent the AHCCCS Administration's expanding efforts to enhance accountability of the health care delivery system beyond the 2016-2017 time-frame. The proposed rulemaking will amend and clarify rules specifying requirements for receipt of VBP Differential Adjusted Payments for qualifying hospitals for both inpatient and outpatient services for the time period of October 1, 2017 through September 30, 2018. Although AHCCCS' initial undertaking was reflected in rulemaking which became effective in October 2016, those rules limit VBP payments to the October 1, 2016 through September 30, 2017 timeframe and will be expiring soon. Thus, the proposed rulemaking will authorize AHCCCS to continue rewarding innovative activities and broaden the reach of the present model, emphasizing improved patient care and reduced growth in the cost of care. Also through this proposed rulemaking, inpatient VBP payments will be extended to hospitals that are reimbursed for inpatient services on a per diem basis rather than exclusively under the diagnostic related group (DRG) methodology as limited under the existing rules.
- 6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to 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:**
- A study was not referenced or relied upon when revising these regulations.
- 7. 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
- 8. The preliminary summary of the economic, small business, and consumer impact:**
- The Administration anticipates the following economic impact for the proposed rule changes:
- The Administration anticipates that the Value Based Purchasing (VBP) rulemaking will result in approximately \$9.7 million of additional payments for the contract year October 1, 2017 through September 30, 2018 to about 70 qualifying hospitals that have taken designated actions to improve patients' care experience, improve members' health, and reduce the growth of the cost of care for inpatient and outpatient services.



**9. The agency's contact person who can answer questions about the economic, small business and consumer impact statement:**

Name: Gina Relkin  
Address: AHCCCS  
Office of Administrative Legal Services  
701 E. Jefferson, Mail Drop 6200  
Phoenix, AZ 85034  
Telephone: (602) 417-4232  
Fax: (602) 253-9115  
E-mail: AHCCCSRules@azahcccs.gov  
Website: www.azahcccs.gov

**10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

Proposed rule language will be available on the AHCCCS website www.azahcccs.gov the week of April 17, 2017. Please send written or email comments to the above address by the close of the comment period, 5:00 p.m., June 7, 2017.

Date: June 7, 2017  
Time: 9:00 a.m.  
Location: AHCCCS  
701 E. Jefferson  
Phoenix, AZ 85034  
Nature: Public Hearing

Date: June 7, 2017  
Time: 9:00 a.m.  
Location: ALTCS: Arizona Long-Term Care System  
1010 N. Finance Center Dr., Suite 201  
Tucson, AZ 85710  
Nature: Public Hearing

Date: June 7, 2017  
Time: 9:00 a.m.  
Location: 2717 N. 4th St., Suite 130  
Flagstaff, AZ 86004  
Nature: Public Hearing

**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 questions:**

No other matters have been prescribed.

**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:**

Not applicable

**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:**

None

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

**TITLE 9. HEALTH SERVICES**

**CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)  
ADMINISTRATION**

**ARTICLE 7. STANDARDS FOR PAYMENTS**

Section  
R9-22-712.35. Outpatient Hospital Reimbursement: Adjustments to Fees  
R9-22-712.61. DRG Payments: Exceptions  
R9-22-712.71. Final DRG Payment

**ARTICLE 7. STANDARDS FOR PAYMENTS****R9-22-712.35. Outpatient Hospital Reimbursement: Adjustments to Fees**

- A. For all claims with a begin date of service on or before September 30, 2011, AHCCCS shall increase the Outpatient Capped Fee-for-service Schedule established under R9-22-712.20 (except for laboratory services and out-of-state hospital services) for the following hospitals submitting any claims:
1. By 48 percent for public hospitals on July 1, 2005, and hospitals that were public anytime during the calendar year 2004;
  2. By 45 percent for hospitals in counties other than Maricopa and Pima with more than 100 Medicare PPS beds during the contract year in which the Outpatient Capped Fee-for-service Schedule rates are effective;
  3. By 50 percent for hospitals in counties other than Maricopa and Pima with 100 or less Medicare PPS beds during the contract year in which the Outpatient Capped Fee-for-service Schedule rates are effective;
  4. By 115 percent for hospitals designated as Critical Access Hospitals or hospitals that have not been designated as Critical Access Hospitals but meet the criteria during the contract year in which the Outpatient Capped Fee-for-service Schedule rates are effective;
  5. By 113 percent for a Freestanding Children's Hospital with at least 110 pediatric beds during the contract year in which the Outpatient Capped Fee-for-service Schedule rates are effective; or
  6. By 14 percent for a University Affiliated Hospital which is a hospital that has a majority of the members of its board of directors appointed by the Board of Regents during the contract year in which the Outpatient Capped Fee-for-service Schedule rates are effective.
- B. For all claims with a begin date of service on or after October 1, 2011, AHCCCS shall increase the Outpatient Capped Fee-for-service Schedule (except for laboratory services, and out-of-state hospital services) for the following hospitals. A hospital shall receive an increase from only one of the following categories:
1. By 73 percent for public hospitals;
  2. By 31 percent for hospitals in counties other than Maricopa and Pima with more than 100 licensed beds as of October 1 of that contract year;
  3. By 37 percent for hospitals in counties other than Maricopa and Pima with 100 or fewer licensed beds as of October 1 of that contract year;
  4. By 100 percent for hospitals designated as Critical Access Hospitals or hospitals that have not been designated as Critical Access Hospitals but meet the critical access criteria;
  5. By 78 percent for a Freestanding Children's Hospital with at least 110 pediatric beds as of October 1 of that contract year; or
  6. By 41 percent for a University Affiliated Hospital, this is a hospital that has a majority of the members of its board of directors appointed by the Arizona Board of Regents.
- C. In addition to subsections (A) and (B), an Arizona Level 1 trauma center as defined by R9-22-2101 shall receive a 50 percent increase to the Outpatient Capped Fee-for-service Schedule (except for laboratory services and out-of-state hospital services) for Level 2 and 3 emergency department procedures.
- D. Hospitals with greater than 100 pediatric beds not receiving an increase under subsection (B) shall receive an 18 percent increase to the Outpatient Capped Fee-for-service Schedule (except for laboratory services, and out-of-state hospital services).
- E. For outpatient services with dates of service from October 1, 2016 through September 30, 2017, the payment otherwise required for outpatient hospital services provided by qualifying hospitals shall be increased by a percentage established by the administration. The percentage is published on the Administration's public website as part of its fee schedule subsequent to the public notice published no later than September 1, 2016. To qualify, a hospital providing outpatient hospital services must meet the following criteria:
1. ~~By June 1, 2016~~ by May 15, 2017, the hospital must have executed an agreement with and electronically submitted admission, discharge, and transfer information, as well as data from the hospital emergency department laboratory, radiology, transcription, and medication information, plus admission, discharge, and transfer information (including data from the hospital emergency department), to a qualifying health information exchange organization, ~~and~~
  2. ~~No sooner than January 4, 2016, and no later than February 29, 2016, CMS must have approved the hospital's attestation demonstrating meaningful use stage 2 as described in 42 CFR 495.22 during an electronic health record reporting period in 2015; or, for a children's hospital that does not participate in the Medicare electronic health record incentive program, no sooner than January 4, 2016, and no later than the date established by CMS, the administration must have approved the hospital's attestation demonstrating meaningful use stage 2 as described in 42 CFR 495.22 during an electronic health record reporting period in 2015.~~
- F. Fee adjustments made under subsection (A), (B), (C), (D), and (E) are on file with AHCCCS and current adjustments are posted on AHCCCS' web site.

**R9-22-712.61. DRG Payments: Exceptions**

- A. Notwithstanding section R9-22-712.60, claims for inpatient services from the following hospitals shall be paid on a per diem basis, including provisions for outlier payments, where rates and outlier thresholds are included in the capped fee schedule published by the Administration on its website and available for inspection during normal business hours at 701 E. Jefferson, Phoenix, Arizona. If the covered costs per day on a claim exceed the published threshold for a day, the claim is considered an outlier. Outliers will be paid by multiplying the covered charges by the outlier CCR. The outlier CCR will be the sum of the urban or rural default operating CCR appropriate to the location of the hospital and the statewide capital cost-to-charge ratio in the data file established as part of the Medicare Inpatient Prospective Payment System by CMS. The resulting amount will be the total reimbursement for the claim. There is no provision for outlier payments for hospitals described under subsection (A)(3).
1. Hospitals designated as type: hospital, subtype; rehabilitation in the Provider & Facility Database for Arizona Medical Facilities posted by the Arizona Department of Health Services Division of Licensing Services on its website in March of each year;



- 2. Hospitals designated as type: hospital, subtype: long term in the Provider & Facility Database for Arizona Medical Facilities posted by the Arizona Department of Health Services Division of Licensing Services on its website for March of each year;
- 3. Hospitals designated as type: hospital, subtype: psychiatric in the Provider & Facility Database for Arizona Medical Facilities posted by the Arizona Department of Health Services Division of Licensing Services on its website for March of each year;
- B. Notwithstanding section R9-22-712.60, claims for inpatient services that are covered by a RBHA or TRBHA, where the principal diagnosis on the claim is a behavioral health diagnosis, shall be reimbursed as prescribed by a per diem rate described by a fee schedule established by the Administration; however, if the principal diagnosis is a physical health diagnosis, the claim shall be processed under the DRG methodology described in this section, even if behavioral health services are provided during the inpatient stay.
- C. Notwithstanding section R9-22-712.60, claims for services associated with transplant services shall be paid in accordance with the contract between the AHCCCS administration and the transplant facility.
- D. Notwithstanding section R9-22-712.60, claims from an IHS facility or 638 Tribal provider shall be paid the all-inclusive rate on a per visit basis in accordance with the rates published annually by IHS in the federal register.
- E. For hospitals that have contracts with the Administration for the provision of transplant services, inpatient days associated with transplant services are paid in accordance with the terms of the contract.
- F. For inpatient services with a date of admission from January 1, 2018 through September 30, 2018, provided by a hospital in subsection (A) that qualifies, the administration shall pay the hospital an Inpatient VBP Differential Adjusted Payment equal to the sum of the payment otherwise provided for in subsection (A) plus the product of the amount otherwise provided for in subsection (A) and a percentage published on the Administration’s public website as part of its fee schedule, subsequent to a public notice published no later than December 1, 2017. To qualify for the Inpatient VBP Differential Adjusted Payment, the exempt hospital must have:
  - 1. Executed an agreement with a qualifying health information exchange by May 15, 2017;
  - 2. Been determined by a qualifying health information exchange organization, based on a readiness review conducted by the organization, capable of connecting with the exchange by October 1, 2017; and
  - 3. Electronically submitted admission, discharge, and transfer information to a qualifying health information exchange organization by October 1, 2017, including information from the emergency department if the hospital operates an emergency department.

**R9-22-712.71. Final DRG Payment**

The final DRG payment is the sum of the final DRG base payment, the final DRG outlier add-on payment, and the Inpatient Value Based Purchasing (VBP) Differential Adjusted Payment.

- 1. The final DRG base payment is an amount equal to the product of the covered day adjusted DRG base payment and a hospital-specific factor established to limit the financial impact to individual hospitals of the transition from the tiered per diem payment methodology and to account for improvements in documentation and coding that are expected as a result of the transition.
- 2. The final DRG outlier add-on payment is an amount equal to the product of the covered day adjusted DRG outlier add-on payment and a hospital-specific factor established to limit the financial impact to individual hospitals of the transition from the tiered per diem payment methodology and to account for improvements in documentation and coding that are expected as a result of the transition.
- 3. The factor for each hospital and for each federal fiscal year is published as part of the AHCCCS capped fee schedule and is available on the AHCCCS administration’s website and is on file for public inspection at the AHCCCS administration located at 701 E. Jefferson Street, Phoenix, Arizona.
- 4. For inpatient services with a date of discharge from October 1, ~~2016~~2017 through September 30, ~~2017~~2018, the Inpatient VBP Differential Adjusted Payment is the sum of the final DRG base payment and the final DRG outlier add-on payment multiplied by a percentage published on the Administration’s public website as part of its fee schedule, subsequent to the public notice published no later than September 1, ~~2016~~2017. To qualify for the Inpatient VBP Differential Adjusted Payment, a hospital providing inpatient hospital services must ~~meet the following criteria:~~
  - a. ~~By June 1, 2016 by May 15, 2017, the hospital must have executed an agreement with a qualifying health information exchange organization and electronically submitted admission, discharge, and transfer information, as well as data from the hospital emergency department laboratory, radiology, transcription, and medication information, plus admission, discharge, and transfer information (including data from the hospital emergency department), to a qualifying health information exchange organization, and~~
  - b. ~~No sooner than January 4, 2016, and no later than February 29, 2016, CMS must have approved the hospital’s attestation demonstrating meaningful use stage 2 as described in 42 CFR 495.22 during an electronic health record reporting period in 2015; or, for a children’s hospital that does not participate in the medicare electronic health record incentive program, no sooner than January 4, 2016, and no later than the date established by CMS, the administration must have approved the hospital’s attestation demonstrating meaningful use stage 2 as described in 42 CFR 495.22 during an electronic health record reporting period in 2015.~~



**NOTICE OF PROPOSED RULEMAKING**  
**TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE**  
**CHAPTER 5. INDUSTRIAL COMMISSION OF ARIZONA**

[R17-72]

**PREAMBLE**

- 1. Article, Part or Section Affected (as applicable)**
- |            |       |
|------------|-------|
| Article 12 | Amend |
| R20-5-1201 | Amend |
| R20-5-1202 | Amend |
| R20-5-1205 | Amend |
| R20-5-1206 | Amend |
| R20-5-1208 | Amend |
| R20-5-1209 | Amend |
| R20-5-1210 | Amend |
| R20-5-1211 | Amend |
| R20-5-1213 | Amend |
| R20-5-1218 | Amend |
- 2. Citations to agency's statutory rulemaking authority to include the authorizing statute and the implementing statute:**
- Authorizing statutes: A.R.S. §§ 23-364, 23-376  
 Implementing statutes: A.R.S. Title 23, Chapter 2, Articles 8 and 8.1  
 Note: Brett A. Galley, Policy Assistant in the Office of the Arizona Governor, approved the request to proceed with the proposed rulemaking on March 29, 2017.
- 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:**
- Notice of Rulemaking Docket Opening: 23 A.A.R. 1047, May 5, 2017 (*in this issue*)
- 4. The agency's contact person who can answer questions about the rulemaking:**
- Name: Steven Welker  
 Address: Industrial Commission of Arizona  
 Labor Department  
 800 W. Washington St., Suite 303  
 Phoenix, AZ 85007  
 Telephone: (602) 542-4515  
 Fax: (602) 542-8097  
 E-mail: LaborAdmin@azica.gov
- 5. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**
- Arizona voters approved Proposition 206, the Fair Wages and Healthy Families Act (the "Act"), in November 2016. The Act established a new state minimum wage effective January 1, 2017, and entitles employees to accrue earned paid sick time beginning July 1, 2017. The Act authorizes the Industrial Commission of Arizona (the "Commission") to "enforce and implement" both the minimum wage and earned paid sick time provisions and promulgate regulations consistent with the articles. *See* A.R.S. § 23-364(A); A.R.S. Title 23, Chapter 2, Articles 8 and 8.1. In the earned paid sick time context, the Act provides that "[t]he commission shall be authorized to coordinate implementation and enforcement of [Article 8.1, Earned Paid Sick Time] and shall promulgate appropriate guidelines or regulations for such purposes." A.R.S. § 23-376.
- Currently, the rules in Article 12—implemented in 2007 after the referendum that created the Arizona Minimum Wage Act—address only those procedures related to the enforcement and implementation of minimum wage law. Because the Commission is now statutorily tasked with implementing, enforcing, and regulating the Act's earned paid sick time provisions, the Commission is proposing to amend existing rules in Article 12 to be consistent with the Act's new provisions.
- In addition, the proposed rulemaking conforms the independent contractor analysis to factors outlined in A.R.S. §§ 23-902(D) and 23-1601(B); defines "small employer" and exempts "small employers" from posting requirements; amends R20-5-1209 to conform to current technologies, and includes various non-substantive amendments.
- 6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
- The Commission did not review or rely on any study relevant to the proposed amended rules.
- 7. 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



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

The proposed rulemaking is primarily responsive to the Act, and, as such, creates minimal economic, small business, or consumer impact beyond that already created by the Act. To the extent the proposed rulemaking creates any impact beyond the Act, the Commission anticipates that the proposed amendments will reduce regulatory burden on businesses by aligning Article 12 with current Arizona statutes and providing clarification that reduces uncertainty for Arizona businesses and consumers. In addition, the proposed rulemaking seeks to reduce the regulatory burden on “small employers” by waiving posting requirements pursuant to A.R.S. § 23-364(D) (see proposed amendment to R20-5-1208). The proposed amendments will reduce regulatory burden while achieving the Commission’s regulatory objectives as prescribed by the Act.

**9. The agency’s contact person who can answer questions about the economic, small business and consumer impact statement:**

Name: Steven Welker  
Address: Industrial Commission of Arizona  
Labor Department  
800 W. Washington St., Suite 303  
Phoenix, AZ 85007  
Telephone: (602) 542-4515  
Fax: (602) 542-8097  
E-mail: LaborAdmin@azica.gov

**10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

Written comments on this rulemaking may be submitted to the person referenced in section 9 above. Written comments for the rulemaking record may be submitted after publication of the Notice of Proposed Rulemaking in the *Arizona Administrative Register* and prior to the close of record date on June 5, 2017. An oral proceeding on the proposed rulemaking is scheduled for June 5, 2017, at 9:00 a.m., in the auditorium of the Industrial Commission of Arizona, 800 West Washington, Phoenix, Arizona 85007.

**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 questions:**

None

**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:**

The proposed amended rules do not require issuance of a regulatory permit or license.

**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:**

Although federal law establishes a baseline for minimum wage, it does not preclude states from adopting a higher minimum wage. Nor does federal law address earned paid sick time. The proposed rule amendments implement Arizona’s minimum wage and earned paid sick time provisions and do not implicate federal law.

**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:**

None

**13. The full text of the proposed rules follows:**

**TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE**

**CHAPTER 5. INDUSTRIAL COMMISSION OF ARIZONA**

**ARTICLE 12. ARIZONA MINIMUM WAGE ACT AND EARNED PAID SICK TIME PRACTICE AND PROCEDURE**

Section

- R20-5-1201. Notice of Rules
- R20-5-1202. Definitions
- R20-5-1205. Determination of Employment Relationship
- R20-5-1206. Payment of Minimum Wage; Commissions; Tips; Limitation on Carry Over of Unused Earned Paid Sick Time
- R20-5-1208. Posting Requirements; Small Employer Exemption
- R20-5-1209. Records Availability
- R20-5-1210. General Recordkeeping Requirements
- R20-5-1211. Administrative Complaints
- R20-5-1213. Findings and Order Issued by the Department
- R20-5-1218. Collection of Wages or Penalty Payments Owed

**ARTICLE 12. ARIZONA MINIMUM WAGE ACT AND EARNED PAID SICK TIME PRACTICE AND PROCEDURE**

**R20-5-1201. Notice of Rules**

A. This Article applies to all actions and proceedings before the Industrial Commission of Arizona arising under the ~~Raise the Arizona Minimum Wage for Working Arizonans Act, as added by 2006 Proposition 202, § 2~~ A.R.S. Title 23, Articles 8 and 8.1.



B. The Industrial Commission of Arizona shall provide a copy of this Article upon request to any person free of charge.

#### R20-5-1202. Definitions

In this Article, the definitions of A.R.S. § 23-362 (version two) apply. In addition, unless the context otherwise requires:

1. "Act" means ~~the Raise the Arizona Minimum Wage for Working Arizonans Act, as added by 2006 Proposition 202, § 2 A.R.S. Title 23, Articles 8 and 8.1.~~
2. "Affected employee" means an employee or employees on whose behalf a complaint may be filed alleging a violation under the Act.
3. "Authorized representative" means a person prescribed by law to act on behalf of a party who files with the Department a written instrument advising of the person's authority to act on behalf of the party.
4. "Casual Basis," when applied to babysitting services, means employment which is irregular or intermittent.
5. "Commission" means monetary compensation based on:
  - a. A percentage of total sales,
  - b. A percentage of sales in excess of a specified amount,
  - c. A fixed allowance per unit, or
  - d. Some other formula the employer and employee agree to as a measure of accomplishment.
- ~~6.~~ "Communicable disease" has the meaning prescribed by A.R.S. § 36-661.
- ~~6-7.~~ "Complainant" means a person or organization filing an administrative complaint under the Act.
- ~~7-8.~~ "Department" means the Labor Department of the Industrial Commission of Arizona or other authorized division of the Industrial Commission as designated by the Industrial Commission.
- ~~9.~~ "Earned sick time" under A.R.S. § 23-364(G) means earned paid sick time.
- ~~8-10.~~ "Filing" means receipt of a report, document, instrument, videotape, audiotape, or other written matter at an office of the Department.
11. "Health care professional" means any of the following:
  - a. A "physician" as defined by A.R.S. § 36-2351;
  - b. A "physician assistant" as defined by A.R.S. § 32-2501;
  - c. A "registered nurse practitioner" as defined by A.R.S. § 32-1601.
  - d. A certified nurse midwife who is a registered nurse practitioner approved by the Arizona State Board of Nursing to provide primary care services during pregnancy, childbirth, and the postpartum period;
  - e. A dentist licensed under A.R.S. Title 32, Chapter 11, Article 2; or
  - f. A behavioral health provider practicing as:
    - i. A psychologist licensed under A.R.S. Title 32, Chapter 19.1;
    - ii. A clinical social worker licensed under A.R.S. § 32-3293;
    - iii. A marriage and family therapist licensed under A.R.S. § 32-3311; or
    - iv. A professional counselor licensed under A.R.S. § 32-3301.
- ~~12.~~ "Health care provider" has the meaning prescribed by A.R.S. § 36-661.
- ~~9-13.~~ "Hours worked" means all hours for which an employee covered under the Act is employed and required to give to the employer, including all time during which an employee is on duty or at a prescribed work place and all time the employee is suffered or permitted to work.
- ~~10-14.~~ "Minimum wage" means the lowest rate of monetary compensation required under the Act.
- ~~11-15.~~ "Monetary compensation" means cash or its equivalent due to an employee by reason of employment.
- ~~12-16.~~ "On duty" means time spent working or waiting that the employer controls and that the employee is not permitted to use for the employee's own purpose.
17. "Public benefits" has the same meaning as "state or local public benefit," as prescribed by A.R.S. § 1-502(I).
18. "Public health emergency" means a state of emergency declared by the governor in which there is an occurrence or imminent threat of an illness or health condition caused by bioterrorism, an epidemic or pandemic disease or a highly fatal infectious agent or biological toxin and that poses a substantial risk of a significant number of human fatalities or incidents of permanent or long-term disability.
19. "Same hourly rate" for purposes of A.R.S. § 23-371(D) means the same hourly rate that an employee earns for the workweek in which the employee uses earned paid sick time and which is no less than minimum wage. Shift differentials and premiums meant to compensate an employee for work performed under differing conditions (such as hazard pay or a shift differential for working at night) shall be included when computing an employee's same hourly rate. An employee's same hourly rate shall be determined as follows:
  - a. For employees paid on the basis of a single hourly rate, the same hourly rate means the same hourly rate the employee would have earned for the period of time in which sick time is used.
  - b. For employees who are paid multiple hourly rates of pay, the same hourly rate shall be determined in the following order of priority:
    - i. The wages the employee would have been paid, if known, for the period of time in which sick time is used.
    - ii. The weighted average of all hourly rates of pay during the previous pay period.
  - c. For employees paid a salary, the same hourly rate means the employee's total wages earned during the pay period covered by the salary divided by the number of hours agreed to be worked in the pay period which the salary is intended to compensate. For an employee paid a salary whose hours of work vary from work week to work week, for the purpose of calculating the same hourly rate to be used for the payment of earned paid sick time, the employee is presumed to work 40 hours in each workweek.
  - d. For employees paid on a commission, piece-rate, or fee-for-service basis, the same hourly rate shall be determined in the following order of priority, but shall in no case be less than minimum wage:



- i. The hourly rate of pay agreed upon by the employer and the employee, if an hourly rate of pay was previously established.
- ii. The wages that the employee would have been paid, if known, for the period of time in which earned paid sick time is used.
- iii. A reasonable estimation of the wages that the employee would have been paid for the period of time in which the earned paid sick time is used.
- iv. The weighted average of all hourly rates of pay during the previous 90 days, if the employee worked regularly during the previous 90-day period.
- e. The same hourly rate does not include:
  - i. Additions to an employee's base rate for overtime or holiday pay;
  - ii. Bonuses or other types of incentive pay; and
  - iii. Tips or gifts.

~~13-20.~~ "Tip" means a sum that a customer presents as a gift in recognition of some service performed, and includes gratuities. The sum may be in the form of cash, amounts paid by bank check or other negotiable instrument payable at par, or amounts the employer transfers to the employee under directions from a credit customer who designates an amount to be added to a bill as a tip. Gifts in forms other than cash or its equivalent as described in this definition, ~~including theater~~ such as event tickets, passes, or merchandise, are not tips.

~~14-21.~~ "Violation" means a transgression of any statute or rule, or any part of a statute or rule, including both acts and omissions.

~~15-22.~~ "Willfully" means acting with actual knowledge of the requirements of the Act or this Article, or acting with reckless disregard of the requirements of the Act or this Article.

~~16-23.~~ "Workday" means any fixed period of 24 consecutive hours.

~~17-24.~~ "Workweek" means any fixed and regularly recurring period of seven consecutive workdays.

**R20-5-1205. Determination of Employment Relationship**

- A. Determination of an employment relationship under the Act, which includes whether an individual is an independent contractor, shall be based upon the ~~economic realities~~ circumstances of the relationship. Consideration of whether an individual is economically dependent on the employer for which the individual performs work shall be determined by factors showing dependence, which non-exclusive factors shall include: ~~those factors identified in A.R.S. §§ 23-902(D) and 23-1601(B).~~
  - ~~1. The degree of control the alleged employer exercises over the individual;~~
  - ~~2. The individual's opportunity for profit or loss and the individual's investment in the business;~~
  - ~~3. The degree of skill required to perform the work;~~
  - ~~4. The permanence of the working relationship; and~~
  - ~~5. The extent to which the work performed is an integral part of the alleged employer's business.~~
- B. An individual ~~that~~ who works for another person without any express or implied compensation agreement is not an employee under the Act. This may include an individual that volunteers to work for civic, charitable, or humanitarian reasons that are offered freely and without direct or implied pressure or coercion from an employer, provided that the volunteer is not otherwise employed by the employer to perform the same type of services as those which the individual proposes to volunteer.
- C. An individual ~~that~~ who works for another individual as a babysitter on a casual basis and whose vocation is not babysitting, is not an employee under the Act even if the individual performs other household work not related to caring for the children, provided the household work does not exceed 20% of the total hours worked on the particular babysitting assignment.

**R20-5-1206. Payment of Minimum Wage; Commissions; Tips; Limitation on Carry Over of Unused Earned Paid Sick Time**

- A. Subject to the requirements of the Act and this Article, no less than the minimum wage shall be paid for all hours worked, regardless of the frequency of payment and regardless of whether the wage is paid on an hourly, salaried, commissioned, piece rate, or any other basis.
- B. If the combined wages of an employee are less than the applicable minimum wage for a work week, the employer shall pay monetary compensation already earned, and no less than the difference between the amounts earned and the minimum wage as required under the Act.
- C. The workweek is the basis for determining an employee's hourly wage. Upon hire, an employer shall advise the employee of the employee's designated workweek. Once established, an employer shall not change or manipulate an employee's workweek to evade the requirements of the Act.
- D. In computing the minimum wage, an employer shall consider only monetary compensation and shall count tips and commissions in the workweek in which the tip or commission is earned.
- E. An employer is allowed to:
  - 1. Require or permit employees to pool, share, or split tips; and
  - 2. Require an employee to report tips to the employer in order to meet reporting requirements of this Article and federal law.
- F. An employee of an employer with 15 or more employees may carry over to the following year a maximum of 40 hours of unused earned paid sick time. An employee of an employer with fewer than 15 employees may carry over to the following year a maximum of 24 hours of unused earned paid sick time. Alternatively, in lieu of carry over, an employer may pay an employee for unused earned paid sick time pursuant to A.R.S. § 23-372(D)(4). Carry over shall not affect accrual or use rights under the Act.

**R20-5-1208. Posting Requirements; Small Employer Exemption**

- A. With the exception of small employers, Everyevery employer subject to the Act shall place ~~a poster~~ the posters prescribed by the Department informing employees of their rights under the Act in a conspicuous place in every establishment where employees are employed and where notices to employees are customarily placed. The employer shall ensure that the ~~notice is~~ notices are not removed, altered, defaced, or covered by other material.



- B.** In this Section, unless context otherwise requires, “small employer” means a corporation, proprietorship, partnership, joint venture, limited liability company, trust, or association that has less than \$500,000 in gross annual revenue.

**R20-5-1209. Records Availability**

- A.** Each employer shall keep the records required under the Act and this Article safe and accessible at the place or places of employment, or at one or more established central recordkeeping offices where the records are customarily maintained. When the employer maintains the records at a central recordkeeping office other than in the place or places of employment, the employer shall make the records available to the Department within 72 hours following notice from the Department.
- B.** Employers ~~who use microfilm or another method for recordkeeping purposes~~ shall make available to the Department any equipment or technology that is necessary to facilitate inspection and copying of the records.
- C.** Each employer required to maintain records under the Act shall make enlargement, recomputation, or transcription of the records and shall submit to the Department the records or reports in a readable format upon the Department’s written request.

**R20-5-1210. General Recordkeeping Requirements**

- A.** Payroll records required to be kept under the Act include:
1. All time and earning cards or sheets on which are entered the daily starting and stopping time of individual employees, or of separate work forces, or the amounts of work accomplished by individual employees on a daily, weekly, or pay period basis (for example, units produced) when those amounts determine in whole or in part the pay period wages and earned paid sick time of those employees;
  2. From their last effective date, all wage-rate tables or schedules of the employer that provide the piece rates or other rates used in computing wages; and
  3. Records of additions to or deductions from wages paid and records that support or corroborate the additions or deductions.
- B.** Except as otherwise provided in this Section, every employer shall maintain and preserve payroll or other records containing the following information and data with respect to each employee to whom the Act applies:
1. Name in full, and on the same record, the employee’s identifying symbol or number if it is used in place of the employee’s name on any time, work, or payroll record;
  2. Home address, including zip code;
  3. Date of birth, if under 19;
  4. Occupation in which employed;
  5. Time of day and day of week on which the employee’s workweek begins. If the employee is part of a workforce or employed in or by an establishment all of whose workers have a workweek beginning at the same time on the same day, then a single notation of the time of the day and beginning day of the workweek for the whole workforce or establishment is permitted;
  6. Regular hourly rate of pay for any workweek and an explanation of the basis of pay by indicating the monetary amount paid on a per hour, per day, per week, per piece, commission on sales, or other basis, including the amount and nature of each payment;
  7. Hours worked each workday and total hours worked each workweek;
  8. Total daily or weekly straight-time wages due for hours worked during the workday or workweek, exclusive of premium overtime compensation;
  9. Total premium pay for overtime hours and an explanation of how the premium pay was calculated exclusive of straight-time wages for overtime hours recorded under subsection (B)(8) of this Section;
  10. Total additions to or deductions from wages paid each pay period including employee purchase orders or wage assignments, including, for individual employee records, the dates, amounts, and nature of the items that make up the total additions and deductions;
  11. Total wages paid each pay period; ~~and~~
  12. Date of payment and the pay period covered by payment;
  13. Earned paid sick time accrued and used each pay period; and
  14. Current earned paid sick time balance.
- C.** For an employee who is compensated on a salary basis at a rate that exceeds the minimum wage required under the Act and who, under 29 CFR 541, is an exempt bona fide executive, administrative, or professional employee, including an employee employed in the capacity of academic administrative personnel or teachers in elementary or secondary schools, or in outside sales, an employer shall maintain and preserve:
1. Records containing the information and data required under subsections (B)(1) through (B)(5), ~~(B)(11)~~ and ~~(B)(11)~~ through ~~(B)(14)~~ of this Section; and
  2. Records containing the basis on which wages are paid in sufficient detail to permit a determination or calculation of whether the salary received exceeds the minimum wage required under the Act, including a record of the hours upon which payment of the salary is based, whether full time or part time.
- D.** With respect to employees working on fixed schedules, an employer may maintain records showing instead of the hours worked each day and each workweek as required under this Section, the schedule of daily and weekly hours the employee normally works, provided:
1. In weeks in which an employee adheres to this schedule, the employer indicates by check mark, statement, or other method, that the employee actually worked the hours; and
  2. In weeks in which more or fewer than the scheduled hours are worked, the employer records the number of hours actually worked each day and each week.
- E.** With respect to an employee that customarily and regularly receives tips, the employer shall ensure that the records required under this Article include the following information:
1. A symbol, letter, or other notation placed on the pay records identifying each employee whose wage is determined in part by tips;
  2. Amount of tips the employee reports to the employer;



- 3. The hourly wage of each tipped employee after taking into consideration the employee’s tips;
  - 4. Hours worked each workday in any occupation in which the employee does not receive tips, and total daily or week straight-time payment made by the employer for the hours;
  - 5. Hours worked each workday in occupations in which the employee receives tips and total daily or weekly straight-time wages for the hours; and
  - 6. Copy of the notice required under R20-5-1207(C).
- F. An employer who makes retroactive payment of wages, voluntarily or involuntarily, shall record on the pay records, the amount of the payment to each employee, the period covered by the payment, and the date of payment.

**R20-5-1211. Administrative Complaints**

- A. A person or organization alleging a ~~failure to pay minimum wage violation or earned paid sick time~~, shall file a complaint with the Labor Department within one year from the date the wages ~~or earned paid sick time~~ were due.
- B. A person or organization alleging ~~retaliation, discrimination, or a violation of A.R.S. § 23-377~~ shall file a complaint with the Labor Department within one year from the date the alleged violation occurred or when the employee knew or should have known of the alleged violation.
- C. The person or organization filing a complaint with the Labor Department shall sign the complaint.
- D. Any person or organization other than an affected employee who files a complaint shall include the names of affected employees.
- E. ~~For good cause, and upon~~ Upon its own complaint, the Department may investigate violations under the Act.

**R20-5-1213. Findings and Order Issued by the Department**

- A. Except as provided in R20-5-1219, after receipt of a complaint alleging a violation of the ~~minimum wage requirement of the Act, or alleging retaliation under the Act~~, the Department shall issue a Findings and Order of its determination. The Department shall send its Findings and Order to both the employer and the complainant at their last known addresses served personally or by regular first class mail. If the complaint named affected employees, the Department may send a copy of its Findings and Order to the affected employees.
- B. If the Department determines that an employer has violated the minimum wage ~~or earned paid sick time payment requirement requirements~~, the Department shall order the employer to pay the employee, and if applicable, affected employees, the balance of the wages ~~or earned paid sick time~~ owed, including interest at the legal rate and an additional amount equal to twice the underpaid wages ~~or earned paid sick time owed~~.
- C. If the Department determines that a ~~retaliation, discrimination, confidentiality, or nondisclosure~~ violation has occurred, the Department shall direct the employer or other person to cease and desist from the violation and may take action necessary to remedy the violation, including:
  - 1. Rehiring or reinstatement,
  - 2. Reimbursement of lost wages and interest,
  - 3. Payment of penalty to employees or affected employees as provided for in the Act and this Article, and
  - 4. Posting of notices to employees.
- D. If the Department determines that no ~~retaliation violation of the Act~~ has occurred the Department shall notify the parties and shall dismiss the complaint without prejudice. After notification of the Department’s determination, the complainant may bring a civil action under A.R.S. § 23-364(E).
- E. The Department may assess civil penalties for recordkeeping, posting, and other violations under the Act and this Article as part of a Findings and Order issued under subsection (A) or the civil penalties and other violations may be assessed as a separate Findings and Order. If issued as a separate Findings and Order, the Department shall serve, personally or by regular first class mail, the Findings and Order on the employer and, if a complaint has been filed, the complainant.
- F. The Director of the Department shall sign the written Findings and Order issued by the Department.
- G. If an employer does not comply with a Findings and Order issued by the Department within 10 days following finality of the Findings and Order, the Department may refer the matter to a law enforcement officer.

**R20-5-1218. Collection of Wages or Penalty Payments Owed**

- A. Upon determination that wages, earned paid sick time payments, or penalty payments are due and unpaid to any employee, the employee may, or the Department may on behalf of an employee, obtain judgment and execution, garnishment, attachment, or other available remedies for collection of unpaid wages and penalty payments established by a final Findings and Order of the Department.
- B. If payment cannot be made to the employee, the Department shall receive monetary compensation or penalty payments on behalf of the employee and transmit monies it receives as payment in a special state fund as provided in A.R.S. § 23-356(C).
- C. The Department may amend a Findings and Order to conform to the legal name of the business or the person who is the defendant employer to a complaint under the Act, provided service of the Findings and Order was made on the defendant or the defendant’s agent. If a judgment has been entered on the order, the Department may apply to the clerk of the superior court to amend a judgment that has been issued under a final order, provided service was made on the defendant or the defendant’s agent.



**NOTICES OF SUPPLEMENTAL PROPOSED RULEMAKINGS**

This section of the *Arizona Administrative Register* contains Notices of Supplemental Proposed Rulemakings.

After an agency has filed a Notice of Proposed Rulemaking and it is published in the *Register*, an agency may decide to make substantial changes to the rule after it is proposed. The agency prepares a Notice of Supplemental Proposed Rulemaking with these proposed changes. When filed, the notice is published under the deadline schedule in the back of the *Register*.

The Notice of Supplemental Proposed Rulemaking shall be published in the *Register* before holding any oral proceedings (A.R.S. § 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 #11 for the close of record and information related to public hearings and oral comments.

**NOTICE OF SUPPLEMENTAL PROPOSED RULEMAKING**

**TITLE 21. CHILD SAFETY**

**CHAPTER 8. DEPARTMENT OF CHILD SAFETY  
FOSTER CARE AND CHILD WELFARE AGENCY FACILITY SAFETY**

[R17-59]

**PREAMBLE**

**1. Citations to the agency’s Notice of Rulemaking Docket Opening, the Notice of Proposed Rulemaking, and any other Notices of Supplemental Proposed Rulemaking (if applicable) as published in the Register as specified in R1-1-409(A). A list of any other related notices published in the Register as specified in R1-1-409(A):**

Notice of Rulemaking Docket Opening: 22 A.A.R. 3198, November 11, 2016

Notice of Proposed Rulemaking: 22 A.A.R. 3181, November 11, 2016

**2. Articles, Parts, or Sections Affected (as applicable) Rulemaking Action**

R21-8-112

Amend

R21-8-113

Amend

**3. Citations to the agency’s statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**

Authorizing statute: A.R.S. § 8-453(A)(5)

Implementing statutes: A.R.S. §§ 8-504, 8-505, and 8-509

**4. The agency’s contact person who can answer questions about the rulemaking:**

Name: Kathryn Blades, Deputy General Counsel

Address: Department of Child Safety  
3003 N. Central Ave.  
Phoenix, AZ 85012

Telephone: (602) 255-2527

E-mail: kathrynblades@azdes.gov

**5. An agency’s justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**

The proposed amended rules pertain to fire and pool safety. The justification for this regular rulemaking is A.R.S. § 41-1026(A)(1) and (A)(5). The current rules do not enable homes with a bedroom that leads into a pool enclosure to be licensed as foster homes or residential group care facilities. The Department seeks to amend the rules to permit this circumstance, as long as safeguards are met for applicable state law, county code, or municipal ordinances. The current rules limit the number of foster homes available as this design is common in residential housing, and can unfairly preclude interested applicants from meeting current licensing requirements and becoming licensed to provide foster care. Further, the Department is in need of more licensed foster homes to protect the health and wellbeing of the children in Arizona.

**6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to 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

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

The substantial change delimits the proposed rule changes to foster children under the age of seven years.

**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:**

Not applicable

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

The proposed amendments will have a positive economic impact for foster home and Child Welfare Agency applicants. Homes



with a bedroom leading to a pool enclosure will not have to undergo a significant renovation to be compliant with fire and pool safety rules. The amended rules will not require any additional safeguards that are not already required by state law, county code, and municipal ordinances in the State of Arizona.

**10. The agency's contact person who can answer questions about the economic, small business and consumer impact statement:**

Name: Kathryn Blades, Deputy General Counsel  
Address: Department of Child Safety  
3003 N. Central Ave.  
Phoenix, AZ 85012  
Telephone: (602) 255-2527  
E-mail: kathrynblades@azdes.gov

**11. The time, place, and nature of the proceedings to make, amend, renumber or repeal the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the supplemental proposed rule:**

Comments can be submitted to: DCSPolicyUnit@azdes.gov  
Close of record: June 9, 2017, 5:00 p.m.

Date: June 8, 2017  
Time: 5:30 p.m. - 7:00 p.m.  
Location: DCS - Thunderbird Office  
13450 N. Black Canyon, Suite #170  
Phoenix, AZ  
Nature: The Department will hold an oral proceeding.

Date: June 7, 2017  
Time: 4:30 p.m. - 6:00 p.m.  
Location: Joel D. Valdez Main Library  
101 N. Stone Ave.  
Tucson, AZ 85701  
Nature: The Department will hold an oral proceeding.

**12. 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:**

**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:**

The rules pertain to a requirement for foster home and Child Welfare Agency licensing. A general permit is not used. The Department is exempt from issuing a general permit for foster homes, (A.R.S. 8-503), and Child Welfare Agencies (A.R.S. § 8-505) under A.R.S. § 41-1037(A)(5).

**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:**

42 U.S.C. 671. The rules are not more stringent than federal law.

**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:**

Not applicable

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

Not applicable

**14. The full text of the rules follows:**

**TITLE 21. CHILD SAFETY  
CHAPTER 8. DEPARTMENT OF CHILD SAFETY  
FOSTER HOME AND CHILD WELFARE AGENCY FACILITY SAFETY  
ARTICLE 1. LIFE SAFETY INSPECTIONS**

Section  
R21-8-112. Fire Safety And Evacuation Plan Requirements  
R21-8-113. Pool Safety



## ARTICLE 1. LIFE SAFETY INSPECTIONS

**R21-8-112. Fire Safety and Evacuation Plan Requirements**

The provider shall ensure:

1. The premises is free of obvious fire hazards, such as defective heating equipment, or improperly stored flammable materials. Household heating equipment must be equipped with appropriate safeguards, maintained as recommended by the manufacturer.
2. Flammables and combustibles are stored more than three feet from water heaters, furnaces, portable heaters, fire-places, and wood-burning stoves.
3. If the premises has a working fireplace or wood-burning stove, it is protected by a fire screen sufficient to shield the room from open flames and flying embers.
4. A functioning fire extinguisher with a rating of “2A 10BC” or greater is available near the kitchen area. If the home has multiple levels at least one functioning fire extinguisher with a rating of “2A 10BC” or greater is available on each level.
5. At least one UL approved and working smoke detector is installed:
  - a. In the main living or program area of the setting;
  - b. In each bedroom, if overnight care is provided; and
  - c. On each level of a multiple-level setting.
6. A written emergency evacuation plan is developed and maintained in the home, to provide guidance on the safe and rapid evacuation of the home. An emergency evacuation plan shall:
  - a. Be reviewed with the child within 72 hours of placement in the home and posted in a prominent place in the home;
  - b. Identify multiple exits from the home;
  - c. Identify two routes of evacuation from each bedroom on every floor used by individuals residing in or receiving care in the home. At least one of the exit routes for these bedrooms shall lead leads directly to the outside of the home, ~~but shall not lead into an area that serves as a pool enclosure.~~ If that exit leads into an area that serves as a pool enclosure:
    - i. An individual under the age of seven receiving care in the home shall not use that bedroom and;
    - ii. If the exit is a window, it shall be secured with a latching device located not less than 54 inches above the finished floor;
    - iii. If the exit is a door, it shall be locked at all times with a latch or lock located a minimum of 54 inches above the floor. If there is no quick release on the lock, it must comply with the provisions of R21-8-112(11), and the key shall be located a minimum of 54 inches above the floor.
    - iv. Bedroom doors that lead into an area that serves as a pool enclosure shall comply with R21-8-112(6)(c)(iii) and also be self-closing and self-latching. Such doors that are hinged shall also swing outward from the pool area.
  - d. Identify the location of fire extinguishers and fire evacuation equipment, including rope or chain ladders, and emergency lighting, as applicable;
  - e. Designate a safe central meeting place close to the home, known to the child, at a safe distance from potential danger;
  - f. Be maintained in the home to review with individuals residing in or receiving care in the home; and
  - g. Include the placement of equipment, such as a ladder, that can be safely used by the individuals residing in each upstairs bedroom that have been identified with fire exits.
7. All windows identified as fire exits, must have enough space for an adult to move through.
8. Each bedroom used by a foster child or child in a residential group care facility receiving care or services has two exits to the outside.
  - a. One exit shall be a path through the premises and leading to a door that opens to the outside. A garage door that opens either manually by lifting or with an automatic opener shall not be accepted as an exit.
  - b. Another exit shall be a window or door within the bedroom that opens directly to the outside.
9. Premises authorized to provide care or services to five or more children shall train staff and children in evacuation procedures and conduct emergency drills at least every three months as prescribed in this subsection.
  - a. Practice drills shall include actual evacuation of children to safe areas, outside, and beyond the home.
  - b. Drills shall be held at random times and under varying conditions to simulate the possible conditions in case of fire or other disaster.
  - c. All persons in the home shall participate in the drill.
  - d. Records shall be maintained for each emergency drill and shall include:
    - i. Date and time of drill;
    - ii. Total evacuation time;
    - iii. Exits used;
    - iv. Problems noted; and
    - v. Measures taken to ensure that a foster child or a child in a residential group home facility understand the purpose of a drill and his or her responsibilities during a drill.
10. The exit routes for the home are clear of obstruction that could prevent safe and rapid evacuation.
11. The locks on exterior doors and windows, including the front door, screen doors, and bars on windows, are equipped with a quick release mechanism. A quick release mechanism is a lock that can be opened from inside the setting without special knowledge (such as a combination) or equipment (such as a key). The Department ~~may~~ grant an exception to this requirement for a double-key deadbolt on a door if:
  - a. There is breakable glass within 40 inches of the interior locking mechanism;
  - b. There is another exit with a quick release mechanism on the same level of the premises; and
  - c. The key for the deadbolt is permanently maintained in a location that is:
    - i. Within six feet of the locking mechanism;
    - ii. Accessible to all household members;



- iii. Reviewed with persons residing in or receiving care in the home; and
- iv. Identified on the emergency evacuation plan, specified in subsection (6).
- 12. The address for the home is posted and visible from the street, or the local emergency response team, such as the local fire department, is notified of the location of the home in writing, with a copy of this notification maintained in the home.
- 13. Providers must maintain a comprehensive list of emergency telephone numbers, including poison control, and post those numbers in a prominent place in the home.

**R21-8-113. Pool Safety**

- A. No change
- B. For a home that has a pool, and provides care to a child six years of age or less, or an individual with a Developmental Disability, the provider shall ensure the following:
  - 1. That the pool complies with A.R.S. § 36-1681 and all local municipal codes to the extent not inconsistent with this Section.
  - 2. A fence or barrier meeting the following requirements is maintained between the pool and the home, or any building used to provide care and supervision.
    - a. The exterior side of the fence or barrier is at least five feet high;
    - b. If the barrier is a chain link fence or lattice, each opening in the mesh measures less than 1 3/4 inches horizontally. Chicken wire and other light gauge wire are prohibited as a primary fencing material for the pool;
    - c. If the barrier is a fence constructed of vertical bars or wooden slats, the openings between bars or slats measure less than four inches;
    - d. The exterior side of the barrier is free of hand holds or foot holds or other means that could be used to climb over it and if it has a horizontal component spaced at least 45 inches, measured vertically;
    - e. The gate to the enclosure is locked, except when in use and there is an adult within the enclosure to supervise the pool and spa area;
    - f. The connection between the panels of the fence cannot be separated without a key or a tool;
    - g. The fence is secured to the ground or has sufficient tension to prevent the fence from being lifted more than four inches from the ground;
    - h. If the home or building to provide care or supervision constitutes part of the enclosure:
      - i. The enclosure does not interfere with safe egress from the home;
      - ii. A door from the home does not open within the pool enclosure; unless it is a bedroom door in a bedroom not occupied by an individual under the age of seven receiving care and such such a door cannot be opened by a foster child under the age of seven or child in a residential group care facility because it is either permanently locked as required in R21-8-112(6)(c)(iii) or barricaded inoperable. Any key shall not be accessible to a foster child under the age of seven or child in a residential group care facility;
      - iii. A window located in a room that is designated as a bedroom for a foster child under the age of seven or child in a residential group care facility shall not open into the pool enclosure; or shall be permanently locked and not used for egress; and
      - iv. Other windows that open into the pool enclosure are ~~permanently secured to open no more than four inches; as required in R21-8-122(c)(ii).~~
      - v. Animal or doggie doors shall not open directly into the pool enclosure.
  - 3. A pool shall have its methods of access through the barrier equipped with a safety device, such as a bolt lock:
    - a. Gates should be self-closing and self-latching, maintained in good repair, and open out or away from the pool.
    - b. The gate latch is at least 54" above the ground and is equipped with a key or combination lock.
  - 4. If the swimming pool cannot be emptied after each use, the pool must have a working pump and filtering system.
  - 5. Hot tubs and spas must have safety covers that are locked when not in use.
  - 6. Hot tubs and spas that are drained must be disconnected from the power and water source and have safety covers that are always locked.
- C. No change
- D. No change
- E. No change
- F. 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 them. 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 4. PROFESSIONS AND OCCUPATIONS  
CHAPTER 9. REGISTRAR OF CONTRACTORS**

[R17-60]

**PREAMBLE**

- |   |  |
|---|--|
| <p><b>1. <u>Article, Part, or Section Affected (as applicable)</u></b><br/>R4-9-102</p> | <p><b><u>Rulemaking Action</u></b><br/>Amend</p> |
|---|--|
- 2. Citations to the agency’s statutory rulemaking authority to include both the authorizing statute (general) and the implementing statute (specific):**  
 Authorizing statute: A.R.S. § 32-1104(A)(5) and A.R.S. § 32-1105  
 Implementing statute: Arizona Revised Statutes, Title 32, Chapter 10
- 3. The effective date of the rule:**  
 June 11, 2017
- a. If the agency selected a date earlier than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):**  
 Not applicable
- b. If the agency selected a date later than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):**  
 Not applicable
- 4. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:**  
 Notice of Rulemaking Docket Opening: 22 A.A.R. 3708, December 30, 2016  
 Notice of Proposed Rulemaking: 22 A.A.R. 3689, December 30, 2016
- 5. The agency’s contact person who can answer questions about the rulemaking:**  
 Name: Jim Knupp, Legislative Liaison  
 Address: Registrar of Contractors  
 1700 W. Washington St., Suite 105  
 Phoenix, AZ 85007  
 Telephone: (602) 771-6710  
 E-mail: jim.knupp@azroc.gov  
 Web site: https://roc.az.gov
- 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 Agency proposes to increase the dollar limit for projects for a contracting license classification to ensure licensees are able to contract for work envisioned by the construction industry and the Agency. The rulemaking also clarifies the scope of work allowed to be performed by the licensee.  
 From 1980 to 1991, the dollar limit for an entity holding a B-2 Small Commercial Contractor license was to not exceed \$175,000.00 per project. From 1991 to 2014, the limit was increased to not exceed \$250,000.00 per project. Effective July 1, 2014, a rulemaking amendment increased the limit to not exceed \$750,000.00 per project.  
 The most recent increase was long overdue as the cost of construction increased regardless of whether the Agency’s amending of Rules kept pace. In fact, some, including those within the Agency, believe the increase was not significant enough to realistically enable B-2 license holders to contract for work envisioned by the classification.  
 The Agency proposes to increase the dollar limit for projects the B-2 General Small Commercial Contractor contracting license classification to not exceed \$2,000,000.00. The limit is currently \$750,000.00.



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

Not applicable

**8. A showing of good cause why the 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:**

The Agency foresees only minor economic impacts based on the proposed change. These impacts include the B-2 licensee being able to contract-for higher cost projects and increased competition between two classifications for projects existing between the current dollar limit and the proposed dollar limit.

Based on permits pulled from Maricopa County Planning and Development in 2016, the Agency found increasing the dollar limit from \$750,000.00 to \$2,000,000.00 would enable the B-2 license classification to perform 8 percent more projects (or 13 more projects with an average permit valuation by parcel of \$1,316,152.54).

Currently, projects costing between \$750,000.00 and \$2,000,000 are performed by B-1 General Contractors. Competition would increase for the 8 percent of projects existing within this range. The B-1, however, continues to be able to perform all of the work permitted by the B-2 and remains solely able to perform 80 percent of the permit valuations.

**10. A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:**

No changes

**11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:**

At the time proposed rulemaking and docket opening were published in the Secretary of State's Register, there were 2,359 B-1 General Commercial Contractors and 867 B-2 General Small Commercial Contractors.

The Agency sent email notification to all B-1 and B-2 licensees for which it has an email address. This totaled 2,744 email contacts or 85 percent of impacted licensees. Additionally, the Agency also sent notification to 39 contracting associations statewide, for which it has email addresses.

During and after comment period, ending on Jan. 29, 2017, the Agency received eight comments by email and none by mail. Six individuals expressed appreciation for the rulemaking and believe it would allow them to bid for reasonably sized projects. One was opposed to the rulemaking; stating the B-2 lacks the experience and education to perform projects up to \$2,000,000 and suggests continuing education credits. This rulemaking is simply clarifying scope language and bringing the B-2 classification into alignment with the actual costs of construction for projects the Agency already intends the licensee to be permitted to contract-for. The type of work related to the scope of work permitted is not changing, instead only the dollar amount. As it relates to the size of projects, the B-2 applicant is already tested-for the requisite knowledge and the required experience must already be submitted with its application. Finally, one comment expressed concern that the rulemaking would result in a fee increase on the B-2 licensees. This is not the case however.

**12. 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:**

None

**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:**

The agency does not issue general permits because activities or practices in license classifications are not substantially similar in nature. Statutes require the agency to classify licenses in a manner consistent with established usage and procedure found in the construction business.

**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:**

Not applicable

**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:**

Not applicable

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

None

**14. Whether the rule was previously made, amended or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:**

Not applicable

**15. The full text of the rules follows:**



**TITLE 4. PROFESSIONS AND OCCUPATIONS**  
**CHAPTER 9. REGISTRAR OF CONTRACTORS**  
**ARTICLE 1. GENERAL PROVISIONS**

Section  
 R4-9-102. Commercial Contractor License Classifications and Scopes of Work

**ARTICLE 1. GENERAL PROVISIONS**

**R4-9-102. Commercial Contractor License Classifications and Scopes of Work**

**A.** No change

ENGINEERING CONTRACTING

- A- No change
- A-4 No change
- A-5 No change
- A-7 No change
- A-9 No change
- A-11 No change
- A-12 No change
- A-14 No change
- A-15 No change
- A-16 No change
- A-17 No change
- A-19 No change

GENERAL COMMERCIAL CONTRACTING

- B-1 No change
- B-2 No change

SPECIALTY COMMERCIAL CONTRACTING

- C-4 No change
- C-6 No change
- C-9 No change
- C-11 No change
- C-16 No change
- C-27 No change
- C-37 No change
- C-39 No change
- C-49 No change
- C-53 No change
- C-58 No change
- C-74 No change
- C-77 No change
- C-78 No change
- C-79 No change

**B.** Commercial contracting scopes. The scope of work which may be done under the commercial contracting license classifications is as follows:

**A-** GENERAL ENGINEERING  
 No change

- 1. No change
- 2. No change
- 3. No change
- 4. No change
- 5. No change
- 6. No change
- 7. No change
- 8. No change
- 9. No change
- 10. No change
- 11. No change

No change

A-4 No change

No change

A-5 EXCAVATING, GRADING AND OIL SURFACING

No change

- 1. No change
- 2. No change



- 3. No change
- 4. No change
- 5. No change
- 6. No change
- A-7 PIERS AND FOUNDATIONS  
No change
- A-9 SWIMMING POOLS  
No change
- A-11 STEEL AND ALUMINUM ERECTION  
No change
- A-12 SEWERS, DRAINS AND PIPE LAYING  
No change
- A-14 ASPHALT PAVING  
No change
- A-15 SEAL COATING  
No change
- A-16 WATERWORKS  
No change
- A-17 ELECTRICAL AND TRANSMISSION LINES  
No change
- A-19 SWIMMING POOLS, INCLUDING SOLAR  
No change
- B-1 GENERAL COMMERCIAL CONTRACTOR  
No change
- B-2 GENERAL SMALL COMMERCIAL CONTRACTOR

Small commercial construction in connection with any new structure or addition built, being built, or to be built for the support, shelter and enclosure of persons, animals, chattels or movable property of any kind for which the total amount paid to the licensee does not exceed ~~\$750,000~~ \$2,000,000. This scope includes the supervision of all or any part of the above and includes the management or direct or indirect supervision of any work performed.

~~Also included are the scopes of work allowed by the CR 2 through CR 80 license classifications.~~ Work related to electrical, plumbing, fire protection systems, air conditioning systems, boilers, swimming pools, spas and water wells must be sub-contracted to an appropriately licensed contractor. This classification does not include work authorized by the A-, B-, ~~or~~ B-3, or residential scopes.

- C-4 BOILERS, STEAMFITTING AND PROCESS PIPING  
No change
- C-6 SWIMMING POOL SERVICE AND REPAIR  
No change
- C-9 CONCRETE  
No change
- C-11 ELECTRICAL  
No change
- C-16 FIRE PROTECTION SYSTEMS  
No change
- C-27 LIGHTWEIGHT PARTITIONS  
No change
- C-37 PLUMBING  
No change



- C-39 AIR CONDITIONING AND REFRIGERATION
  - No change
  - No change
  - No change
  - No change
- C-49 REFRIGERATION
  - No change
  - No change
  - No change
  - No change
- C-53 WATER WELL DRILLING
  - No change
  - No change
  - No change
  - No change
- C-58 COMFORT HEATING, VENTILATING,  
EVAPORATIVE COOLING
  - No change
  - No change
  - No change
- C-74 BOILERS, STEAMFITTING AND PROCESS  
PIPING, INCLUDING SOLAR
  - No change
  - No change
- C-77 PLUMBING INCLUDING SOLAR
  - No change
  - No change
  - No change
  - No change
- C-78 SOLAR PLUMBING LIQUID SYSTEMS ONLY
  - No change
  - No change
  - No change
  - No change
- C-79 AIR CONDITIONING AND REFRIGERATION  
INCLUDING SOLAR
  - No change
  - No change
  - No change
  - No change
  - No change



NOTICES OF FINAL EXEMPT RULEMAKING

This section of the Arizona Administrative Register contains Notices of Final Exempt Rulemaking.

The Office of the Secretary of State is the filing office and publisher of these rules.

Questions about the interpretation of the final exempt rule should be addressed to the agency proposing them.

Refer to Item #5 to contact the person charged with the rulemaking.

NOTICE OF FINAL EXEMPT RULEMAKING
TITLE 12. NATURAL RESOURCES
CHAPTER 4. GAME AND FISH COMMISSION

[R17-61]

PREAMBLE

- 1. Article, Part, or Section Affected (as applicable) Rulemaking Action
2. Citations to the agency's statutory authority to include the authorizing statute (general) and the implementing statute (specific):
3. The effective date of the rule and the agency's reason it selected the effective date:
4. A list of all previous notices published in the Register as specified in R1-4-409(A) that pertain to the record of the exempt rulemaking:
5. The agency's contact person who can answer questions about the rulemaking:

6. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:
An exemption from Executive Order 2015-01 was provided for this rulemaking by Hunter Moore, Natural Resource Policy Advisor, Governor's Office, in an email dated July 7, 2016.

R12-4-504. Watercraft Fees; Penalty for Late Registration; Staggered Registration Schedule

The objective of the rule is to establish motorized watercraft registration, watercraft transfer, duplicate registration and decal, and dealer certificate of number fees, the penalty for late registration, and a staggered watercraft registration schedule.

According to the U.S. Bureau of Labor Statistics, inflation is expected to pick up moderately with an annual growth rate of 2.8%. The Commission proposes to amend the rule to increase watercraft fees as follows: \$13 watercraft transfer fee and \$8 duplicate certificate of number or annual decal fee.



when rounded to the nearest dollar. In addition, these fees are in line with fees charged by other Western states for similar services. The Commission proposes to amend the rule to increase the dealer certificate of number fee to \$20. A dealer certificate of number allows a watercraft dealer to demonstrate any number and type of unregistered watercraft to a potential buyer. In establishing this fee, the Department benchmarked with other Western states and the Arizona Motor Vehicle Department. Because the dealer certificate of number may be used on multiple watercraft offered by the watercraft dealer, the watercraft dealer need only purchase one but may purchase as many as they deem necessary.

An abandoned watercraft is a watercraft that has remained on private property without the consent of the property owner or left unattended for 48 hours or more on public property, 72 hours or more on state or federal lands, or 14 days or more on a state or federal waterway. An unreleased watercraft is a watercraft for which there is no written release of interest from the registered owner. The abandoned/unreleased watercraft process involves: opening and date stamping each application received for time frame accuracy; reviewing each application for accuracy and, when needed, contacting the applicant to verify/correct information or preparing and mailing correspondence for incomplete applications or applications with errors; contacting other state boating agencies to obtain owner and watercraft information when the application is for a watercraft that is not registered in Arizona; when needed, contacting law enforcement agencies for consultation; contacting regional offices to conduct off-site inspections when the applicant is unable to transport the watercraft to the Department for an inspection; searching the U.S. Coast Guard's Vessel Information System when the origin for the watercraft cannot be determined; entering each application into watercraft database; extracting, merging, printing, copying, mailing, and filing correspondence/certified letters for each application to ensure accurate records are created and maintained; preparing and processing the monthly newspaper advertisement and completing and filing an affidavit of publication for each watercraft included in the advertisement; preparing and printing the forms and letters; tracking and monitoring the application process, updating and reviewing the database daily to ensure compliance with timeframe deadlines, and ensuring applicable reports are updated and cross-referenced throughout the process; and, when applicable, processing the watercraft transfer transaction. The Department expends approximately \$143 to process an abandoned or unreleased watercraft application; this cost reflects the administrative process only and does not include costs incurred when a law enforcement investigation is required. However, rather than establish a fee that recovers the costs of providing a service now and into the future, the Commission proposes to establish a \$100 application fee for abandoned/unreleased watercraft to help defray the costs and burdens the Department incurs in processing these transactions.

Under A.R.S. § 5-323(1)(a), 65% of the watercraft registration revenue shall be used to administer and enforce watercraft and boating sport statutes, provide an information and education program relating to boating and boating safety, and administer the aquatic invasive species program. Resources spent processing duplicate watercraft registrations, duplicate decals, watercraft transfers, and abandoned/unreleased applications in excess of revenues received for providing those services reduces the Department's ability to adequately fund law enforcement patrol and support, information and education program outreach relating to boating and boating safety, and the aquatic invasive species program.

#### **R12-4-507. Transfer of Ownership of an Abandoned or Unreleased Watercraft**

The objective of the rule is to establish requirements for transferring ownership of an unreleased or abandoned watercraft. Under R12-4-501, "abandoned watercraft" includes any watercraft that has remained on private property without the consent of the private property owner. An "unreleased watercraft" is a watercraft for which there is no written release of interest from the registered owner. The Commission proposes to amend the rule to require a person submitting an abandoned/unreleased watercraft application to pay the fee required under R12-4-504 to help defray the costs and burdens the Department incurs in processing these applications.

#### **R12-4-527. Transfer of Ownership of a Towed Watercraft**

The objective of the rule is to establish transfer of ownership requirements for a watercraft in possession of a towing company and ensure compliance with A.R.S. § 5-399 and 5-399.01, which prescribes the basic procedures that allow a towing company to take ownership of a watercraft left unclaimed. Under A.R.S. § 5-399.02, the Department may transfer ownership of a towed watercraft to a towing company free and clear of all liens or encumbrances after receiving an application and the required fee. The Department utilizes the same process for towed watercraft as is used for the abandoned/unreleased watercraft process. The Commission proposes to amend the rule to require a tow company submitting an unclaimed towed watercraft application to pay the fee required under R12-4-504 (\$100) to help defray the costs and burdens the Department incurs in processing these applications and maintain consistency among Article 5 rules. This amendment is authorized under A.R.S. § 5-399.03 which states, "The department may establish fees to implement this article."

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

The agency did not rely on any study in its evaluation of or justification for the rules.

**8. A showing of good cause why the rule 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. The summary of the economic, small business, and consumer impact, if applicable:**

Exempt under A.R.S. § 41-1005(A)(1).

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

Not applicable



**11. A summary of the public stakeholder comments made about the rulemaking and the agency response to the comments. (if applicable):**

The Department posted the draft Notice of Exempt Rulemaking to the Department's website, from February 3 to March 5, 2017, for the purpose of public comment. In addition, on February 3, 2017, the Department emailed information regarding the proposed changes included in the draft Notice of Exempt Rulemaking to all licensed watercraft agents, the President of the Arizona Professional Towing and Recovery Association, Inc., and persons interested in receiving rulemaking notices. The Department also issued a press release regarding the proposed changes included in the draft Notice of Exempt Rulemaking and the Department's contact information for persons interested in submitting a comment.

On February 22, 2017, Department representatives met with licensed watercraft agents and dealers located in Lake Havasu City. This meeting was followed by a meeting with the general membership of the Lake Havasu Marine Association. The meeting was pre-announced in their newsletter that has wide distribution. Between the two meetings, approximately 80 persons were in attendance. Both groups were presented with the proposed changes to the Article 5 rules, very few questions were made in response to the presentations. One commenter asked if the watercraft registration period could be extended from one year to two years. The Department responded that, in compliance with U.S. Coast Guard regulations (which is required under A.R.S. § 5-311), the Department may only register a watercraft for a period of one-year. Other commenter's questions were seeking clarification of proposed changes; none of the members present at either meeting expressed opposition to the proposed amendments. Most attendees seemed satisfied with the proposed amendments and the Department's justification for the rule changes.

The Department received the following public or stakeholder comments in response to the proposed rulemaking:

**Written Comment: February 13, 2017:** On every boat registration transfer the employees at boat registration say the signature does not match, so they cannot do the transfer. At present, by law the watercraft registration employees have to check with the prior owner with no fee. I believe this is not done, but they claim to do this to justify their jobs. If I get charged \$100 for this expert graphology, I will see you in court.

**Agency Response:** The rulemaking does not impose a fee when the owner's signature(s) does not match the information on record; a person would only need to obtain a notarized bill of sale from the person they purchased the watercraft from, which is required under A.R.S. § 5-321(G). The Commission proposes to collect a \$100 fee only when a person finds or purchases a watercraft without the proper paperwork, such as a properly assigned title or bill of sale. The Department conducted a process/cost analysis and determined the Department expends no less than \$143 in resources to process one of these transactions; this does not include the time/cost when an enforcement officer has to perform an inspection or conduct an investigation. The Department anticipates the proposed fee will impact less than 4% of our watercraft customers and those customers will still have the option to obtain the proper paperwork on their own instead of paying the proposed fee.

**12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. Additional matters include but are not limited to:**

**a. Whether the rule requires a permit, whether a general permit is used, and if not, the reason why a general permit is not used:**

The rule does not require the issuance of a regulatory permit, license, or agency authorization.

**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:**

Federal law is not directly applicable to the subject of the rules. The rules are based on state law.

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

The agency has not received an analysis that compares the rule's impact of competitiveness of business in this state to the impact on business in other states.

**13. A list of any incorporated material and its location in the rule:**

Not applicable

**14. Whether the rule was previously made, amended, repealed, or renumbered as an emergency rule? If so, shall state where the text changed between the emergency and exempt rulemaking packages:**

The rule was not previously made, amended, repealed, or renumbered as an emergency rule.

**15. The full text of the rules follows:**

**TITLE 12. NATURAL RESOURCES  
CHAPTER 4. GAME AND FISH COMMISSION  
ARTICLE 5. BOATING AND WATER SPORTS**

Section

- R12-4-504. Watercraft Fees; Penalty for Late Registration; Staggered Registration Schedule
- R12-4-507. Transfer of Ownership of an Abandoned or Unreleased Watercraft
- R12-4-527. Transfer of Ownership of a Towed Watercraft

**ARTICLE 5. BOATING AND WATER SPORTS**

**R12-4-504. Watercraft Fees; Penalty for Late Registration; Staggered Registration Schedule**

- A. The following fees are required, when applicable as authorized under A.R.S. §§ 5-321 and 5-322:
  - 1. Motorized watercraft registration fees are assessed as follows:



- a. Twelve feet and less: \$20
  - b. Twelve feet one inch through sixteen feet: \$22
  - c. Sixteen feet one inch through twenty feet: \$30
  - d. Twenty feet one inch through twenty-six feet: \$35
  - e. Twenty-six feet one inch through thirty-nine feet: \$39
  - f. Thirty-nine feet one inch through sixty-four feet: \$44
  - g. Sixty-four feet one inch and over: \$66
  - h. For the purposes of this subsection, the length of the motorized watercraft shall be measured in the same manner prescribed under A.R.S. § 5-321(C).
2. Motorized watercraft transfer fee: ~~\$4~~ \$13.
  3. Duplicate motorized watercraft registration: ~~\$2~~ \$8.
  4. Duplicate decal: ~~\$2~~ \$8.
  5. Watercraft dealer certificate of number: ~~\$2-50~~ \$20.
  6. Abandoned or unreleased watercraft application fee: \$100.
  7. Unclaimed towed watercraft application fee: \$100.
- B.** The Department or its agent shall collect the entire registration fee for a late registration renewal and a penalty fee of \$5, unless exempt under A.R.S. § 5-321(L) or the expiration date falls on a Saturday, Sunday, or state holiday, and the registration is renewed before the close of business on the next working day. The Department or its agent shall not assess a penalty fee when a renewal is mailed before the expiration date, as evidenced by the postmark.
- C.** All new watercraft registrations expire 12 months after the date of issue.
- D.** Resident and nonresident watercraft registration renewals:
1. Shall be valid for a period of 7 to 18 months depending on the expiration month.
    - a. This provision applies to the initial renewal period, only.
    - b. The Department shall prorate fees accordingly.
  2. May be renewed up to six months prior to the expiration month.
  3. Shall expire on the last day of the month indicated by the last two numeric digits of the AZ number, as shown in the following table:

Last two numeric digits of AZ number									Expiration month
00	12	24	36	48	60	72	84	96	December
01	13	25	37	49	61	73	85	97	January
02	14	26	38	50	62	74	86	98	February
03	15	27	39	51	63	75	87	99	March
04	16	28	40	52	64	76	88		April
05	17	29	41	53	65	77	89		May
06	18	30	42	54	66	78	90		June
07	19	31	43	55	67	79	91		July
08	20	32	44	56	68	80	92		August
09	21	33	45	57	69	81	93		September
10	22	34	46	58	70	82	94		October
11	23	35	47	59	71	83	95		November

- E.** Watercraft dealer, manufacturer, and governmental use registration renewals expire on October 31 of each year.
- F.** Livery and all other commercial use registration renewals expire on November 30 of each year.
- R12-4-507. Transfer of Ownership of an Abandoned or Unreleased Watercraft**
- A.** A person who has knowledge and custody of a watercraft abandoned on private property owned by that person may attempt to obtain ownership of the watercraft by way of the abandoned watercraft transfer process. A lienholder of foreclosed real property may assign an agent to act on its behalf.
- B.** The last registered owner of an abandoned or unreleased watercraft is presumed to be responsible for the watercraft, unless the watercraft is reported stolen.
- C.** The operator of a self-storage facility located in this state and having a possessory lien shall comply with the requirements prescribed under A.R.S. Title 33, Chapter 15, Article 1 when attempting to obtain ownership of a watercraft abandoned while in storage.
- D.** A person having a possessory lien under a written rental agreement shall comply with the requirements prescribed under A.R.S. Title 33, Chapter 7, Article 6 when attempting to obtain ownership of a watercraft for which repairs or service fees remain unpaid.
- E.** Only a person acting within the scope of official duties as an employee or authorized agent of a government agency may order the removal of a watercraft abandoned on public property or a public waterway.
- F.** A person seeking ownership of an abandoned or unreleased watercraft shall submit an application to the Department and pay the fee established under R12-4-504. The application is furnished by the Department and available at any Department office. The application shall include the following information, if available:
1. Hull identification number, unless exempt under R12-4-505;
  2. Registration number;
  3. Decal number;



- 4. State of registration;
- 5. Year of registration;
- 6. Name, address, and daytime telephone number of the person who found the watercraft;
- 7. For abandoned watercraft:
  - a. Address or description of the location where the watercraft was found,
  - b. Whether the watercraft was abandoned on private or public property, and
  - c. When applicable, for watercraft abandoned on private property, whether the applicant is the legal owner of the property;
- 8. Condition of the watercraft: wrecked, stripped, or intact;
- 9. State in which the watercraft will be operated;
- 10. Length of time the watercraft was abandoned;
- 11. Reason why the applicant believes the watercraft is abandoned; and
- 12. Signature of the applicant, acknowledged before a Notary Public or witnessed by a Department employee.
- G.** This state and its agencies, employees, and agents are not liable for relying in good faith on the contents of the application.
- H.** The Department shall attempt to determine the name and address of the registered owner by:
  - 1. Conducting a search of its watercraft database when documentation indicates the watercraft was previously registered in this state, or
  - 2. Requesting the watercraft record from the other state when documentation indicates the watercraft was previously registered in another state.
- I.** If the Department is able to determine the name and address of the registered owner, the Department shall send written notice of the applicant’s attempt to register the watercraft to the owner by certified mail, return receipt requested.
  - 1. If service is successful or upon receipt of a response from the registered owner, the Department shall send the following written notification to the applicant, as appropriate:
    - a. If the registered owner provides a written release of interest in the watercraft, the Department shall mail the release of interest and an abandoned or unreleased watercraft approval letter to the applicant. The applicant shall apply for watercraft registration in compliance with the requirements established under R12-4-502.
    - b. If the registered owner provides written notice to the Department refusing to release interest in the watercraft, the Department shall notify the applicant of the owner’s refusal. The Department shall not register the watercraft to the applicant unless the applicant provides proof of ownership and complies with the requirements established under R12-4-502.
    - c. If the registered owner does not respond to the notice in writing within 30 days from the date of receipt, the Department shall notify the applicant of the owner's failure to respond. The Department shall not register the watercraft to the applicant unless the applicant provides proof of ownership and complies with the requirements established under R12-4-502;
    - d. If the registered owner does not respond to the notice within 180 days from the date of receipt of the notice, this failure to act shall constitute a waiver of interest in the watercraft by any person having an interest in the watercraft, and the watercraft shall be deemed abandoned for all purposes. The Department shall mail an abandoned or unreleased watercraft approval letter to the applicant. The applicant shall apply for watercraft registration in compliance with the requirements established under R12-4-502.
  - 2. If the written notice is returned unclaimed or refused, the Department shall notify the applicant within 15 days of the notice being returned that the attempt to contact the registered owner was unsuccessful.
- J.** If the Department is unable to identify or serve the registered owner, the Department shall publish a notice of intent once in a newspaper or other publication of general circulation in this state within 45 days of the Department’s notification to the applicant as provided in subsection (I)(2).
  - 1. The published notice shall include a statement of the Department’s intent to transfer ownership of the watercraft ten days after the date of publication, unless the Department receives notice from the registered owner refusing to release interest in the watercraft within that ten day period following publication.
  - 2. Upon request, the Department shall make available to the public a description of the abandoned or unreleased watercraft subject to transfer of ownership.
  - 3. If the watercraft remains unclaimed after the ten day period, the Department shall mail an abandoned or unreleased watercraft approval letter to the applicant. The applicant shall apply for watercraft registration in compliance with the requirements established under R12-4-502.
- K.** A government agency may submit an application for authorization to dispose of a junk watercraft abandoned on state or federal lands or waterways. The application is furnished by the Department and is available at any Department Office. Upon receipt of the application, the Department shall attempt to determine the name and address of the registered owner. If the Department is unable to identify and serve the registered owner, the Department shall publish a notice of intent to authorize the disposal of the junk watercraft as described in subsection (J).
  - 1. The published notice shall include a statement of the Department’s intent to authorize the disposal of the watercraft ten days after the date of publication, unless the Department receives notice from the registered owner refusing to release interest in the watercraft within that ten day period following publication.
  - 2. If the watercraft remains unclaimed after the ten day period, the Department shall mail an authorization to dispose of the junk watercraft to the government agency. The government agency may dispose of the abandoned watercraft and all indicia for that watercraft in any manner the agency determines expedient or convenient.

**R12-4-527. Transfer of Ownership of a Towed Watercraft**

- A.** For the purpose of this Section, “towed watercraft” means a watercraft that has been impounded by and is in the possession of a towing company located in this state.
- B.** Within 15 days of impounding a watercraft, a towing company shall submit a request to the Department for watercraft registration information as prescribed under A.R.S. § 5-324 and in compliance with A.R.S. § 5-399. The towing company shall present the towed



- watercraft to the closest Department office for identification if there is no discernible hull identification number or state-issued registration number.
- C. Within 15 days of receiving the watercraft registration information from the Department, the towing company shall provide written notification by certified mail return receipt requested to the owner and lienholder, if known, of the watercraft's location.
- D. If a watercraft remains unclaimed after mailing the notice required under subsection (C) of this Section, the towing company shall submit all of the following to the Department within 15 days of sending the written notification to the owner and lienholder, when known:
1. Evidence of compliance with notification requirements prescribed under A.R.S. § 5-399(A) and subsection (C);
  2. A report on a form furnished by the Department and available at any Department office. The form shall include all of the following information:
    - a. Name of towing company;
    - b. Towing company's business address;
    - c. Towing company's business telephone number;
    - d. Towing company's Arizona Department of Public Safety tow truck permit number;
    - e. Towed watercraft's hull identification number, ~~if known~~;
    - f. Towed watercraft's state-issued registration number, registration decal, and year of expiration, ~~if known~~;
    - g. Towed watercraft's trailer license number, if available;
    - h. State and year of trailer registration, if available;
    - i. Towed watercraft's color and manufacturer, ~~if known~~;
    - j. Towed watercraft's condition, whether intact, stripped, damaged, or burned, along with a description of any damage;
    - k. Date the watercraft was towed;
    - l. Location from which the towed watercraft was removed;
    - m. Entity that ordered the removal of the towed watercraft, and if a law enforcement agency, include officer badge number, jurisdiction, and copy of report or towing invoice;
    - n. Location where the towed watercraft is stored;
    - o. Name and signature of towing company's authorized representative; and
  3. ~~Twenty-five dollar~~ The unclaimed towed watercraft application fee authorized under A.R.S. § 5-399.03(2) and established under R12-4-504.
- E. The towing company shall notify the Department within 24 hours if the watercraft is released, returned to, redeemed, or repossessed by the owner, lienholder, or by a person identified in the Department's record as having an interest in the watercraft.
- F. If the Department is unsuccessful in its attempt to identify or contact the registered owner or lienholder of the towed watercraft and has determined the towed watercraft is not stolen, the towing company shall follow:
  1. Follow the application procedures established under A.R.S. § 5-399.02(B), and
  2. Apply for watercraft registration as established under R12-4-502.
- G. A towing company that obtains ownership of a watercraft pursuant to A.R.S. § 5-399.02 and this Section shall maintain the following records for a period of three years from the date the Department transferred ownership of the towed watercraft:
  1. The request made pursuant to A.R.S. § 5-324.
  2. The notification provided pursuant to A.R.S. § 5-399.
  3. The application for transfer of ownership pursuant to A.R.S. § 5-399.02.
  4. Any other documents required by the Department.



NOTICES OF EMERGENCY RULEMAKING

This section of the Arizona Administrative Register contains Notices of Emergency Rulemaking.

The Office of the Secretary of State is the filing office and publisher of these rules.

Questions about the interpretation of the emergency rules should be addressed to the agency proposing them. Refer to Item #5 to contact the person charged with the rulemaking.

NOTICE OF EMERGENCY RULEMAKING
TITLE 21. CHILD SAFETY
CHAPTER 8. DEPARTMENT OF CHILD SAFETY
FOSTER HOME AND CHILD WELFARE AGENCY FACILITY SAFETY

[R17-62]

PREAMBLE

- 1. Article, Part, or Section Affected (as applicable) Rulemaking Action
2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):
3. The effective date of the rule:
4. Citations to all related emergency rulemaking notices published in the Register as specified in R1-1-409(A) that pertain to the record of this notice of emergency rulemaking:
5. The agency's contact persons who can answer questions about the rulemaking:
6. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:



more licensed foster homes to protect the health and wellbeing of the children in Arizona.

- 7. **A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**  
Not applicable
- 8. **A showing of good cause why the 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:**  
Amending these rules will have a positive economic impact for foster home and Child Welfare Agency applicants. Homes with a bedroom leading to a pool enclosure will not have to undergo a significant renovation to be compliant with fire and pool safety rules. The amended rules will not require any additional safeguards that are not already required by state law, county code, and municipal ordinances in the State of Arizona.
- 10. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include but are not limited to:**
  - 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:**  
The rules pertain to a requirement for foster home and Child Welfare Agency licensing. A general permit is not used. The Department is exempt from issuing a general permit for foster homes, (A.R.S. 8-503), and Child Welfare Agencies (A.R.S. § 8-505) under A.R.S. § 41-1037(A)(5).
  - 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:**  
42 U.S.C. 671. The rules are not more stringent than federal law.
  - 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:**  
Not applicable
- 11. **A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rule:**  
Not applicable
- 12. **An agency explanation about the situation justifying the rulemaking as an emergency rule:**  
The emergency rulemaking is needed to amend fire safety and pool safety requirements for foster home applicants and Child Welfare Agencies applying to operate residential group care facilities whose homes have a bedroom that has an exit that leads into a pool enclosure. The amended rule allows for this circumstance, with specified safety precautions; whereas the existing rule does not permit this circumstance. Amending these rules will reduce the regulatory burden for residents of foster homes, or owners of residential group care facilities, who otherwise would need to make structural changes to the home for it to be eligible for licensure.
- 13. **The date the Attorney General approved the rule:**  
April 14, 2017
- 14. **The full text of the rules follows:**

**TITLE 21. CHILD SAFETY**  
**CHAPTER 8. DEPARTMENT OF CHILD SAFETY**  
**FOSTER HOME AND CHILD WELFARE AGENCY FACILITY SAFETY**  
**ARTICLE 1. LIFE SAFETY INSPECTIONS**

Section  
R21-8-112. Fire Safety and Evacuation Plan Requirements  
R21-8-113. Pool Safety

**ARTICLE 1. LIFE SAFETY INSPECTIONS**

**R21-8-112. Fire Safety and Evacuation Plan Requirements**

The provider shall ensure:

- 1. The premises is free of obvious fire hazards, such as defective heating equipment, or improperly stored flammable materials. Household heating equipment must be equipped with appropriate safeguards, maintained as recommended by the manufacturer.
- 2. Flammables and combustibles are stored more than three feet from water heaters, furnaces, portable heaters, fire-places, and wood-burning stoves.
- 3. If the premises has a working fireplace or wood-burning stove, it is protected by a fire screen sufficient to shield the room from open flames and flying embers.
- 4. A functioning fire extinguisher with a rating of “2A 10BC” or greater is available near the kitchen area. If the home has multiple levels at least one functioning fire extinguisher with a rating of “2A 10BC” or greater is available on each level.
- 5. At least one UL approved and working smoke detector is installed:
  - a. In the main living or program area of the setting;



- b. In each bedroom, if overnight care is provided; and
- c. On each level of a multiple-level setting.
- 6. A written emergency evacuation plan is developed and maintained in the home, to provide guidance on the safe and rapid evacuation of the home. An emergency evacuation plan shall:
  - a. Be reviewed with the child within 72 hours of placement in the home and posted in a prominent place in the home;
  - b. Identify multiple exits from the home;
  - c. Identify two routes of evacuation from each bedroom on every floor used by individuals residing in or receiving care in the home. At least one of the exit routes for these bedrooms shall lead leads directly to the outside of the home, ~~but shall not lead into an area that serves as a pool enclosure. If that exit leads into an area that serves as a pool enclosure:~~
    - i. An individual receiving care in the home shall not use that bedroom and;
    - ii. If the exit is a window, it shall be secured with a latching device located not less than 54 inches above the finished floor;
    - iii. If the exit is a door, it shall be locked at all times with a latch or lock located a minimum of 54 inches above the floor. If there is no quick release on the lock, it must comply with the provisions of R21-8-112(11), and the key shall be located a minimum of 54 inches above the floor.
    - iv. Bedroom doors that lead into an area that serves as a pool enclosure shall comply with R21-8-112(6)(c)(iii) and also be self-closing and self-latching. Such doors that are hinged shall also swing outward from the pool area.
  - d. Identify the location of fire extinguishers and fire evacuation equipment, including rope or chain ladders, and emergency lighting, as applicable;
  - e. Designate a safe central meeting place close to the home, known to the child, at a safe distance from potential danger;
  - f. Be maintained in the home to review with individuals residing in or receiving care in the home; and
  - g. Include the placement of equipment, such as a ladder, that can be safely used by the individuals residing in each upstairs bedroom that have been identified with fire exits.
- 7. All windows identified as fire exits, must have enough space for an adult to move through.
- 8. Each bedroom used by a foster or child in a residential group care facility receiving care or services has two exits the outside.
  - a. One exit shall be a path through the premises and leading to a door that opens to the outside. A garage door that opens either manually by lifting or with an automatic opener shall not be accepted as an exit.
  - b. Another exit shall be a window or door within the bedroom that opens directly to the outside.
- 9. Premises authorized to provide care or services to five or more children shall train staff and children in evacuation procedures and conduct emergency drills at least every three months as prescribed in this subsection.
  - a. Practice drills shall include actual evacuation of children to safe areas, outside, and beyond the home.
  - b. Drills shall be held at random times and under varying conditions to simulate the possible conditions in case of fire or other disaster.
  - c. All persons in the home shall participate in the drill.
  - d. Records shall be maintained for each emergency drill and shall include:
    - i. Date and time of drill;
    - ii. Total evacuation time;
    - iii. Exits used;
    - iv. Problems noted; and
    - v. Measures taken to ensure that a foster child or a child in a residential group home facility understand the purpose of a drill and his or her responsibilities during a drill.
- 10. The exit routes for the home are clear of obstruction that could prevent safe and rapid evacuation.
- 11. The locks on exterior doors and windows, including the front door, screen doors, and bars on windows, are equipped with a quick release mechanism. A quick release mechanism is a lock that can be opened from inside the setting without special knowledge (such as a combination) or equipment (such as a key). The Department may grant an exception to this requirement for a double-key deadbolt on a door if:
  - a. There is breakable glass within 40 inches of the interior locking mechanism;
  - b. There is another exit with a quick release mechanism on the same level of the premises; and
  - c. The key for the deadbolt is permanently maintained in a location that is:
    - i. Within six feet of the locking mechanism;
    - ii. Accessible to all household members;
    - iii. Reviewed with persons residing in or receiving care in the home; and
    - iv. Identified on the emergency evacuation plan, specified in subsection (6).
- 12. The address for the home is posted and visible from the street, or the local emergency response team, such as the local fire department, is notified of the location of the home in writing, with a copy of this notification maintained in the home.
- 13. Providers must maintain a comprehensive list of emergency telephone numbers, including poison control, and post those numbers in a prominent place in the home.

**R21-8-113. Pool Safety**

- A. No change
- B. For a home that has a pool, and provides care to a child six years of age or less, or an individual with a Developmental Disability, the provider shall ensure the following:
  - 1. That the pool complies with A.R.S. § 36-1681 and all local municipal codes to the extent not inconsistent with this Section.
  - 2. A fence or barrier meeting the following requirements is maintained between the pool and the home, or any building used to provide care and supervision.
    - a. The exterior side of the fence or barrier is at least five feet high;



- b. If the barrier is a chain link fence or lattice, each opening in the mesh measures less than 1 3/4 inches horizontally. Chicken wire and other light gauge wire are prohibited as a primary fencing material for the pool;
  - c. If the barrier is a fence constructed of vertical bars or wooden slats, the openings between bars or slats measure less than four inches;
  - d. The exterior side of the barrier is free of hand holds or foot holds or other means that could be used to climb over it and if it has a horizontal component spaced at least 45 inches, measured vertically;
  - e. The gate to the enclosure is locked, except when in use and there is an adult within the enclosure to supervise the pool and spa area;
  - f. The connection between the panels of the fence cannot be separated without a key or a tool;
  - g. The fence is secured to the ground or has sufficient tension to prevent the fence from being lifted more than four inches from the ground;
  - h. If the home or building to provide care or supervision constitutes part of the enclosure:
    - i. The enclosure does not interfere with safe egress from the home;
    - ii. A door from the home does not open within the pool enclosure; unless it is a bedroom door in a bedroom not occupied by an individual receiving care and such a door cannot be opened by a foster child or child in a residential group care facility because it is either permanently locked as required in R21-8-112(6)(c)(iii) or barricaded inoperable. Any key shall not be accessible to a foster child or child in a residential group care facility;
    - iii. A window located in a room that is designated as a bedroom for a foster child or child in a residential group care facility shall not open into the pool enclosure; or shall be permanently locked and not used for egress; and
    - iv. Other windows that open into the pool enclosure are permanently secured to open no more than four inches; as required in R21-8-122(c)(ii).
    - v. Animal or doggie doors shall not open directly into the pool enclosure.
3. A pool shall have its methods of access through the barrier equipped with a safety device, such as a bolt lock:
    - a. Gates should be self-closing and self-latching, maintained in good repair, and open out or away from the pool.
    - b. The gate latch is at least 54" above the ground and is equipped with a key or combination lock.
  4. If the swimming pool cannot be emptied after each use, the pool must have a working pump and filtering system.
  5. Hot tubs and spas must have safety covers that are locked when not in use.
  6. Hot tubs and spas that are drained must be disconnected from the power and water source and have safety covers that are always locked.
- C. No change  
D. No change  
E. No change  
F. No change



NOTICES OF EXPIRATION OF RULES UNDER A.R.S. § 41-1056(J)

This section of the Arizona Administrative Register contains Notices of Expiration of Rules. Under A.R.S. § 41-1056(J), 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 EXPIRATION OF RULES UNDER A.R.S. § 41-1056(J)

DEPARTMENT OF HEALTH SERVICES OCCUPATIONAL LICENSING

[R17-73]

- 1. Agency name: Department of Health Services
2. Title and its heading: 9, Health Services
3. Chapter and its heading: 16, Department of Health Services - Occupational Licensing
4. Articles and their headings: 1, Licensing of Midwifery
5. As required by A.R.S. § 41-1056(J), the Council provides notice that the following rule expired as of August 26, 2016: R9-16-117. Miscellaneous Rules
6. Signature is of Nicole A. Ong /s/ Nicole Ong Colyer Chairwoman Date of Signing April 17, 2017

GOVERNOR'S REGULATORY REVIEW COUNCIL

NOTICE OF EXPIRATION OF RULES UNDER A.R.S. § 41-1056(J)

DEPARTMENT OF REVENUE INCOME AND WITHHOLDING TAX SECTION

[R17-74]

- 1. Agency name: Department of Revenue
2. Title and its heading: 15, Revenue
3. Chapter and its heading: 2, Department of Revenue - Income and Withholding Tax Section
4. Articles and their headings: 2, Additions to Arizona Gross Income 3, Subtractions from Arizona Gross Income
5. As required by A.R.S. § 41-1056(J), the Council provides notice that the following rules expired as of April 11, 2017: R15-2C-206. Partnership Income or Loss R15-2C-207. Income-producing Property - Different Basis R15-2C-210. Individual Net Operating Losses R15-2C-304. Lottery Winnings
6. Signature is of Nicole A. Ong /s/ Nicole Ong Colyer Chairwoman Date of Signing April 14, 2017



**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 RETIREMENT SYSTEM BOARD**

[R17-66]

1. **Title and its heading:** 2, Administration  
**Chapter and its heading:** 8, State Retirement System Board  
**Article and its heading:** 4, Practice and Procedure before the Board  
**Section number:** R2-8-401 (*Sections may be added, deleted, or further modified as necessary.*)
2. **The subject matter of the proposed rule:**  
 R2-8-401 contains definitions that apply to the appeals process. Pursuant to Laws 2016, Ch. 304 § 1, this rule needs to be updated to include additional terms clarifying that the Board may now establish a Committee to process appeals.
3. **A citation to all published notices relating to the proceeding:**  
 Notice of Proposed Rulemaking: 23 A.A.R. 1005, May 5, 2017 (*in this issue*)
4. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**  
 Name: Jessica A.R. Thomas, Rules Writer  
 Address: Arizona State Retirement System  
 3300 N. Central Ave., Ste. 1400  
 Phoenix, AZ 85012-0250  
 Telephone: (602) 240-2039  
 E-mail: JessicaT@azasrs.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 accept comments during business hours at the address listed in item 4. Information regarding an oral proceeding will be included in the Notice of Proposed Rulemaking.
6. **A timetable for agency decisions or other action on the proceeding, if known:**  
 To be determined

**NOTICE OF RULEMAKING DOCKET OPENING  
BOARD OF BEHAVIORAL HEALTH EXAMINERS**

[R17-63]

1. **Title and its heading:** 4, Professions and Occupations  
**Chapter and its heading:** 6, Board of Behavioral Health Examiners  
**Article and its heading:** 2, General Provisions  
**Section numbers:** R4-6-215
2. **The subject matter of the proposed rule:**  
 The Board increased and/or established five fees through an exempt rulemaking process effective November 1, 2015. Pursuant to A.R.S. § 41-1008(E), fees established or increased by exempt rule making are effective for two years. This rulemaking seeks to repeal the “exempt” rule and adopt the “new” rule following review and approval by the Governor’s Regulatory Review Council.
3. **A citation to all published notices relating to the proceeding:**  
 Notice of Proposed Rulemaking: 23 A.A.R. 1007, May 5, 2017 (*in this issue*)
4. **The name and address of agency personnel with whom persons may communicate regarding the rule:**  
 Name: Donna Dalton, Deputy Director  
 Address: Board of Behavioral Health Examiners  
 3443 N. Central Ave., Suite 1700  
 Phoenix, AZ 85012  
 Telephone: (602) 542-1882



Fax: (602) 364-0890
E-mail: donna.dalton@azbbhe.us

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 accept comments during business hours at the address listed in item 4. Information regarding an oral proceeding will be included in the Notice of Proposed Rulemaking.

6. A timetable for agency decisions or other action on the proceeding, if known:

To be determined.

NOTICE OF RULEMAKING DOCKET OPENING
ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS) - ADMINISTRATION

[R17-64]

- 1. Title and its heading: 9, Health Services
Chapter and its heading: 22, Arizona Health Care Cost Containment System - Administration
Article and its heading: 7, Standards For Payments
Section numbers: R9-22-712.35, R9-22-712.61, R9-22-712.71 (As part of this rulemaking, the Administration may add, delete, or modify Sections as necessary.)

2. The subject matter of the proposed rule:

The Agency's VBP activities represent the AHCCCS Administration's expanding efforts to enhance accountability in the health care delivery system beyond the 2016-2017 timeframe. The Agency's VBP initiatives are strategically designed to reward quality outcome and reduce growth in the cost of care. As background to the VPB rulemaking beginning with this proposed rule, AHCCCS' first undertaking in this arena was reflected in rules which became effective only a few months ago, in October 2016. The current VBP provisions apply exclusively to hospital providers and will expire September 30, 2017. This rulemaking will authorize AHCCCS to continue rewarding innovative activities and broaden the reach of the present model, emphasizing improved patient care and reduced growth in the cost of care. The proposed rulemaking will amend and clarify rules specifying requirements for receipt of VBP Differential Adjusted Payments for qualifying hospitals for both inpatient and outpatient services for the time period of October 1, 2017 through September 30, 2017.

The current rules delineating requirements for VBP Differential Adjusted Payments expire September 30, 2017. To extend the Agency's VBP initiatives beyond September 2017, these new rules will authorize the Agency to provide VBP Differential Adjusted Payments for the upcoming contract year.

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

Notice of Proposed Rulemaking: 23 A.A.R. 1015, May 5, 2017 (in this issue)

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

Name: Gina Relkin
Address: AHCCCS
Office of Administrative Legal Services
701 E. Jefferson, Mail Drop 6200
Phoenix, AZ 85034
Telephone: (602) 417-4232
Fax: (602) 253-9115
E-mail: AHCCCSrules@azahcccs.gov

5. The time which the agency will accept written comments and the time and place where oral comments may be made:

The Administration will accept written comments Monday through Friday, 8 a.m. to 5 p.m., at the address indicated in question #4. Public hearings will be scheduled later to provide a forum for interactive discussion with interested parties. E-mail comments will be accepted.

6. A timetable for agency decisions or other action on the proceeding, if known:

The Administration has initiated this rulemaking within the 60-day time period as stated under A.R.S. § 41-1033. The Notice of Proposed Rulemaking is published along with this notice.



**NOTICE OF RULEMAKING DOCKET OPENING  
INDUSTRIAL COMMISSION OF ARIZONA**

[R17-75]

- 1. Title and its heading:** 20, Commerce, Financial Institutions, and Insurance  
**Chapter and its heading:** 5, Industrial Commission of Arizona  
**Article and its heading:** 12, Arizona Minimum Wage Act - Practice and Procedure  
**Section numbers:** R20-5-1201, R20-5-1202, R20-5-1205, R20-5-1206, R20-5-1208, R20-5-1209, R20-5-1210, R20-5-1211, R20-5-1213, R20-5-1218  
*(Sections may be added, deleted, or modified as necessary.)*

**2. The subject matter of the proposed rules:**

Arizona voters approved Proposition 206, the Fair Wages and Healthy Families Act (the “Act”), in November 2016. The Act established a new state minimum wage effective January 1, 2017, and entitles employees to accrue earned paid sick time beginning July 1, 2017. The Act authorizes the Industrial Commission of Arizona (the “Commission”) to “enforce and implement” both the minimum wage and earned paid sick time provisions and promulgate regulations consistent with the articles. *See* A.R.S. § 23-364(A); A.R.S. Title 23, Chapter 2, Articles 8 and 8.1. In the earned paid sick time context, the Act provides that “[t]he commission shall be authorized to coordinate implementation and enforcement of [Article 8.1, Earned Paid Sick Time] and shall promulgate appropriate guidelines or regulations for such purposes.” A.R.S. § 23-376.

Currently, the rules in Article 12—implemented in 2007 after the referendum that created the Arizona Minimum Wage Act—address only those procedures related to the enforcement and implementation of minimum wage law. Because the Commission is now statutorily tasked with implementing, enforcing, and regulating the Act’s earned paid sick time provisions, the Commission is proposing to amend existing rules in Article 12 to be consistent with the Act’s new provisions.

In addition, the proposed rulemaking conforms the independent contractor analysis to factors outlined in A.R.S. §§ 23-902(D) and 23-1601(B); defines “small employer” and exempts “small employers” from posting requirements; amends R20-5-1209 to conform to current technologies, and includes various non-substantive amendments.

**3. A citation to all published notices relating to the proceeding:**

Notice of Proposed Rulemaking: 23 A.A.R. 1019, May 5, 2017 (*in this issue*)

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

Name: Steven Welker  
 Address: Industrial Commission of Arizona  
 Labor Department  
 800 W. Washington St., Suite 303  
 Phoenix, AZ 85007  
 Telephone: (602) 542-4515  
 Fax: (602) 542-8097  
 E-mail: LaborAdmin@azica.gov

**5. The time during which the agency will accept written comments and the time and place where oral comments may be made:**

Written comments on this rulemaking may be submitted to the person referenced in section 4 above. Written comments for the rulemaking record may be submitted after publication of the Notice of Proposed Rulemaking in the *Arizona Administrative Register* and prior to the close of record date on June 5, 2017. An oral proceeding on the proposed rulemaking is scheduled for June 5, 2017, at 9:00 a.m., in the auditorium of the Industrial Commission of Arizona, 800 West Washington, Phoenix, Arizona 85007.

**6. A timetable for agency decisions or other action on the proceeding, if known:**

To be determined.



## NOTICE OF AGENCY GUIDANCE DOCUMENTS

The Administrative Procedure Act requires the publication of guidance documents and substantive policy statements issued by agencies (A.R.S. § 41-1013(B)(14)).

Substantive policy statements and guidance documents are written expressions which inform the general public of an agency's current approach to rule or regulation practice.

Substantive policy statements and agency guidance documents do not include internal procedural documents which may only affect the internal procedures of the agency and do not impose additional requirements or penalties on regulated parties in accordance with A.R.S. Title 41.

### NOTICE OF AGENCY GUIDANCE DOCUMENT DEPARTMENT OF HEALTH SERVICES

[M17-84]

1. **Title of the guidance document and the guidance document number by which the document is referenced:**  
GD-114-PHS-WCH: Guidelines for Examinations and Evaluations by Medical Examiners of Children Who Died within the State of Arizona
2. **Date of the publication of the guidance document and the effective date of the guidance document if different from the publication date:**  
Effective date: April 19, 2017
3. **Summary of the contents of the guidance document:**  
This guidance document provides information about standards and procedures applicable to medical examiners concerning examinations conducted on all children less than 18 years of age.
4. **A statement as to whether the guidance document is a new document or a revision:**  
The guidance document is a new document.
5. **The agency contact person who can answer questions about the guidance document:**  

Name:	Tomi St. Mars, Injury Prevention Program Manager
Address:	Arizona Department of Health Services Bureau of Women's and Children's Health 150 N. 18th Ave., Suite 320 Phoenix, AZ 85007
Telephone:	(602) 542-7340
Fax:	(602) 364-1496
E-mail:	Tomi.StMars@azdhs.gov
or	
Name:	Robert Lane, Manager
Address:	Arizona Department of Health Services Office of Administrative Counsel and Rules 150 N. 18th Ave., Suite 200 Phoenix, AZ 85007
Telephone:	(602) 542-1020
Fax:	(602) 364-1150
E-mail:	Robert.Lane@azdhs.gov
6. **Information about where a person may obtain a copy of the guidance document and the costs for obtaining the guidance document:**  
A copy of the guidance document is available, free of charge, from the Arizona Department of Health Services, Office of Administrative Counsel and Rules at the following web address: <http://www.azdhs.gov/ops/oacr/rules/guidance/index.php>. A copy of the guidance document may also be obtained from the Arizona Department of Health Services, Bureau of Women's and Children's Health, 150 N. 18th Avenue, Suite 320, 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.




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## GOVERNOR EXECUTIVE ORDERS

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The Administrative Procedure Act (APA) requires the full-text publication of Governor Executive Orders.

With the exception of egregious errors, content (including spelling, grammar, and punctuation) of these orders has been reproduced as submitted.

In addition, the Register shall include each statement filed by the Governor in granting a commutation, pardon or reprieve, or stay or suspension of execution where a sentence of death is imposed.

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### EXECUTIVE ORDER 2017-02

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

[M17-23]

*Editor's Note: This Executive Order is being reproduced in each issue of the Administrative Register until its expiration on December 31, 2017, as a notice to the public regarding state agencies' rulemaking activities.*

**WHEREAS**, burdensome regulations inhibit job growth and economic development;

**WHEREAS**, job creators and entrepreneurs are especially hurt by red tape and regulations;

**WHEREAS**, all government agencies 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 of 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. All directors of state agencies subject to this Order shall engage their respective regulated or stakeholder communities to solicit comment on which rules the regulated community believes to be overly burdensome and not necessary to protect consumers, public health, or public safety. Each agency shall submit a report regarding the aforementioned information to the Governor's Office no later than September 1, 2017.
4. 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.
5. 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.



6. This Executive Order expires on December 31, 2017.

**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 Eleventh day of January in the Year Two Thousand and Seventeen and of the Independence of the United States of America the Two Hundred and Forty-First.

**ATTEST:**

**Michele Reagan**  
**SECRETARY OF STATE**



## REGISTER INDEXES

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

Abbreviations for rulemaking activity in this Index include:

### **PROPOSED RULEMAKING**

PN = Proposed new Section  
 PM = Proposed amended Section  
 PR = Proposed repealed Section  
 P# = Proposed renumbered Section

### **SUPPLEMENTAL PROPOSED RULEMAKING**

SPN = Supplemental proposed new Section  
 SPM = Supplemental proposed amended Section  
 SPR = Supplemental proposed repealed Section  
 SP# = Supplemental proposed renumbered Section

### **FINAL RULEMAKING**

FN = Final new Section  
 FM = Final amended Section  
 FR = Final repealed Section  
 F# = Final renumbered Section

### **SUMMARY RULEMAKING**

#### **PROPOSED SUMMARY**

PSMN = Proposed Summary new Section  
 PSMM = Proposed Summary amended Section  
 PSMR = Proposed Summary repealed Section  
 PSM# = Proposed Summary renumbered Section

#### **FINAL SUMMARY**

FSMN = Final Summary new Section  
 FSMM = Final Summary amended Section  
 FSMR = Final Summary repealed Section  
 FSM# = Final Summary renumbered Section

### **EXPEDITED RULEMAKING**

#### **PROPOSED EXPEDITED**

PEN = Proposed Expedited new Section  
 PEM = Proposed Expedited amended Section  
 PER = Proposed Expedited repealed Section  
 PE# = Proposed Expedited renumbered Section

#### **SUPPLEMENTAL EXPEDITED**

SPEN = Supplemental Proposed Expedited new Section  
 SPEM = Supplemental Proposed Expedited amended Section  
 SPER = Supplemental Proposed Expedited repealed Section  
 SPE# = Supplemental Proposed Expedited renumbered Section

#### **FINAL EXPEDITED**

FEN = Final Expedited new Section  
 FEM = Final Expedited amended Section  
 FER = Final Expedited repealed Section  
 FE# = Final Expedited renumbered Section

### **EXEMPT RULEMAKING**

#### **EXEMPT PROPOSED**

PXN = Proposed Exempt new Section  
 PXM = Proposed Exempt amended Section  
 PXR = Proposed Exempt repealed Section  
 PX# = Proposed Exempt renumbered Section

#### **EXEMPT SUPPLEMENTAL PROPOSED**

SPXN = Supplemental Proposed Exempt new Section  
 SPXR = Supplemental Proposed Exempt repealed Section  
 SPXM = Supplemental Proposed Exempt amended Section  
 SPX# = Supplemental Proposed Exempt renumbered Section

#### **FINAL EXEMPT RULEMAKING**

FXN = Final Exempt new Section  
 FXM = Final Exempt amended Section  
 FXR = Final Exempt repealed Section  
 FX# = Final Exempt renumbered Section

### **EMERGENCY RULEMAKING**

EN = Emergency new Section  
 EM = Emergency amended Section  
 ER = Emergency repealed Section  
 E# = Emergency renumbered Section  
 EEXP = Emergency expired

### **RECODIFICATION OF RULES**

RC = Recodified

### **REJECTION OF RULES**

RJ = Rejected by the Attorney General

### **TERMINATION OF RULES**

TN = Terminated proposed new Sections  
 TM = Terminated proposed amended Section  
 TR = Terminated proposed repealed Section  
 T# = Terminated proposed renumbered Section

### **RULE EXPIRATIONS**

EXP = Rules have expired  
 See also “*emergency expired*” under *emergency rulemaking*

### **CORRECTIONS**

C = Corrections to Published Rules

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**RULEMAKING ACTIVITY INDEX**

Rulemakings are listed in the Index by Chapter, Section number, rulemaking activity abbreviation and by volume page number. Use the page guide above to determine the *Register* issue number to review the rule. Headings for the Subchapters, Articles, Parts, and Sections are not indexed.

**THIS INDEX INCLUDES RULEMAKING ACTIVITY THROUGH ISSUE 17 OF VOLUME 23.**

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R4-1-454.	PM-97; SPM-955	R3-2-621.	EXP-135	PM-895
R4-1-455.	PM-97; SPM-955	R3-2-622.	EXP-135	PM-895
R4-1-455.01.	PM-97; SPM-955	<b>Agriculture, Department of - Weights and Measures Services Division</b>	R3-7-707.	PM-895
R4-1-455.02.	PM-97; SPM-955	R3-7-101.	PM-895	PM-895
R4-1-455.03.	PM-97; SPM-955	R3-7-102.	PM-895	PM-895
R4-1-455.04.	PM-97; SPM-955	R3-7-103.	PM-895	PM-895
<b>Achievement District Schools</b>		R3-7-104.	PM-895	PM-895
R7-8-101.	PXN-661	R3-7-108.	PM-895	PM-895
R7-8-201.	PXN-661	R3-7-109.	PM-895	PM-895
<b>Administration, Department of - Benefit Services Division</b>		R3-7-110.	PM-895	PM-895
R2-6-101.	PM-323	Table 1.	PM-895	PM-895
R2-6-105.	PM-323	R3-7-201.	PM-895	PM-895
R2-6-106.	PM-323	R3-7-203.	PM-895	PM-895
R2-6-107.	PM-323	R3-7-302.	PM-895	PM-895
R2-6-108.	PM-323	R3-7-402.	PM-895	PM-895
R2-6-204.	PM-323	R3-7-501.	PM-895	PM-895
R2-6-301.	PM-323	R3-7-502.	PM-895	PM-895
R2-6-302.	PM-323	R3-7-503.	PM-895	PM-895
R2-6-303.	PM-323	R3-7-504.	PM-895	PM-895
		R3-7-505.	PM-895	PM-895
		R3-7-506.	PM-895	PM-895
		R3-7-507.	PM-895	PM-895
		R3-7-601.	PM-895	PM-895
		R3-7-602.	PM-895	PM-895
		R3-7-603.	PM-895	PM-895
		R3-7-604.	PM-895	PM-895
		R3-7-701.	PM-895	PM-895
		R3-7-702.	PM-895	PM-895
		R3-7-703.	PM-895	PM-895
		R3-7-704.	PM-895	PM-895
		R3-7-705.	PM-895	PM-895
		R3-7-706.	PR-895	PM-895
		R3-7-707.	PM-895	PM-895
		R3-7-708.	PM-895	PM-895
		R3-7-709.	PR-895	PM-895
		R3-7-710.	PM-895	PM-895
		R3-7-711.	PM-895	PM-895
		R3-7-712.	PM-895	PM-895
		R3-7-713.	PM-895	PM-895
		R3-7-714.	PM-895	PM-895
		R3-7-715.	PM-895	PM-895
		R3-7-716.	PM-895	PM-895
		R3-7-717.	PM-895	PM-895
		R3-7-718.	PM-895	PM-895
		R3-7-749.	PM-895	PM-895
		R3-7-750.	PM-895	PM-895
		R3-7-751.	PM-895	PM-895
		R3-7-752.	PM-895	PM-895
		R3-7-753.	PM-895	PM-895
		R3-7-754.	PM-895	PM-895
		R3-7-755.	PM-895	PM-895
		R3-7-756.	PM-895	PM-895
		R3-7-757.	PM-895	PM-895
		R3-7-759.	PM-895	PM-895
		Table A.	PM-895	PM-895
		R3-7-760.	PM-895	PM-895
		R3-7-761.	PM-895	PM-895
		R3-7-762.	PM-895	PM-895
		Table 1.	PM-895	PM-895
		Table 2.	PM-895	PM-895
		R3-7-901.	PM-895	PM-895
		R3-7-902.	PM-895	PM-895
		R3-7-903.	PM-895	PM-895
		R3-7-904.	PM-895	PM-895
		R3-7-905.	PM-895	PM-895
		R3-7-907.	PM-895	PM-895
		R3-7-908.	PM-895	PM-895
		R3-7-909.	PM-895	PM-895
		R3-7-910.	PM-895	PM-895

R3-7-911. PM-895  
 R3-7-912. PM-895  
 R3-7-913. PM-895  
 R3-7-1001. PM-895  
 R3-7-1002. PM-895  
 R3-7-1003. PM-895  
 R3-7-1004. PM-895  
 R3-7-1005. PM-895  
 R3-7-1007. PM-895  
 R3-7-1008. PM-895  
 R3-7-1009. PM-895  
 R3-7-1010. PM-895  
 R3-7-1011. PM-895  
 R3-7-1012. PM-895  
 R3-7-1013. PM-895

**Arizona Health Care Cost Containment System - Administration**

R9-22-712.90. FN-22

**Barbers, Board of**

R4-5-103. FM-490

**Charter Schools, State Board for**

R7-5-101. FM-693  
 R7-5-201. FM-693  
 R7-5-202. FM-693  
 R7-5-203. FM-693  
 R7-5-204. FM-693  
 R7-5-205. FM-693  
 R7-5-206. FM-693  
 R7-5-207. FM-693  
 R7-5-208. FN-693  
 R7-5-301. F#-693; FN-693  
 R7-5-302. F#-693; FN-693  
 R7-5-303. F#-693; FN-693  
 R7-5-304. F#-693  
 R7-5-401. F#-693; FN-693  
 R7-5-402. FN-693  
 R7-5-403. FN-693  
 R7-5-404. FN-693  
 R7-5-501. FR-693; F#-693; FM-693  
 R7-5-502. FR-693; F#-693; FM-693  
 R7-5-503. FR-693; FN-693  
 R7-5-504. FR-693; FN-693  
 R7-5-505. FN-693  
 R7-5-506. FN-693  
 R7-5-507. FN-693  
 R7-5-508. FN-693  
 R7-5-509. FN-693  
 R7-5-510. F#-693; FM-693  
 R7-5-601. F#-693; FM-693  
 R7-5-602. FN-693  
 R7-5-603. FN-693  
 R7-5-604. FN-693  
 R7-5-605. FN-693  
 R7-5-606. FN-693  
 R7-5-607. FN-693

**Clean Elections Commission, Citizens**

R2-20-101. FXM-113  
 R2-20-104. FXM-115  
 R2-20-105. FXM-117

R2-20-107. FXM-119  
 R2-20-109. FXM-121  
 R2-20-110. FXM-124  
 R2-20-111. FXM-126  
 R2-20-112. FXM-128  
 R2-20-402.01. FXM-130  
 R2-20-402.02. FXN-131  
 R2-20-702. PXM-610; PXM-658; PXM-722  
 R2-20-703. FXM-133  
 R2-20-703.01. PXN-610

**Corporation Commission - Fixed Utilities**

R14-2-1201. E#-865  
 R14-2-A1201. EN-865; EM-865  
 R14-2-1202. E#-865  
 R14-2-A1202. EN-865  
 R14-2-1203. E#-865  
 R14-2-A1203. EN-865  
 R14-2-1204. E#-865  
 R14-2-A1204. EN-865  
 R14-2-1205. E#-865  
 R14-2-A1205. EN-865  
 R14-2-1206. E#-865  
 R14-2-A1206. EN-865  
 R14-2-1207. E#-865  
 R14-2-A1207. EN-865  
 R14-2-1208. E#-865  
 R14-2-A1208. EN-865  
 R14-2-1209. E#-865  
 R14-2-A1209. EN-865  
 R14-2-1210. E#-865  
 R14-2-A1210. EN-865  
 R14-2-1211. E#-865  
 R14-2-A1211. EN-865  
 R14-2-1212. E#-865  
 R14-2-A1212. EN-865  
 R14-2-1213. E#-865  
 R14-2-A1213. EN-865  
 R14-2-1214. E#-865  
 R14-2-A1214. EN-865  
 R14-2-1215. E#-865  
 R14-2-A1215. EN-865  
 R14-2-1216. E#-865  
 R14-2-A1216. EN-865  
 R14-2-1217. E#-865  
 R14-2-A1217. EN-865  
 R14-2-B1218. EN-865  
 R14-2-B1219. EN-865  
 R14-2-B1220. EN-865  
 R14-2-B1221. EN-865  
 R14-2-B1222. EN-865  
 R14-2-B1223. EN-865

**Economic Security, Department of**

R6-1-101. PM-861  
 R6-1-102. PM-861  
 R6-1-103. PM-861  
 R6-1-104. PM-861  
 R6-1-105. PM-861  
 R6-1-106. PM-861  
 R6-1-107. PM-861

**Economic Security, Department of -**

**Child Support Enforcement**

R6-7-611. EXP-466  
 R6-7-716. EXP-466  
 R6-7-801. EXP-466

**Economic Security, Department of - Developmental Disabilities**

R6-6-402. EXP-465

**Economic Security, Department of - Social Services**

R6-5-5501. EXP-581  
 R6-5-5502. EXP-581  
 R6-5-5503. EXP-581  
 R6-5-5504. EXP-581  
 R6-5-5505. EXP-581  
 R6-5-5506. EXP-581  
 R6-5-5507. EXP-581  
 R6-5-5508. EXP-581  
 R6-5-5509. EXP-581  
 R6-5-5510. EXP-581  
 R6-5-5511. EXP-581  
 R6-5-5512. EXP-581  
 R6-5-5513. EXP-581  
 R6-5-5514. EXP-581  
 R6-5-5515. EXP-581  
 R6-5-5516. EXP-581  
 R6-5-5517. EXP-581  
 R6-5-5518. EXP-581  
 R6-5-5519. EXP-581  
 R6-5-5520. EXP-581  
 R6-5-5521. EXP-581  
 R6-5-5522. EXP-581  
 R6-5-5523. EXP-581  
 R6-5-5524. EXP-581  
 R6-5-5525. EXP-581  
 R6-5-5526. EXP-581  
 Appendix 1. EXP-581  
 Appendix 2. EXP-581  
 R6-5-5601. EXP-465  
 R6-5-5602. EXP-465  
 R6-5-5603. EXP-465  
 R6-5-5604. EXP-465  
 R6-5-5605. EXP-465  
 R6-5-5606. EXP-465  
 R6-5-5607. EXP-465  
 R6-5-5608. EXP-465  
 R6-5-5609. EXP-465  
 R6-5-5610. EXP-465  
 R6-5-5801. EXP-581  
 R6-5-5802. EXP-581  
 R6-5-5803. EXP-581  
 R6-5-5804. EXP-581  
 R6-5-5805. EXP-581  
 R6-5-5806. EXP-581  
 R6-5-5807. EXP-581  
 R6-5-5808. EXP-581  
 R6-5-5809. EXP-581  
 R6-5-5810. EXP-581  
 R6-5-5811. EXP-581  
 R6-5-5812. EXP-581  
 R6-5-5813. EXP-581  
 R6-5-5814. EXP-581  
 R6-5-5815. EXP-581  
 R6-5-5816. EXP-581  
 R6-5-5817. EXP-581

R6-5-5818. EXP-581  
R6-5-5819. EXP-581  
R6-5-5820. EXP-581  
R6-5-5821. EXP-581  
R6-5-5822. EXP-581  
R6-5-5823. EXP-581  
R6-5-5824. EXP-581  
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R6-5-5826. EXP-581  
R6-5-5827. EXP-581  
R6-5-5828. EXP-581  
R6-5-5829. EXP-581  
R6-5-5830. EXP-581  
R6-5-5831. EXP-581  
R6-5-5832. EXP-581  
R6-5-5833. EXP-581  
R6-5-5834. EXP-581  
R6-5-5835. EXP-581  
R6-5-5836. EXP-581  
R6-5-5837. EXP-581  
R6-5-5838. EXP-581  
R6-5-5839. EXP-581  
R6-5-5840. EXP-581  
R6-5-5841. EXP-581  
R6-5-5842. EXP-581  
R6-5-5843. EXP-581  
R6-5-5844. EXP-581  
R6-5-5845. EXP-581  
R6-5-5846. EXP-581  
R6-5-5847. EXP-581  
R6-5-5848. EXP-581  
R6-5-5849. EXP-581  
R6-5-5850. EXP-581  
R6-5-5903. EXP-581  
R6-5-5904. EXP-581  
R6-5-5906. EXP-581  
R6-5-5907. EXP-581  
R6-5-5908. EXP-581  
R6-5-5909. EXP-581  
R6-5-5910. EXP-581  
R6-5-6001. EXP-581  
R6-5-6002. EXP-581  
R6-5-6003. EXP-581  
R6-5-6004. EXP-581  
R6-5-6005. EXP-581  
R6-5-6006. EXP-581  
R6-5-6007. EXP-581  
R6-5-6008. EXP-581  
R6-5-6009. EXP-581  
R6-5-6010. EXP-581  
R6-5-6011. EXP-581  
R6-5-6012. EXP-581  
R6-5-6013. EXP-581  
R6-5-6014. EXP-581  
R6-5-6015. EXP-581  
Exhibit 1. EXP-581

**Education, State Board of**

R7-2-205. FXM-725  
R7-2-607.01. FXN-725  
R7-2-612. FXM-725  
R7-2-614. FXM-725  
R7-2-617. FXM-231  
R7-2-701. FXM-725  
R7-2-705. FXM-725  
R7-2-1304. FXM-725

R7-2-1307. FXM-725  
R7-2-1308. FXM-725

**Emergency and Military Affairs,  
Department of - Division of Military  
Affairs**

R8-3-201. EXP-840  
R8-3-202. EXP-840  
R8-3-203. EXP-840  
R8-3-204. EXP-840  
R8-3-205. EXP-840  
R8-3-206. EXP-840  
Exhibits. EXP-840

**Emergency and Military Affairs,  
Department of - Project Challenge**

R8-5-101. EXP-840  
R8-5-102. EXP-840  
R8-5-103. EXP-840  
R8-5-104. EXP-840  
R8-5-105. EXP-840  
R8-5-106. EXP-840

**Environmental Quality, Department  
of - Air Pollution Control**

R18-2-101. FM-333  
R18-2-102. FM-333  
R18-2-201. FM-333  
R18-2-203. FM-333  
R18-2-217. FM-333  
R18-2-218. FM-333  
R18-2-301. FM-333  
R18-2-302. FM-333  
R18-2-302.01. FM-333  
R18-2-303. FM-333  
R18-2-304. FM-333  
R18-2-306. FM-333  
R18-2-306.01. FM-333  
R18-2-307. FM-333  
R18-2-311. FM-333  
R18-2-312. FM-333  
R18-2-319. FM-333  
R18-2-320. FM-333  
R18-2-324. FM-333  
R18-2-326. FM-333  
R18-2-326.01. EXP-613  
R18-2-327. FM-333  
R18-2-330. FM-333  
R18-2-332. FM-333  
R18-2-334. FM-333  
R18-2-401. FM-333  
R18-2-402. FM-333  
R18-2-403. FM-333  
R18-2-404. FM-333  
R18-2-405. FM-333  
R18-2-406. FM-333  
R18-2-407. FM-333  
R18-2-408. FM-333  
R18-2-410. FM-333  
R18-2-411. FN-333  
R18-2-412. FM-333  
R18-2-502. FM-333  
R18-2-503. FM-333  
R18-2-504. FM-333  
R18-2-507. FR-333  
R18-2-508. FR-333

R18-2-512. FM-333  
R18-2-513. FM-333  
R18-2-514. FN-333  
R18-2-515. FN-333  
R18-2-715. FM-767  
R18-2-715.01. FM-767  
R18-2-715.02. FM-767  
R18-2-731. PM-827  
R18-2-901. PM-827  
R18-2-1205. FM-333  
Appendix 1. FR-333  
R18-2-B1301. FN-767  
R18-2-B1301.01. FN-767  
R18-2-B1302. FN-767  
R18-2-C1301. FN-767  
R18-2-C1302. FN-767  
Appendix 14. FN-767  
Appendix 15. FN-767  
R18-2-1701. EXP-135  
Table 1. EXP-135  
R18-2-1702. EXP-135  
R18-2-1703. EXP-135  
R18-2-1704. EXP-135  
R18-2-1705. EXP-135  
R18-2-1706. EXP-135  
R18-2-1707. EXP-135  
R18-2-1708. EXP-135  
Table 3. EXP-135  
R18-2-1709. EXP-135

**Financial Institutions, Department  
of**

R20-4-301. EXP-841  
R20-4-303. EXP-841  
R20-4-304. EXP-841  
R20-4-309. EXP-841  
R20-4-318. EXP-841  
R20-4-324. EXP-841  
R20-4-325. EXP-841  
R20-4-326. EXP-841  
R20-4-327. EXP-841  
R20-4-328. EXP-841  
R20-4-330. EXP-841

**Game and Fish Commission**

R12-4-402. FM-492  
R12-4-501. PM-273  
R12-4-502. PM-273  
R12-4-503. PM-273  
R12-4-504. PM-273  
R12-4-505. PM-273  
R12-4-506. PM-273  
R12-4-507. PM-273  
R12-4-509. PM-273  
R12-4-510. PM-273  
R12-4-511. PM-273  
R12-4-513. PM-273  
R12-4-514. PM-273  
R12-4-515. PM-273  
R12-4-516. PM-273  
R12-4-517. PM-273  
R12-4-520. PM-273  
R12-4-521. PR-273  
R12-4-522. PR-273  
R12-4-524. PM-273  
R12-4-526. PM-273

R12-4-527. PM-273  
 R12-4-529. PM-273  
 R12-4-530. PN-273

**Health Services, Department of -  
 Emergency Medical Services**

R9-25-601. PM-577  
 R9-25-602. PM-577

**Health Services, Department of -  
 Medical Marijuana Program**

R9-17-202. FM-970  
 R9-17-204. FM-970  
 R9-17-310. FM-970

**Industrial Commission**

R20-5-301. EXP-297  
 R20-5-302. EXP-297  
 R20-5-303. EXP-297  
 R20-5-304. EXP-297  
 R20-5-305. EXP-297  
 R20-5-306. EXP-297  
 R20-5-307. EXP-297  
 R20-5-308. EXP-297  
 R20-5-309. EXP-297  
 R20-5-310. EXP-297  
 R20-5-311. EXP-297  
 R20-5-312. EXP-297  
 R20-5-313. EXP-297  
 R20-5-314. EXP-297  
 R20-5-315. EXP-297  
 R20-5-316. EXP-297  
 R20-5-317. EXP-297  
 R20-5-318. EXP-297  
 R20-5-319. EXP-297  
 R20-5-320. EXP-297  
 R20-5-321. EXP-297  
 R20-5-322. EXP-297  
 R20-5-323. EXP-297  
 R20-5-324. EXP-297  
 R20-5-325. EXP-297  
 R20-5-326. EXP-297  
 R20-5-327. EXP-297  
 R20-5-328. EXP-297  
 R20-5-329. EXP-297

**Insurance, Department of**

R20-6-204. EXP-136  
 R20-6-1001. PXM-151  
 R20-6-1002. PXM-151  
 R20-6-1003. PXM-151  
 R20-6-1004. PXM-151  
 R20-6-1005. PXM-151  
 R20-6-1006. PXM-151  
 R20-6-1007. PXM-151  
 R20-6-1008. PXM-151  
 R20-6-1009. PXM-151  
 R20-6-1010. PXM-151  
 R20-6-1011. PXM-151  
 R20-6-1012. PXR-151;  
 PX#-151;  
 PXM-151  
 R20-6-1013. PX#-151;  
 PXM-151  
 R20-6-1014. PX#-151;  
 PXM-151

R20-6-1015. PX#-151;  
 PXM-151  
 R20-6-1017. PXM-151  
 R20-6-1018. PXM-151  
 R20-6-1019. PXM-151  
 R20-6-1020. PXM-151  
 R20-6-1021. PXM-151  
 R20-6-1023. PXM-151  
 R20-6-1024. PX#-151;  
 PXM-151  
 R20-6-1025. PXM-151  
 R20-6-1026. PX#-151  
 Appendix A. PXM-151  
 Appendix B. PXM-151  
 Appendix C. PXM-151  
 Appendix D. PXM-151  
 Appendix E. PXM-151  
 Appendix F. PXM-151  
 Appendix H. PXM-151  
 Appendix I. PXM-151  
 Appendix J. PXM-151

**Land Department, State**

R12-5-1902. EXP-297

**Osteopathic Examiners in Medicine  
 and Surgery, Board of**

R4-22-104. FM-763  
 Table 1. FM-763  
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**RULES EFFECTIVE DATES CALENDAR**

A.R.S. § 41-1032(A), as amended by Laws 2002, Ch. 334, § 8 (effective August 22, 2002), states that a rule generally becomes effective 60 days after the day it is filed with the Secretary of State's Office. The following table lists filing dates and effective dates for rules that follow this provision. Please also check the rulemaking Preamble for effective dates.

January		February		March		April		May		June	
Date Filed	Effective Date										
1/1	3/2	2/1	4/2	3/1	4/30	4/1	5/31	5/1	6/30	6/1	7/31
1/2	3/3	2/2	4/3	3/2	5/1	4/2	6/1	5/2	7/1	6/2	8/1
1/3	3/4	2/3	4/4	3/3	5/2	4/3	6/2	5/3	7/2	6/3	8/2
1/4	3/5	2/4	4/5	3/4	5/3	4/4	6/3	5/4	7/3	6/4	8/3
1/5	3/6	2/5	4/6	3/5	5/4	4/5	6/4	5/5	7/4	6/5	8/4
1/6	3/7	2/6	4/7	3/6	5/5	4/6	6/5	5/6	7/5	6/6	8/5
1/7	3/8	2/7	4/8	3/7	5/6	4/7	6/6	5/7	7/6	6/7	8/6
1/8	3/9	2/8	4/9	3/8	5/7	4/8	6/7	5/8	7/7	6/8	8/7
1/9	3/10	2/9	4/10	3/9	5/8	4/9	6/8	5/9	7/8	6/9	8/8
1/10	3/11	2/10	4/11	3/10	5/9	4/10	6/9	5/10	7/9	6/10	8/9
1/11	3/12	2/11	4/12	3/11	5/10	4/11	6/10	5/11	7/10	6/11	8/10
1/12	3/13	2/12	4/13	3/12	5/11	4/12	6/11	5/12	7/11	6/12	8/11
1/13	3/14	2/13	4/14	3/13	5/12	4/13	6/12	5/13	7/12	6/13	8/12
1/14	3/15	2/14	4/15	3/14	5/13	4/14	6/13	5/14	7/13	6/14	8/13
1/15	3/16	2/15	4/16	3/15	5/14	4/15	6/14	5/15	7/14	6/15	8/14
1/16	3/17	2/16	4/17	3/16	5/15	4/16	6/15	5/16	7/15	6/16	8/15
1/17	3/18	2/17	4/18	3/17	5/16	4/17	6/16	5/17	7/16	6/17	8/16
1/18	3/19	2/18	4/19	3/18	5/17	4/18	6/17	5/18	7/17	6/18	8/17
1/19	3/20	2/19	4/20	3/19	5/18	4/19	6/18	5/19	7/18	6/19	8/18
1/20	3/21	2/20	4/21	3/20	5/19	4/20	6/19	5/20	7/19	6/20	8/19
1/21	3/22	2/21	4/22	3/21	5/20	4/21	6/20	5/21	7/20	6/21	8/20
1/22	3/23	2/22	4/23	3/22	5/21	4/22	6/21	5/22	7/21	6/22	8/21
1/23	3/24	2/23	4/24	3/23	5/22	4/23	6/22	5/23	7/22	6/23	8/22
1/24	3/25	2/24	4/25	3/24	5/23	4/24	6/23	5/24	7/23	6/24	8/23
1/25	3/26	2/25	4/26	3/25	5/24	4/25	6/24	5/25	7/24	6/25	8/24
1/26	3/27	2/26	4/27	3/26	5/25	4/26	6/25	5/26	7/25	6/26	8/25
1/27	3/28	2/27	4/28	3/27	5/26	4/27	6/26	5/27	7/26	6/27	8/26
1/28	3/29	2/28	4/29	3/28	5/27	4/28	6/27	5/28	7/27	6/28	8/27
1/29	3/30			3/29	5/28	4/29	6/28	5/29	7/28	6/29	8/28
1/30	3/31			3/30	5/29	4/30	6/29	5/30	7/29	6/30	8/29
1/31	4/1			3/31	5/30			5/31	7/30		



July		August		September		October		November		December	
Date Filed	Effective Date										
7/1	8/30	8/1	9/30	9/1	10/31	10/1	11/30	11/1	12/31	12/1	1/30
7/2	8/31	8/2	10/1	9/2	11/1	10/2	12/1	11/2	1/1	12/2	1/31
7/3	9/1	8/3	10/2	9/3	11/2	10/3	12/2	11/3	1/2	12/3	2/1
7/4	9/2	8/4	10/3	9/4	11/3	10/4	12/3	11/4	1/3	12/4	2/2
7/5	9/3	8/5	10/4	9/5	11/4	10/5	12/4	11/5	1/4	12/5	2/3
7/6	9/4	8/6	10/5	9/6	11/5	10/6	12/5	11/6	1/5	12/6	2/4
7/7	9/5	8/7	10/6	9/7	11/6	10/7	12/6	11/7	1/6	12/7	2/5
7/8	9/6	8/8	10/7	9/8	11/7	10/8	12/7	11/8	1/7	12/8	2/6
7/9	9/7	8/9	10/8	9/9	11/8	10/9	12/8	11/9	1/8	12/9	2/7
7/10	9/8	8/10	10/9	9/10	11/9	10/10	12/9	11/10	1/9	12/10	2/8
7/11	9/9	8/11	10/10	9/11	11/10	10/11	12/10	11/11	1/10	12/11	2/9
7/12	9/10	8/12	10/11	9/12	11/11	10/12	12/11	11/12	1/11	12/12	2/10
7/13	9/11	8/13	10/12	9/13	11/12	10/13	12/12	11/13	1/12	12/13	2/11
7/14	9/12	8/14	10/13	9/14	11/13	10/14	12/13	11/14	1/13	12/14	2/12
7/15	9/13	8/15	10/14	9/15	11/14	10/15	12/14	11/15	1/14	12/15	2/13
7/16	9/14	8/16	10/15	9/16	11/15	10/16	12/15	11/16	1/15	12/16	2/14
7/17	9/15	8/17	10/16	9/17	11/16	10/17	12/16	11/17	1/16	12/17	2/15
7/18	9/16	8/18	10/17	9/18	11/17	10/18	12/17	11/18	1/17	12/18	2/16
7/19	9/17	8/19	10/18	9/19	11/18	10/19	12/18	11/19	1/18	12/19	2/17
7/20	9/18	8/20	10/19	9/20	11/19	10/20	12/19	11/20	1/19	12/20	2/18
7/21	9/19	8/21	10/20	9/21	11/20	10/21	12/20	11/21	1/20	12/21	2/19
7/22	9/20	8/22	10/21	9/22	11/21	10/22	12/21	11/22	1/21	12/22	2/20
7/23	9/21	8/23	10/22	9/23	11/22	10/23	12/22	11/23	1/22	12/23	2/21
7/24	9/22	8/24	10/23	9/24	11/23	10/24	12/23	11/24	1/23	12/24	2/22
7/25	9/23	8/25	10/24	9/25	11/24	10/25	12/24	11/25	1/24	12/25	2/23
7/26	9/24	8/26	10/25	9/26	11/25	10/26	12/25	11/26	1/25	12/26	2/24
7/27	9/25	8/27	10/26	9/27	11/26	10/27	12/26	11/27	1/26	12/27	2/25
7/28	9/26	8/28	10/27	9/28	11/27	10/28	12/27	11/28	1/27	12/28	2/26
7/29	9/27	8/29	10/28	9/29	11/28	10/29	12/28	11/29	1/28	12/29	2/27
7/30	9/28	8/30	10/29	9/30	11/29	10/30	12/29	11/30	1/29	12/30	2/28
7/31	9/29	8/31	10/30			10/31	12/30			12/31	3/1



**REGISTER PUBLISHING DEADLINES**

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.

<b>Deadline Date (paper only) Friday, 5:00 p.m.</b>	<b>Register Publication Date</b>	<b>Oral Proceeding may be scheduled on or after</b>
March 3, 2017	March 24, 2017	April 24, 2017
March 10, 2017	March 31, 2017	May 1, 2017
March 17, 2017	April 7, 2017	May 8, 2017
March 24, 2017	April 14, 2017	May 15, 2017
March 31, 2017	April 21, 2017	May 22, 2017
April 7, 2017	April 28, 2017	May 30, 2017
April 14, 2017	May 5, 2017	June 5, 2017
April 21, 2017	May 12, 2017	June 12, 2017
April 28, 2017	May 19, 2017	June 19, 2017
May 5, 2017	May 26, 2017	June 26, 2017
May 12, 2017	June 2, 2017	July 3, 2017
May 19, 2017	June 9, 2017	July 10, 2017
May 26, 2017	June 16, 2017	July 17, 2017
June 2, 2017	June 23, 2017	July 24, 2017
June 9, 2017	June 30, 2017	July 31, 2017
June 16, 2017	July 7, 2017	August 7, 2017
June 23, 2017	July 14, 2014	August 14, 2017
June 30, 2017	July 21, 2017	August 21, 2017
July 7, 2017	July 28, 2017	August 28 2017
July 14, 2014	August 4, 2017	September 5, 2017
July 21, 2017	August 11, 2017	September 11, 2017
July 28, 2017	August 18, 2017	September 18, 2017
August 4, 2017	August 25, 2017	September 25, 2017
August 11, 2017	September 1, 2017	October 2, 2017
August 18, 2017	September 8, 2017	October 10, 2017
August 25, 2017	September 15, 2017	October 16, 2017
September 1, 2017	September 22, 2017	October 23, 2017
September 8, 2017	September 29, 2017	October 30, 2017
September 15, 2017	October 6, 2017	November 6, 2017
September 22, 2017	October 13, 2017	November 13, 2017



## 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 5 p.m. 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](http://www.grrc.state.az.us).

### GOVERNOR’S REGULATORY REVIEW COUNCIL DEADLINES FOR 2017

[M16-300]

DEADLINE FOR PLACEMENT ON AGENDA	FINAL MATERIALS SUBMITTED TO COUNCIL	DATE OF COUNCIL STUDY SESSION	DATE OF COUNCIL MEETING
Tuesday November 22, 2016	Tuesday December 20, 2016	Wednesday December 28, 2016	Wednesday January 4, 2017
Tuesday December 27, 2016	Tuesday January 24, 2017	Tuesday January 31, 2017	Tuesday February 7, 2017
Tuesday January 24, 2017	Tuesday February 21, 2017	Tuesday February 28, 2017	Tuesday March 7, 2017
Tuesday February 21, 2017	Tuesday March 21, 2017	Tuesday March 28, 2017	Tuesday April 4, 2017
Tuesday March 21, 2017	Tuesday April 18, 2017	Tuesday April 25, 2017	Tuesday May 2, 2017
Tuesday April 25, 2017	Tuesday May 23, 2017	Wednesday May 31, 2017	Tuesday June 6, 2017
Tuesday May 23, 2017	Tuesday June 20, 2017	Tuesday June 27, 2017	Thursday July 6, 2017
Tuesday June 20, 2017	Tuesday July 18, 2017	Tuesday July 25, 2017	Tuesday August 1, 2017
Tuesday July 25, 2017	Tuesday August 22, 2017	Tuesday August 29, 2017	Wednesday September 6, 2017
Tuesday August 22, 2017	Tuesday September 19, 2017	Tuesday September 26, 2017	Tuesday October 3, 2017
Tuesday September 26, 2017	Tuesday October 24, 2017	Tuesday October 31, 2017	Tuesday November 7, 2017
Tuesday October 24, 2017	Tuesday November 21, 2017	Tuesday November 28, 2017	Tuesday December 5, 2017
Tuesday November 21, 2017	Tuesday December 19, 2017	Wednesday December 27, 2017	Wednesday January 3, 2018

\*Materials must be submitted by **5 P.M.** on dates listed as a deadline for placement on a particular agenda. Placement on a particular agenda is not guaranteed.