



# Arizona Administrative REGISTER

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Rules can be: made (all new text); amended (rules on file, changing text); repealed (removing text); or renumbered (moving rules to a different Section number).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 New rules in this publication (whether proposed or made) are denoted with underlining; repealed text is stricken.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

# Arizona Administrative REGISTER

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**ADMINISTRATIVE REGISTER**  
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.

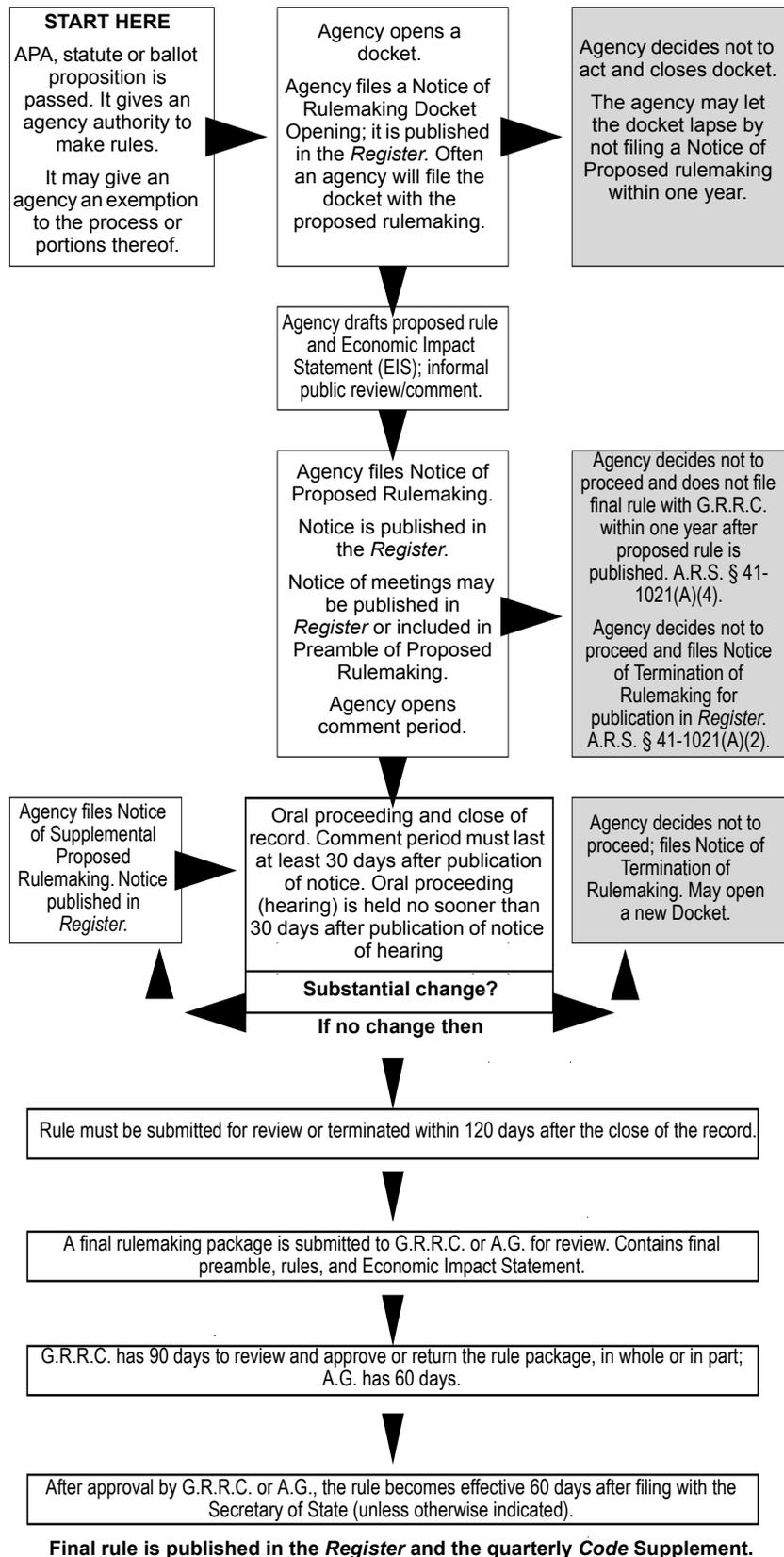
An agency may not have a public meeting scheduled on the Notice of Proposed Rulemaking. If not, you may request that the agency schedule a proceeding. This request must be put in writing within 30 days after the published Notice of Proposed Rulemaking.

## 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.





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:**

Not applicable

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, if applicable:**

Data used in preparation of the economic, small business, and consumer impact statement includes figures based on current bond requests received at the time a business applies for a transaction privilege tax license. It is expected that the benefits of the amendment to the rule will be greater than the costs.

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

Name: Christie Comanita  
Address: Department of Revenue  
1600 W. Monroe St., Mail Code 1300  
Phoenix, AZ 85007  
Telephone: (602) 716-6791  
Fax: (602) 716-7996  
E-mail: ccomanita@azdor.gov  
Web site: http://www.azdor.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:**

Persons may submit questions or comments in writing to the contact person listed in section 4 of this Notice of Proposed Rulemaking within 30 days after publication hereof.

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 A.R.S. §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:**

Not applicable

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

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

Not applicable

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

TITLE 15. REVENUE  
CHAPTER 5. DEPARTMENT OF REVENUE  
TRANSACTION PRIVILEGE AND USE TAX SECTION  
ARTICLE 6. PRIME CONTRACTING CLASSIFICATION

Section

R15-5-601. Taxpayer Bonds for Contractors

ARTICLE 6. PRIME CONTRACTING CLASSIFICATION

**R15-5-601. Taxpayer Bonds for Contractors**

A. For the purpose of this rule:

- 1. The principal place of business shall be Arizona if the licensee has continuously operated a facility with at least one full-time employee in Arizona for 12 consecutive months preceding the determination.
- 2. A surety bond shall include a bond issued by a company authorized to execute and write bonds in Arizona as a surety or composed of securities or cash which are deposited with the Department of Revenue.

B. The businesses subject to these bonds are grouped in accordance with the standard industry classifications by average business activity. The business classes and bond amounts are as follows:

- 1. Two thousand dollars for:
  - a. General contractors of residential buildings other than single family;
  - b. Operative builders;



- c. Plumbing, air conditioning, and heating, except electric;
  - d. Painting, paper hanging;
  - e. Decorating;
  - f. Electrical work;
  - g. Masonry stonework and other stonework;
  - h. Plastering, drywall, acoustical and insulation work;
  - i. Terrazzo, tile, marble and mosaic work;
  - j. Carpentry;
  - k. Floor laying and other floor work;
  - l. Roofing and sheet metal work;
  - m. Concrete work;
  - n. Water well drilling;
  - o. Structural steel erection;
  - p. Glass and glazing work;
  - q. Excavating and foundation work;
  - r. Wrecking and demolition work;
  - s. Installation and erection of building equipment;
  - t. Special trade contractors; and
  - u. Manufacturers of mobile homes.
2. Seven thousand dollars for:
    - a. General contractors of single family housing;
    - b. Water, sewer, pipeline, communication and powerline construction.
  3. Seventeen thousand dollars for:
    - a. General contractors of industrial buildings and warehouses;
    - b. General contractors OF nonresidential buildings other than single family;
    - c. Highways and street construction except elevated highways.
  4. Twenty-two thousand dollars for heavy construction, AND BRIDGE, TUNNEL AND ELEVATED HIGHWAY CONSTRUCTION.
  5. ~~One hundred two thousand dollars for bridge, tunnel and elevated highway construction.~~
- C. Except as provided in subsection (D) of this rule, any applicant whose principal place of business is outside Arizona or who has conducted business in Arizona for less than one year shall post a bond before the transaction privilege tax license shall be issued.
- D. Any taxpayer subject to bonding requirements may submit a written request to the Director of the Department of Revenue for an exemption from the bond. The exemption request shall provide at least one of the following:
1. Any taxpayer who has been actively engaged in business for at least two years immediately preceding the exemption request may submit statements from an authorized state employee from each state in which the business has been licensed in the last two years verifying that the taxpayer has, for at least two years immediately preceding the date of the statement, made timely payment of all sales taxes and other transaction privilege taxes incurred.
  2. Two-year reporting history as described above in subsection (D)(1) and an explanation of good cause for late or insufficient payment of the tax;
  3. Documentation which verifies that no potential for Arizona tax liability exists;
  4. Bond for a previously issued Arizona transaction privilege license that adequately covers the licensee's expected transaction privilege tax liability for Arizona for both the previously issued license and for this license.
- E. The bond shall not expire prior to two years after the transaction privilege license is issued. Upon lapse or forfeiture of any bond by any licensee, the licensee shall deposit with the Department another bond within five business days of the licensee's receipt of written notification by the Department.
- F. Any licensee, who has had a bond posted for at least two years and fulfills any exception listed in subsection (D), or whose principal place of business becomes Arizona, may request a written waiver and that the bond be returned.

**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 9. HEALTH SERVICES**

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

[R17-200]

**PREAMBLE**

- | <b><u>1. Article, Part, or Section Affected (as applicable)</u></b> | <b><u>Rulemaking Action</u></b> |
|---|---------------------------------|
| R9-22-712.60  | Amend                           |
| R9-22-712.62  | Amend                           |
| R9-22-712.63  | Amend                           |
| R9-22-712.64  | Amend                           |
| R9-22-712.65  | Amend                           |
| R9-22-712.66  | Amend                           |
| R9-22-712.68  | Amend                           |
| R9-22-712.71  | Amend                           |
| R9-22-712.72  | Amend                           |
| R9-22-712.80  | Amend                           |
| R9-22-712.81  | 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. The effective date of the rule:**  
 January 1, 2018
- 4. Citations to all related notices published in the Register to include the Register as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:**  
 Notice of Rulemaking Docket Opening: 23 A.A.R. 1811, July 7, 2017  
 Notice of Proposed Rulemaking: 23 A.A.R. 1791, July 7, 2017  
 Prior to the filing of this Notice of Final Rulemaking, GRRC approved amendments to R9-22-712.71 regarding incremental payments for hospitals that qualify for a value-based purchasing adjustment. The amendments became effective October 1, 2017. Additional information regarding the value-based purchasing amendment can be found via the following related notices published in the *Register*:  
 Notice of Rulemaking Docket Opening: 23 A.A.R. 1046, May 5, 2017  
 Notice of Proposed Rulemaking: 23 A.A.R. 1015, May 5, 2017  
 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
- 5. 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](http://www.azahcccs.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 Arizona Health Care Cost Containment System Administration is the single state agency responsible for administration of the Medicaid program in Arizona. The program is jointly funded by the State, counties, and the federal government. Federal law imposes a substantial number of conditions on the receipt of federal financial assistance reflected in federal statutes (42 U.S.C. § 1396 et seq.) and regulation (generally, 42 C.F.R. Parts 430 through 455). While States are provided substantial flexibility with respect to the payment methods for health care providers that agree to participate, federal law does require that States “assure that payments are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population in the geographic area.” 42 U.S.C. § 1396a(a)(30)(A). State law requires the agency to adopt a diagnosis-related group (DRG) based hospital reimbursement methodology consistent with Title XIX of the Social Security Act for inpatient dates of service on and after October 1, 2014. A.R.S. § 36-2903.01(G)(12).

A DRG based hospital reimbursement methodology pays a fixed amount on a “per discharge basis.” Under this methodology each claim is assigned to a DRG based on the patient’s diagnoses, surgical procedures performed, age, gender, birth weight, and discharge status. The goal of diagnosis related groups is to classify inpatient stays into categories based on similar clinical conditions and on similar levels of hospital resources required for treatment. These categories are identified using DRG codes each of which is assigned a relative weight appropriate for the relative amount of hospital resources expected to be used to treat the patient. An essential element of a DRG based hospital payment methodology is the selection of one of the several DRG classification systems. The DRG system was first implemented via rule published in 20 A.A.R. 1956, published September 6, 2014. As originally published, the Agency elected to use the All Patient Refined DRG (APR-DRG) system of codes and relative weights established and maintained by 3M Health Information Systems. At the time, the most current version of that system was version 31. More than three years have elapsed since initial implementation of APR-DRG. The original DRG reimbursement methodology was developed using Fiscal Year 2011 data from the Agency’s tiered per diem system. Since that time, 3M Health Information Systems has issued version 34 of the system which is in use in the health care industry as the basis for payments by other payers. In addition, there have been updates to the national code sets used for diagnoses and procedures.

To meet its federal obligation to establish payment methodologies that are consistent with efficiency, economy, quality and access, the Agency contracted with Navigant Consulting to assess the impacts of these changes on reimbursement for inpatient hospital reimbursement (often referred to as “rebasin” the payment methodology). The current rebase will utilize updated claims and encounter data and incorporates related changes to policy and service adjustors in an effort to maintain cost effectiveness.

Hospitals may wish to take particular note of the proposed amendment to R9-22-712.72(B). The proposed amendment strikes an overly restrictive direction regarding the coding of claims when a member’s enrollment changes during an inpatient stay, which direction may result in certain claims failing to qualify for the outlier payment add-on under R9-22-712.68 when such payment is appropriate. Providers should consult AHCCCS policy manuals that are incorporated by reference into the provider participation agreement for specific guidance on correct coding practices effective for claims with dates of discharge on and after January 1, 2018.

In addition, hospitals should note that the wage indices referenced in R9-22-712.62(B) include the “rural floor” such that the wage index for a hospital in any urban area cannot be less than the wage index received by rural hospitals in the same State. Use of the rural floor is required for the Medicare program under 42 C.F.R. 412.64, and the AHCCCS Administration has elected to adopt the rural floor as part of this rulemaking.

Pursuant to A.R.S. § 36-2903.01(G), the Agency promulgates rules that describe the payment methodology; however, per A.R.S. § 41-1005(A)(9), the Agency is not required to have rules that set forth the actual amounts of fee-for-service payments. As a condition of federal financial participation, the Agency is required to provide notice through its website and/or publication through the State administrative register. In addition, the State must provide an opportunity for public comment on significant proposed changes to methods and standards for payment rates. 42 U.S.C. § 1396a(a)(13) and 42 C.F.R. § 447.205. To accommodate future editions of the APR-DRG system, changes in the national code sets, and the corresponding changes to service and policy adjustors, the Agency is proposing to remove from the text of the rule references to specific dollar amounts and other numerical factors which, going forward, will be published to the Agency’s website with advanced notice and public comment prior to implementation.

For ease of reference, the amounts intended for use as of January 1, 2018 (and historical values) appear below and will be published to the Agency’s website:

Rule Section (R9-22)	Description of Value Moved to Web	Current Values	Updated Values
R9-22-712.60(C) R9-22-712.60(F)(1)	Reference to the version of the 3M APR-DRG classification system	Version 31	Version 34
R9-22-712.62(B)	The amount of the statewide standardized amount of the base payment.	\$5,295.40	\$5,168.06



R9-22-712.63	The amount of the alternative to the statewide standardized amount of the base payment for urban hospitals with high Medicare utilization and short-term hospitals.	\$3,436.08	\$3,359.24
R9-22-712.64(A)(2)	The amount of the DRG base payment for out of state hospitals.	\$5,184.75	\$5,157.58
R9-22-712.65(A)	The multiplier for high-utilization hospitals	1.055	1.110
R9-22-712.66	Multipliers for service policy adjusters.	Newborns: 1.55 Neonates: 1.10 Obstetrics: 1.55 Psychiatric: 1.65 Rehab: 1.65 Children - • Severity level 1 & 2: 1.25 • Severity levels 3 & 4 (2016): 1.60	Newborns: 1.55 Neonates: 1.10 Obstetrics: 1.55 Psychiatric: 1.65 Rehab: 1.65 Burns: 2.70 Children - • Severity level 1 & 2: 1.25 • Severity levels 3 & 4 (2016): 1.60 • Severity levels 3 & 4 (2017): 1.945 • Severity levels 3 & 4 (2018): 2.30 All other claims: 1.025
R9-22-712.68(D)	The fixed loss amount for CAHs and all other hospitals.	CAHs \$5,000 All others \$65,000	CAHs \$5,000 All others \$65,000
R9-22-712.68(E)	The DRG marginal cost percentages for burns and all other claims.	Burns 90% All others 80%	Burns 90% All others 80%

**7. 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 Agency engaged the services of Navigant Consulting who modeled the estimated impact of the proposed amendments on payments to hospitals for inpatient services under the DRG payment methodology. Information regarding that model will be posted to the Agency’s website, and will be located on the webpage “AHCCCS APR-DRG REBASE”. <https://www.azahcccs.gov/PlansProviders/RatesAndBilling/FFS/APRDRGRebase.html>.

**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:**

This rulemaking does not diminish a previous grant of authority of a political subdivision.

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

Multiple factors may influence the actual economic impact of the amendments proposed by this rulemaking, including the nature and frequency of inpatient hospital services and where those services are received. Assuming no significant changes in utilization from prior years, the Agency anticipates that the aggregate increase in expenditures as a result of this rule will be \$35.5 million in additional payments to hospitals annually. Through the Medicaid program, the federal government funds a substantial percentage of the Agency’s expenditures for medical services which percentage varies by eligibility category. Based on estimates of the level of federal financial participation, the Agency estimates the proposed amendments increase State expenditures (General Fund and hospital assessment) by \$8.3 million annually. The Agency does not anticipate that the rulemaking will have an effect on State revenues or materially impact political subdivisions of the State. According to hospital uniform accounting reports information filed with the Arizona Department of Health Services for 2015 (the most current information publicly available), 2 of the 104 hospitals listed reported fewer than one hundred full-time employees which qualifies those hospitals as “small businesses” under A.R.S. § 41-1001(21). The two hospitals, Arizona Orthopedic Surgical and Specialty Hospital and Arizona Spine & Joint Hospital are hospitals that are small businesses impacted by the DRG payment system. Estimates regarding the impact to those hospitals and all other hospitals participating in the AHCCCS program are posted to the Agency’s website.

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

There have been no changes between the proposed rulemaking and the final rulemaking. The AHCCCS Administration may make minor grammatical and technical corrections, as needed.

**11. An agency’s summary of the public or stakeholder comments made about the rule making and the agency response to the comments:**

The AHCCCS Administration appreciates the input of stakeholders to implement the modified DRG reimbursement methodol-



ogy. AHCCCS held a stakeholder’s meeting on May 4, 2017 and presented the preliminary model to the stakeholders. In addition, AHCCCS presented a power point with information at the Tribal Consultation Meeting on April 20, 2017. The proposed rules were also posted on the AHCCCS website on June 16, 2017. The proposed rules were published in the Arizona Administrative Register on July 7, 2017. As part of the Arizona Administrative Procedures Act, AHCCCS allowed for public comment at the public hearing and during the comment process. The AHCCCS Administration has listed the public comments and AHCCCS response in the table below:

	<b>COMMENT FROM COMMENTOR</b>	<b>AHCCCS RESPONSE:</b>
1.	<p><b>Comment from Julia Strange Vice President, Community Benefit Tucson Medical Center (TMC):</b> Under R9-22-712.62 DRG Base Payment, AHCCCS suggests using the wage index values published August 22, 2016. Although these values were the proposed values published by CMS, final values were subsequently published in the tables of the October 5, 2016 Federal Register.</p> <p>Tucson Medical Center believes that using the final values as opposed to the proposed values would be more appropriate, given that it matches the wage index value in place today.</p>	<p><b>AHCCCS RESPONSE:</b> The values published on August 22, 2016 are part of a final rule applicable to reimbursement for inpatient services under the Medicare program. On October 5, 2016, the federal government published a correction to the earlier rule. Federal law does not require the application of these same indices to the Medicaid program. AHCCCS believes that the August 22, 2016 indices more accurately reflect wage values in Arizona.</p>
2.	<p><b>Comment from Julia Strange Vice President, Community Benefit Tucson Medical Center (TMC):</b> In regards to R9-22-712.66 DRG Service Policy Adjustor, while TMC is appreciative that AHCCCS has increased the policy adjustor for neonate cases when compared to the adjustors originally shared with the state hospitals, TMC remains concerned that it will have a detrimental impact on the newborn and obstetrics adjustors.</p> <p>While we understand the goal of infusing additional resources into pediatrics, we believe that that investment would be more appropriately spread across all of the service lines that are primary to AHCCCS’ mission - and most notably, to support services for moms, babies, and children.</p>	<p><b>AHCCCS RESPONSE:</b> Per 42 U.S.C. § 1396a(a)(30)(A), AHCCCS is required to establish rates that are consistent with efficiency, economy, quality of care, and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population in the geographic area. In essence, the federal requirement is that AHCCCS pay neither too much nor too little to achieve the goal of access to appropriate care. Spreading an “investment” across all service lines is not necessarily consistent with the federal standard. In AHCCCS opinion, the Service Policy Adjustors reflect select adjustment to payments necessary to achieve adequate access to care.</p>
3.	<p><b>Comment from Mary Lonon Senior Financial Analyst, Tucson Medical Center:</b> Was the proposed rule updated at any point? a. I originally had that the updated standardized payment rate for TMC would go from \$5,295.40 to \$5,142.36. Now when I pull up the proposed rule from the AHCCCS website, it shows that the new standard payment will be \$5,168.06. b. If it has been revised and the \$5,168.06 is correct, can you send me a copy of the original proposed rule? I want compare, so that I make and other necessary changes.</p>	<p><b>AHCCCS RESPONSE:</b> The preamble to the proposed rule originally posted to the Agency website on July 16, 2017, included inaccurate values. On July 27, 2017, AHCCCS amended the information on the website. The values published on July 27, 2016 were the values that were included in the proposed rule published by the Arizona Secretary of State. In addition to this written response, AHCCCS provided technical assistance to the commenter.</p>
4.	<p><b>Comment from Mary Lonon Senior Financial Analyst, Tucson Medical Center:</b> In the final model version that was posted this past week, the first section states that it is V31 <u>without transition</u>. Is this referring to the transition from the base payments when AZ rebased payments based on going from a tiered per diem to a DRG payment formula? If not, what “transition” is it referring to?</p>	<p><b>AHCCCS RESPONSE:</b> The contents of the final model posted to the AHCCCS website is not incorporated into the proposed rule and was provided as information to stakeholders about the anticipated impact of the rule. As originally implemented, the DRG methodology included a three year transition period. The statement “without transition” reflects that the transition period has concluded.</p>
5.	<p><b>Comment from Mary Lonon Senior Financial Analyst, Tucson Medical Center:</b> TMC had a shift in its wage index in recent years. Can you verify the wage index for TMC that is being used to calculate each of the V31 and V34 payments?</p>	<p><b>AHCCCS RESPONSE:</b> The wage indices applicable to TMC under the current rule and under the proposed rule are included in tables referenced in proposed R9-22-712.62.</p>
6.	<p><b>Comment from Dave Yoder, Senior Director - Client Services Toyon Associates, Inc.:</b> At MIHS, we found the latest two published exhibits to be very helpful. Our calculations based on FY2016 data were close to the published estimates for MIHS. We believe that the APR-DRG rebase does not penalize MIHS from a rate perspective. However, changes in patient volumes, in particular burn volumes, may affect the net benefit received year over year. Otherwise, we had no questions at this time, and we were interested in hearing the questions and comments from other Arizona healthcare systems.</p>	<p><b>AHCCCS RESPONSE:</b> Thank you for your positive feedback.</p>
7.	<p><b>Comment from Jim Champlin, Phoenix Children’s Hospital:</b> In the 2014 project PCH was listed under High Medicaid Utilization Providers, why the change?</p>	<p><b>AHCCCS RESPONSE:</b> One of the criteria for that designation is: “Covered inpatient days subject to DRG reimbursement, determined using adjudicated claim and encounter data during the fiscal year beginning October 1, 2015, equal to at least four hundred percent of the statewide average number of AHCCCS-covered inpatient days at all hospitals.” PCH falls below that threshold.</p>



<p>8.</p>	<p><b>Comment from Matt Goss, Reimbursement Manager, Dignity Health and Brandi Brashear, Reimbursement Director, Dignity Health:</b> We've reviewed the proposed rule and noticed that there is a new requirement to receive the high-utilization multiplier. Would the qualification requiring hospitals to receive less than \$2M in outlier payments exclude St. Joseph's from getting this adjustment factor? Please let us know.</p> <p>What was the logic behind this additional qualifier?</p>	<p><b>AHCCCS RESPONSE:</b> The new qualifier does not exclude St Joseph's Hospital which will continue to receive the high-utilization policy adjustor following the rebase.</p> <p><b>AHCCCS RESPONSE:</b> This additional qualifier is further refinement to ensure the described policy adjustor receives its intended application.</p>												
<p>9.</p>	<p><b>Comment from John McMullin CPA, MBA, FHFMA, Chief Financial Officer at RMCHCS:</b> I don't see any information for RMCHCS is Gallup, NM. Are you able to help me understand how it will impact our AZ Medicaid population?</p>	<p><b>AHCCCS RESPONSE:</b> Based on our FY 2016 data, Rehoboth McKinley no longer meets the threshold for a "High Utilization Out of State Hospital." For that reason, beginning 01/01/2018 under the proposed rule, Rehoboth McKinley would be reimbursed by AHCCCS under proposed A.A.C. R9-22-712.64(A)(2). To gauge the practical effect of that, you can compare the current reimbursement values for Rehoboth McKinley (see the spreadsheet at this link, row 56: <a href="https://www.azahcccs.gov/PlansProviders/Downloads/FFSrates/APR/DRG_Provider_Table_FFY2017_20170101.xlsx">https://www.azahcccs.gov/PlansProviders/Downloads/FFSrates/APR/DRG_Provider_Table_FFY2017_20170101.xlsx</a>) to the table below illustrating the rebased "All Other Out-of-State" reimbursement values under the proposed rule.</p> <table border="1" data-bbox="868 735 1388 955"> <thead> <tr> <th>Parameter</th> <th>Value</th> </tr> </thead> <tbody> <tr> <td>Hospital category</td> <td>Out of State</td> </tr> <tr> <td>Statewide Average DRG Base Rate</td> <td>\$5,157.58</td> </tr> <tr> <td>High Medicaid Volume Hold-Harmless Adjustor</td> <td>1.000</td> </tr> <tr> <td>Out-of-state cost-to-charge ratio</td> <td>0.240</td> </tr> <tr> <td>Cost Outlier Fixed Loss Threshold</td> <td>\$65,000</td> </tr> </tbody> </table>	Parameter	Value	Hospital category	Out of State	Statewide Average DRG Base Rate	\$5,157.58	High Medicaid Volume Hold-Harmless Adjustor	1.000	Out-of-state cost-to-charge ratio	0.240	Cost Outlier Fixed Loss Threshold	\$65,000
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<p>10.</p>	<p><b>Comment from Mr. Robert Myers, Tenet Health:</b> Do you have a copy of the version 34 DRG table that you could send to us?</p>	<p><b>AHCCCS RESPONSE:</b> Provided table to Mr. Myers.</p>												
<p>11.</p>	<p><b>Comment from Greg Vigdor, President and Chief Executive Officer, AzHHA:</b> The Preamble to the NOPR states that state expenditures will increase by approximately \$8.3 million, some of which will come from the general fund, and some from the hospital assessment. In order for stakeholders to evaluate the impact of this proposal, we recommend the Administration provide an estimate of how this proposal would impact the assessment paid by each hospital. This is especially important because some hospitals are not paid within the APR-DRG system and would not receive any increased payments from this proposal. Moreover, the impact statement sent by the Administration to hospitals estimates that payments to thirteen hospitals and three health systems within the DRG system would be reduced under the rebase proposal. Payments to one hospital are estimated to be reduced by 4.1%—not an inconsequential amount. While one would expect a revenue-neutral rebasing initiative to result in estimated payment losses for some hospitals, the fact that the Administration's proposal includes additional funds, which are partially funded by the provider assessment, and the proposal includes a 1.025 policy adjustment "for all other claims" makes this proposal different. To be clear, we are not opposed to using the hospital assessment to fund a rate increase. In fact, AzHHA has previously supported the use of the assessment for this purpose. However, we feel very strongly that stakeholders should have the opportunity to understand the implications of this approach, particularly for providers who are reimbursed under different payment methodologies or who are estimated to experience reduced reimbursement under the proposal.</p>	<p><b>AHCCCS RESPONSE:</b> The impacts of the changes reflected in this proposed rule have been incorporated into the State Fiscal Year 2018 assessment amounts for individual hospitals that have been posted to the Agency's website since May of this year. Any future amendments to the hospital assessment will require separate rule making by the Agency. As part of any future rule making regarding the assessment, the Agency will publish the projected impact to individual hospitals. Any future amendments will include public notice and an opportunity for comments at that time. Additionally, a hospital workgroup has been established to discuss any changes to the assessment for State Fiscal Year 2019. The first meeting of the workgroup has been scheduled for September 15, 2017.</p>												



<p>12.</p>	<p><b>Comment from Greg Vigdor, President and Chief Executive Officer, AzHHA:</b>                  However, the Administration has revised the methodology since its May meeting with stakeholders, and has not posted an updated model with the NOPR. While the Preamble states that information regarding the model would be posted to the agency’s website with the publication of the NOPR, we have not been able to locate this information. We appreciate the Administration sending out hospital and health system impact information last week, but this does not provide enough information to fully evaluate the current model and its impact on access to care for Medicaid beneficiaries.                  We are particularly interested in understanding the rationale behind some of the policy adjusters and their corresponding weights. The APR-DRG system as a methodology takes into account high acuity cases that some providers may experience disproportionately, and the relative weights reflect the typical resources needed to care for a patient within a particular DRG category. AzHHA believes that any additional policy adjusters should be based on key Medicaid principles of enhancing access to care and/or improving quality and efficiency. Many of the policy adjusters that AHCCCS has put in place previously or that it proposes in the NOPR are typical of this approach. They target high cost service lines and/or those services on which Medicaid beneficiaries particularly rely, including pediatrics, obstetrics, and neonatology. Many other states use similar adjusters.                  The proposal to include a policy adjuster for burn services fits this approach as well. It is a very high cost, specialized service that is critical to maintain for Medicaid Beneficiaries. If the State were to lose burn services at the one burn center in Arizona, Medicaid beneficiaries would need to be transported out of state for appropriate care. For this reason, we support including an adjuster for burn services.                  While we support the inclusion of a policy adjuster for burn services, we seek clarity on how the Administration developed the specific weight for this service line adjustment, as well as the weights associated with the other policy adjusters. Specifically, what is the rationale for the <i>specific weights</i> proposed by the Administration for each policy adjuster?</p>	<p><b>AHCCCS RESPONSE:</b>                  The Arizona Administrative Procedure Act does not require the posting of models that estimate the impact of proposed rules on individual hospitals. Nevertheless, for the information of stakeholders, an updated model was posted to the Agency’s website on August 7, 2017, and the comment period was extended to August 14, 2017. At the request of the AzHHA, additional information regarding the estimated payment to cost ratios was added to the model contributing to the delay in posting.                  All of the policy adjusters reflected in the proposed rules are based on the Agency’s evaluation of adjustments that are necessary for, and consistent with, federal requirements for establishing payment methodologies consistent with efficiency, economy, quality of care, and access to care.                  We appreciate your support for the policy adjuster for burns and other service categories. The Agency’s justifications regarding specific adjusters are addressed in responses to other comments.</p>
<p>13.</p>	<p><b>Comment from Greg Vigdor, President and Chief Executive Officer, AzHHA:</b>                  There is one adjuster for which we have not been able to ascertain a specific policy rationale—regardless of the weight proposed. The Administration proposes to retain a provider adjuster for “high Medicaid utilization hospitals,” and in fact proposes to double the weight for this adjuster in the rebase proposal. According to information released last week, three hospitals would qualify as “high Medicaid utilization hospitals” under the revised definition. The definition does not necessarily target hospitals with the highest Medicaid payer mix in the State, although having a Medicaid inpatient utilization rate greater than 30% for FY 2016 is one of the criteria. Rather, in order to qualify for the adjustment, a hospital for all practical purposes must be one of the largest in the State—because the adjustment is also based on the hospital having at least 400% of the statewide average number of AHCCCS-covered inpatient days during FFY 2016.                  All three hospitals that qualify for this provider adjustment are located in the Phoenix metropolitan area. They are surrounded by many other hospitals that offer similar services to Medicaid beneficiaries. As such, we ask the Administration to describe the policy rationale for providing additional payments to these specific hospitals. For example, how does this adjustment enhance access to care for Medicaid beneficiaries? What inpatient services do these facilities provide that beneficiaries cannot receive elsewhere nearby? What hardships would beneficiaries encounter if they had to travel elsewhere to receive these services? If these hospitals provide specialty services that Medicaid beneficiaries cannot access elsewhere, why not provide an adjustment for those specific service lines rather than an across-the-board provider adjustment? It is vital for the integrity of the APR-DRG payment system and to promote fairness and transparency that stakeholders fully understand the policy rationale for each adjustment. This is especially true for this particular adjustment because (1) the adjustment was modified after the preliminary model was released, and there has been no public discussion on it since then; (2) other hospitals may be paying for this adjustment through an increase to their provider assessment; and (3) the qualifying providers will continue to receive the adjustment regardless of whether their Medicaid utilization or other factors shift from year to year—at least until the rule is next modified.</p>	<p><b>AHCCCS RESPONSE:</b>                  While the published model identifies three “high utilizing hospitals,” under section R9-22-712.65 and 712.68 of the proposed rule, AHCCCS estimates that only one high utilizing hospital would meet all criteria including the proposed outlier threshold. Without the adjustment, this one hospital is projected to have losses under the DRG reimbursement methodology. Establishing a methodology that permits the hospital to incur a projected loss would be inconsistent with AHCCCS’ obligation under the federal requirements for the Medicaid program to ensure adequate access to care.                  The preliminary model was precisely that – a preliminary model. While AHCCCS values the input of stakeholders, to implement the modified DRG reimbursement methodology reflected in the proposed rule by January 1, 2018, AHCCCS solicited comments on the final model through the notice and comment process established as part of the Arizona Administrative Procedures Act.</p>



<p>14.</p>	<p><b>Comment from Greg Vigdor, President and Chief Executive Officer, AzHHA:</b>                  In the NOPR, the Administration is also proposing to no longer set the APR-DRG base amounts and weights through the rulemaking process. We are opposed to this proposal. The rulemaking process requires a certain level of accountability for agencies—regardless of who is leading the agency at a particular time. While rulemakings can be cumbersome for state agencies, the public benefits from this accountability and transparency. If the Administration chooses to move ahead with eliminating the base payment amounts and weights from the Administration’s rules and instead adjusting them periodically on the Administration’s website, we strongly recommend that the proposed rules be modified to include a requirement that the Administration publish modeling information and hospital impact analyses, and hold meetings with stakeholders when changes are proposed to the payment methodology, including changes to base amounts, weights and policy adjusters.</p>	<p><b>AHCCCS RESPONSE:</b>                  As stated in the preamble to the proposed rule, pursuant to A.R.S. § 36-2903.01(G), the Agency promulgates rules that describe the payment methodology; however, per A.R.S. § 41-1005(A)(9), the Agency is not required to have rules that set forth the actual amounts of fee-for-service payments. As a condition of federal financial participation, the Agency is required to provide notice through its website and/or publication through the State administrative register when proposing a change to the payment methodology. In addition, the State must provide an opportunity for public comment on significant proposed changes to methods and standards for payment rates. 42 U.S.C. § 1396a(a)(13) and 42 C.F.R. § 447.205. Going forward, references to specific dollar amounts and other numerical factors will be published to the Agency’s website with advanced notice and public comment prior to implementation. This approach is necessary to accommodate future editions of the APR-DRG system, changes in the national code sets, and the corresponding changes to service and policy adjusters.</p>
<p>15.</p>	<p><b>Comment from Greg Vigdor, President and Chief Executive Officer, AzHHA:</b>                  Finally, we would like to thank the Administration for the change it made to the original model regarding the wage index. We support the inclusion of the “rural floor,” which is also used by the Medicare program. AzHHA appreciates the opportunity to provide comments on this rulemaking.</p>	<p><b>AHCCCS RESPONSE:</b>                  The Agency appreciates your support with respect to the changes to the wage index.</p>
<p>16.</p>	<p><b>Comment from Craig McKnight, Executive VP, Chief Financial Officer, Phoenix Children’s Hospital:</b>                  The first relates to the qualifying calculation for High Medicaid Utilization Providers. One of the factors of the criteria for that designation is, “covered inpatient days subject to DRG reimbursement, determined using adjudicated claim and encounter data during the fiscal year beginning October 1, 2015, equal to at least four hundred percent of the statewide average number of AHCCCS-covered inpatient days at all hospitals.” This calculation compares total AHCCCS days at each facility to the Statewide average. We would suggest that a more relevant measurement for High Medicaid Utilization providers would be a calculation that better represents the extent to which each hospital has dedicated its resources to Medicaid patient services. This calculation should include a factor for or be based on the comparison of AHCCCS days as compared to the total inpatient days of each facility. Utilizing AHCCCS payor mix would show that Phoenix Children’s percentage of AHCCCS patient days is over 62%, among the very highest in Arizona. It is worth noting that the State data shows that the average AHCCCS inpatient payor mix is 27%. This shows that PCH is impacted to a much greater degree by AHCCCS APR-DRG reimbursement than most AZ Hospitals while being one of largest hospitals by AHCCCS days and should be considered a High Medicaid Usage facility.</p>	<p><b>AHCCCS RESPONSE:</b>                  We agree that there are many different methods that could be used to identify high utilizing hospitals. We disagree that the method proposed by the commenter would materially improve the analysis compared to the methodology set forth in the rule. The current rule continues the methodology for identifying high utilizing hospitals that has been in place for the past several years. With the addition of the outlier criteria, the proposed methodology is consistent with the federal standard for establishing a reimbursement methodology that is consistent with efficiency, economy, quality of care, and access to care, and with the objective of not incurring expenditures for inpatient services above the level necessary to meet that standard.</p>
<p>17.</p>	<p><b>Comment from Craig McKnight, Executive VP, Chief Financial Officer, Phoenix Children’s Hospital:</b>                  The second area of concern for PCH is the data utilized in the study. PCH would have welcomed being involved in validating the data gathered for the study. As it is, the reported patient days for PCH are 19% below the level that PCH reports as AHCCCS patient days for that same time period and is below the level that we report annually on our Cost Report as Title XIX Days (excluding observation). Using corrected data would materially impact the representation of PCH. The costs as reported of \$127,403,159 do not represent PCH’s cost to provide care for AHCCCS patients. Total costs for that time period related to AHCCCS inpatients were \$177,058,162. Subtracting this from the calculated reimbursement as reported of \$190,302,017, produces a payment-to-cost ratio of 1.07, not the 1.49 reported.</p>	<p><b>AHCCCS RESPONSE:</b>                  We disagree that the data from the AHCCCS claims and encounter system is invalid. That data is a representative and easily available source that AHCCCS employed for its analysis for the entire system. This is the same data source that is attested to by certified actuaries and accepted by the federal government as the basis for capitation payments to managed care organizations. To the extent the commenter is suggesting that every hospital should have the opportunity to validate data or that the analysis should rely on hospital-reported data, the suggestion is administratively impractical. In addition, given that identification of high utilizing hospital is determined relative to the utilization of all hospitals, it is uncertain at best that a different data source would result in any improvement to the analysis or the outcome of the analysis.</p>
<p>18.</p>	<p><b>Comment from Craig McKnight, Executive VP, Chief Financial Officer, Phoenix Children’s Hospital:</b>                  Lastly, Supplemental payments are a factor in the calculations included in the study report, the inclusion and degree of which can preclude facilities from receiving various policy adjusters. Phoenix Children’s is in the process of transitioning away from the Safety Net Care Pool that has recently provided the majority of supplemental payments, including those in this survey. To the extent to which supplemental payments is a factor in these calculations, we would ask that decisions made regarding future reimbursement levels take into consideration that PCH will no longer be receiving SNCP once the current approved SNCP has been distributed.</p>	<p><b>AHCCCS RESPONSE:</b>                  The commenter incorrectly assumes that supplemental payments affect the application of the adjusters included in the rule. Supplemental payments were not a factor considered in those determinations. At the request of stakeholders based upon input on the preliminary model, the final model includes data on supplemental payments for informational purposes.</p>



<p>19.</p>	<p><b>Comment from Linda Hunt, Sr. Vice President of Operations &amp; President/CEO, Arizona, Dignity Health</b>  <b>Shirley Gunther, VP of External Affairs, Arizona Dignity Health, Arizona Service Area Office:</b>  <b>R9-22-712.65 DRG Provider Policy Adjustor</b>                  The Proposed Rule takes into account the unique populations and the high level of acuity served in high-utilization acute care facilities. Hospitals that meet the criteria of a high-utilization provider should be adequately compensated to meet high acuity and frequency of such patients. SJHMC is one of Arizona’s first intercity urban acute care hospitals that delivers world-class and as such is one of the State’s largest high-utilizers for a subset of patients. <b>Therefore, we strongly support and urge the adoption of the provider adjustment as it addresses the inequities high-utilization hospitals incur.</b></p>	<p><b>AHCCCS RESPONSE:</b>                  AHCCCS appreciates the commenter’s support.</p>
<p>20.</p>	<p><b>Comment from Linda Hunt, Sr. Vice President of Operations &amp; President/CEO, Arizona, Dignity Health</b>  <b>Shirley Gunther, VP of External Affairs, Arizona Dignity Health, Arizona Service Area Office:</b>  <b>R9-22-712.66. DRG Service Policy Adjustor</b>                  Dignity Health requests “neurology” services to be added to the policy adjustors under the Proposed Rule. Like the other services listed in R9-22-712.66, neurology patients are acutely ill patients with diseases of the brain, spinal cord and nervous system issues that often have associated medical problems complicating their care. The Barrow Neurological Institute at SJHMC is known throughout the U.S. and world as a leader in brain and spine patient care often taking the most complex cases other facilities can’t or won’t consider.                   The Barrow performs more brain surgeries than any other hospital in the United States. It is our experience that claims/encounters data are disproportionately high for this service and the hospital resources required to treat the acuity and complex conditions of these patients justifies the need for neurology to be included the Service Policy Adjustor. <b>For those reasons, Dignity Health requests that the AHCCCS Administration consider including “neurology” to Service Policy Adjustors in this Proposed Rule.</b></p>	<p><b>AHCCCS RESPONSE:</b>                  While the Agency appreciates and values the skilled services provided by the Barrow Neurological Institute, the Agency has determined that the proposed reimbursement structure, including policy adjustors, is adequate to ensure access to quality care and comply with federal requirements to establish methodologies consistent with efficiency and economy.</p>
<p>21.</p>	<p><b>Comment from Jason Bezoso Vice President, Government Relations, Banner Health:</b>                  Under the proposed rule, eligible hospitals for the high-utilization policy adjuster would also need to have less than \$2 million in outlier payments in FFY 16. Banner would strongly urge AHCCCS to maintain the historical eligibility criteria and eliminate the proposed outlier test. The purpose of outlier payments is to reimburse providers for extraordinary costs that are not represented in the base APR-DRG reimbursement methodology. The inclusion of an outlier test for this adjuster unfairly penalizes high-Medicaid volume hospitals solely based on the provider’s presentation of unusually high-cost Medicaid patients.                   Based on the DRG projections provided by AHCCCS, this proposed addition would preclude both Banner Desert Medical Center and Banner-University Medical Center Phoenix from being eligible for the high-utilization policy adjuster. Both of these facilities have very high Medicaid inpatient utilization compared to other hospitals across the state and should be included in this peer group—not excluded.                   As AHCCCS prepares to finalize the proposed rule changes to the APR-DRG payment system, we would strongly urge the AHCCCS Administration to establish a payment system that reimburses all high-Medicaid utilization hospitals equally. With AHCCCS covering over 1.9 million Arizonans, nearly 28% of the state population, AHCCCS has the ability to create distortions in the marketplace. That should not be the role of government which is why it is important to treat all providers and peer groups fairly and equally. Thank you</p>	<p><b>AHCCCS RESPONSE:</b>                  We disagree that the outlier test unfairly penalizes high utilizing hospitals. Receipt of projected outlier payments in excess of \$2 million results in the hospital receiving adequate reimbursement for extraordinary costs above the DRG. Thus, an additional adjuster for these hospitals is not necessary. Under sections R9-22-712.65 and 712.68 of the proposed rule, AHCCCS estimates that only one high utilizing hospital would meet all criteria including the proposed outlier threshold. Without the adjustment, this one hospital is projected to have losses under the DRG reimbursement methodology. In contrast, other high utilizing hospitals that do not meet the outlier threshold are not projected to have losses. Adoption of the commenter’s suggestion would increase AHCCCS expenditures for inpatient hospital services without an anticipated commensurate increase in quality or access to care. This would be inconsistent with the federal standard for establishing a reimbursement methodology that is consistent with efficiency, economy, quality of care, and access to care.</p>

**12. Other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules.**

There are no other matters prescribed by statute applicable to rulemaking specific to this agency, to this specific rule, or to this class of rules.

**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 rule does not require the provider to obtain a permit or a general 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:**

The rule is not more stringent than federal law.



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

No such analysis was submitted.

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

R9-22-712.62(B) references the labor share for the Medicare inpatient prospective payment system published in Volume 81 of the Federal Register at page 57312 and the wage index tables referenced in Volume 81 of the Federal Register at page 57311 for the fiscal year beginning October 1, 2016.

R9-22-712.71(4)(b) references 42 C.F.R. § 495.22.

R9-22-712.81 references 42 C.F.R. § 447.205.

**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:**

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

**15. 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

- R9-22-712.60. Diagnosis Related Group Payments
- R9-22-712.62. DRG Base Payment
- R9-22-712.63. DRG Base Payments Not Based on the Statewide Standardized Amount
- R9-22-712.64. DRG Base Payments and Outlier CCR for Out-of-State Hospitals
- R9-22-712.65. DRG Provider Policy Adjustor
- R9-22-712.66. DRG Service Policy Adjustor
- R9-22-712.68. DRG Reimbursement: Unadjusted Outlier Add-on Payment
- R9-22-712.71. Final DRG Payment
- R9-22-712.72. DRG Reimbursement: Enrollment Changes During an Inpatient Stay
- R9-22-712.80. DRG Reimbursement: New Hospitals
- R9-22-712.81. DRG Reimbursement: Updates

**ARTICLE 7. STANDARDS FOR PAYMENTS**

**R9-22-712.60. Diagnosis Related Group Payments**

- A. Inpatient hospital services with discharge dates on or after October 1, 2014, shall be reimbursed using the diagnosis related group (DRG) payment methodology described in this section and sections R9-22-712.61 through R9-22-712.81.
- B. Payments made using the DRG methodology shall be the sole reimbursement to the hospital for all inpatient hospital services and related supplies provided by the hospital. Services provided in the emergency room, observation area, or other outpatient departments that are directly followed by an inpatient admission to the same hospital are not reimbursed separately. Are reimbursed through the DRG methodology and not reimbursed separately.
- C. Each claim for an inpatient hospital stay shall be assigned a DRG code and a DRG relative weight based on ~~version 31 of the All Patient Refined Diagnosis Related Group (APR-DRG) classification system established by 3M Health Information Systems. If version 31 of the APR-DRG classification system will no longer support assigning DRG codes and relative weights to claims, and 3M Health Information Systems issues a newer version of the APR-DRG classification system using updated DRG codes and/or updated relative weights, then an updated version established by 3M Health Information Systems will be used; however, The applicable version of the APR-DRG classification system shall be available on the agency’s website. if the posted version employs updated relative weights, those weights will be adjusted using a single adjustment factor applied to all relative weights if necessary to ensure that the statewide weighted average of the updated relative weights does not increase or decrease from the statewide weighted average of the relative weights used under version 31.~~
- D. Payments for inpatient hospital services reimbursed using the DRG payment methodology are subject to quick pay discounts and slow pay penalties under A.R.S. 36-2904.
- E. Payments for inpatient hospital services reimbursed using the DRG payment methodology are subject to the Urban Hospital Reimbursement Program under R9-22-718.
- F. For purposes of this section and sections R9-22-712.61 through R9-22-712.81:
  - 1. “DRG National Average length of stay” means the national arithmetic mean length of stay published in ~~version 31 of the All Patient Refined Diagnosis Related Group (APR-DRG) classification established by 3M Health Information Systems.~~
  - 2. “Length of stay” means the total number of calendar days of an inpatient stay beginning with the date of admission through discharge, but not including the date of discharge (including the date of a discharge to another hospital, i.e., a transfer) unless the member expires.
  - 3. “Medicare” means Title XVIII of the Social Security Act, 42 U.S.C. 1395 *et seq.*



4. “Medicare labor share” means a hospital’s labor costs as a percentage of its total costs as determined by CMS for purposes of the Medicare Inpatient Prospective Payment System.

**R9-22-712.62. DRG Base Payment**

- A. The initial DRG base payment is the product of the DRG base rate, the DRG relative weight for the post-HCAC DRG code assigned to the claim, and any applicable provider and service policy adjustors.
- B. The DRG base rate for each hospital is the statewide standardized amount of which the hospital’s labor-related share of that amount is adjusted by the hospital’s wage index, ~~where the standardized amount is \$5,295.40, and the~~ The hospital’s labor share is determined based on the labor share for the Medicare inpatient prospective payment system published in Volume 81 of the Federal Register at page 57312 published August 22, 2016, and the ~~The hospital’s wage index are those used in the Medicare inpatient prospective payment system for the fiscal year beginning October 1, 2013 is determined based on the wage index tables reference in Volume 81 of the Federal Register at page 57311 published August 22, 2016. The statewide standardized amount is included in the AHCCCS capped fee schedule available on the agency’s website.~~
- C. Claims shall be assigned both a DRG code derived from all diagnosis and surgical procedure codes included on the claim (the “pre-HCAC” DRG code) and a DRG code derived excluding diagnosis and surgical procedure codes associated with the health care acquired conditions that were not present on admission or any other provider-preventable conditions (the “post-HCAC” DRG code). The DRG code with the lower relative weight shall be used to process claims using the DRG methodology.

**R9-22-712.63. DRG Base Payments Not Based on the Statewide Standardized Amount**

- A. Notwithstanding section R9-22-712.62, ~~the amount of \$3,436.08 a select specialty hospital standardized amount~~ shall be used in place of the statewide standardized amount in subsection R9-22-712.62(B) to calculate the DRG base rate for the following hospitals:
- Hospitals located in a city with a population greater than one million, which on average have at least 15 percent of inpatient days for patients who reside outside of Arizona, and at least 50 percent of discharges as reported on the 2011 Medicare Cost Report are reimbursed by Medicare.
  - Hospitals designated as type: hospital, subtype: short-term that has a license number beginning “SH” in the Provider & Facility Database for Arizona Medical Facilities posted by the ADHS Division of Licensing Services on its website for March of each year.
- B. The select specialty hospital standardized amount is included in the AHCCCS capped fee schedule available on the agency’s website.

**R9-22-712.64. DRG Base Payments and Outlier CCR for Out-of-State Hospitals**

- A. DRG Base payment:
- For high volume out-of-state hospitals defined in subsection (C), the wage adjusted DRG base payment is determined as described in R9-22-712.62.
  - Notwithstanding subsection R9-22-712.62 the wage adjusted DRG base rate for out-of-state hospitals that are not high volume hospitals shall be ~~\$5,184.75~~ included in the AHCCCS capped fee schedule available on the agency’s website.
- B. Outlier CCR:
- Notwithstanding subsection R9-22-712.68, the CCR used for the outlier calculation for out-of-state hospitals that are not high volume hospitals shall be the sum of the statewide urban default operating cost-to-charge ratio and the statewide capital CCR in the data file established as part of the Medicare Inpatient Prospective Payment System by CMS.
  - The CCR used for the outlier calculation for high volume out-of-state hospitals is the same as in-state hospitals as described in R9-22-712.68.
- C. A high volume out-of-state hospital is a hospital not otherwise excluded under R9-22-712.61, that is located in a county that borders the State of Arizona and had 500 or more AHCCCS covered inpatient days for the fiscal year beginning October 1, ~~2010~~ 2015.
- D. Other than as required by this section, DRG reimbursement for out-of-state hospitals is determined under R9-22-712.60 through R9-22-712.81.

**R9-22-712.65. DRG Provider Policy Adjustor**

- A. After calculating the DRG base payment as required in sections R9-22-712.62, R9-22-712.63, or R9-22-712.64, for claims from a high-utilization hospital, the product of the DRG base rate and the DRG relative weight for the post-HCAC DRG code shall be multiplied by a provider policy adjustor ~~of 1.055~~ that is included in the AHCCCS capped fee schedule available on the agency’s website.
- B. A hospital is a high-utilization hospital if the hospital had:
- ~~At least 46,112 AHCCCS covered~~ Covered inpatient days subject to DRG reimbursement, determined using adjudicated claim and encounter data during the fiscal year beginning October 1, ~~2010~~ 2015, ~~which is equal to at least four hundred percent of the statewide average number of AHCCCS-covered inpatient days at all hospitals of 11,528 days; and,~~
  - A Medicaid inpatient utilization rate greater than 30% calculated as the ratio of AHCCCS-covered inpatient days to total inpatient days as reported in the hospital’s Medicare Cost Report for the fiscal year ending ~~2011~~ 2016; and,
  - Received less than \$2 million in add-on payment for outliers under R9-22-712.68, based on adjudicated claims and encounters for fiscal year beginning October 1, 2015.

**R9-22-712.66. DRG Service Policy Adjustor**

In addition to subsection R9-22-712.65, for claims with DRG codes in the following categories, the product of the DRG base rate, the DRG relative weight for the post-HCAC DRG code, and the DRG provider policy adjustor shall be multiplied by the service policy adjustor listed in the AHCCCS capped fee schedule, available on the agency’s website, corresponding to the following DRG codes following service policy adjustors:

- Normal newborn DRG codes: ~~1.55.~~
- Neonates DRG codes: ~~1.10.~~
- Obstetrics DRG codes: ~~1.55.~~
- Psychiatric DRG codes: ~~1.65.~~



- 5. Rehabilitation DRG codes: ~~1-65.~~
- 6. Burn DRG codes.
- 67. Claims for members under age 19 assigned DRG codes other than listed above:
  - a. ~~1-25 for~~ For dates of discharge occurring on or after October 1, 2014 and ending no later than December 31, 2015 regardless of severity of illness level,
  - b. ~~1-25 for~~ For dates of discharge on or after January 1, 2016, for severity of illness levels 1 and 2,
  - c. ~~1-60 for~~ For dates of discharge on or after January 1, 2016 and before January 1, 2017, for severity of illness levels 3 and 4.
  - d. For dates of discharge on or after January 1, 2017, and before January 1, 2018 for severity of illness levels 3 and 4.
  - e. For dates of discharge on or after January 1, 2018, for severity of illness levels 3 and 4.
- 8. Claims for members assigned DRG codes other than listed above.

**R9-22-712.68. DRG Reimbursement: Unadjusted Outlier Add-on Payment**

- A. Claims for inpatient hospital services qualify for an outlier add-on payment if the claim cost exceeds the outlier cost threshold.
- B. The claim cost is determined by multiplying covered charges by an outlier CCR as described by the following subsections:
  - 1. For hospitals designated as type: hospital, subtype: children’s in the Provider & Facility Database for Arizona Medical Facilities posted by the ADHS Division of Licensing Services on its website for March of each year. The outlier CCR will be calculated by dividing the hospital total costs by the total charges using the most recent Medicare Cost Report available as of September 1 of that year.
  - 2. For Critical Access Hospitals the outlier CCR will be the sum of the statewide rural default operating cost-to-charge ratio and the statewide capital cost-to-charge ratio in the data file established as part of the Medicare Inpatient Prospective Payment System by CMS.
  - 3. For all other hospitals the outlier CCR will be the sum of the operating cost-to-charge ratio and the capital cost-to-charge ratio established for each hospital in the impact file established as part of the Medicare Inpatient Prospective Payment System by CMS.
- C. AHCCCS shall update the CCRs described in subsection (B) to conform to the most recent CCRs established by CMS as of September 1 of each year, and the CCRs so updated shall be used ~~for~~ for claims with dates of discharge on or after October 1 of that year.
- D. The outlier threshold is equal to the sum of the unadjusted DRG base payment plus the fixed loss amount. The fixed loss amount is ~~\$5,000~~ for critical access hospitals and ~~\$65,000~~ for all other hospitals are included in the AHCCCS capped fee schedule available on the agency’s website.
- E. For those inpatient hospital claims that qualify for an outlier add-on payment, the payment is calculated by subtracting the outlier threshold from the claim cost and multiplying the result by the DRG marginal cost percentage. The DRG marginal cost percentage is ~~90%~~ for claims assigned DRG codes associated with the treatment of burns and ~~80%~~ for all other claims are included in the AHCCCS capped fee schedule available on the agency’s website.

**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. ~~For claims with dates of discharge prior to January 1, 2018, the~~ 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. For claims with dates of discharge on and after January 1, 2018, no adjustment will be made to limit the financial impact to individual hospitals of the transition from the tiered per diem payment methodology or to account for improvements in documentation and coding.
- 2. ~~For claims with dates of discharge prior to January 1, 2018, the~~ 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. For claims with dates of discharge on and after January 1, 2018, no adjustment will be made to limit the financial impact to individual hospitals of the transition from the tiered per diem payment methodology or to account for improvements in documentation and coding.
- 3. The factor for each hospital and for ~~each federal fiscal year~~ claims with dates of discharge prior to January 1, 2018 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, 2017 through September 30, 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, 2017. To qualify for the Inpatient VBP Differential Adjusted Payment, a hospital providing inpatient hospital services must by May 15, 2017, have executed an agreement with a qualifying health information exchange organization and electronically submitted 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.

**R9-22-712.72. DRG Reimbursement: Enrollment Changes During an Inpatient Stay**

- A. If a member’s enrollment changes during an inpatient stay, including changing enrollment from fee-for-service to a contractor, or vice versa, or changing from one contractor to another contractor, the contractor with whom the member is enrolled on the date of discharge shall be responsible for reimbursing the hospital for the entire length of stay under the DRG payment rules in sections R9-22-712.60 through R9-22-712.81. If the member is eligible but not enrolled with a contractor on the date of discharge, then the AHCCCS



administration shall be responsible for reimbursing the hospital for the entire length of stay under the DRG payment rules in sections R9-22-712.60 through R9-22-712.81.

- B. When a member’s enrollment changes during an inpatient stay, the hospital shall use the date of enrollment with the payer responsible on the date of discharge as the “from” date of service on the claim regardless of the date of admission. ~~The claim may include all surgical procedures performed during the entire inpatient stay, but the hospital shall only include revenue codes, service units, and charges for services performed on or after the date of enrollment.~~
- C. Interim claims submitted to a payer other than the payer responsible on the day of discharge shall be processed in the same manner as other interim claims as described in R9-22-712.76.

**R9-22-712.80. DRG Reimbursement: New Hospitals**

- A. DRG base payment for new hospitals. For any hospital that does not have a labor share or wage index published by CMS as described in section R9-22-712.62(B) because the hospital was not in operation, the DRG base rate described in section R9-22-712.62(B) shall be calculated as the statewide standardized amount ~~of \$5,295.40~~ after adjusting that amount for the labor-related share and the wage index published by CMS as described in section R9-22-712.62(B) that is appropriate to the location of the hospital published by CMS as described in section R9-22-712.62(B).
- B. Outlier calculations for new hospitals. For any hospital that does not have an operating cost-to-charge ratio listed in the impact file described in section R9-22-712.68(B) because the hospital was not in operation prior to the publication of the impact file, the statewide urban or rural default operating cost-to-charge ratio appropriate to the location of the hospital and the statewide capital cost-to-charge ratio shall be used to determine the unadjusted outlier add-on payment. The statewide urban or rural default operating cost-to-charge ratio and the statewide capital cost-to-charge ratio shall be based on the ratios published by CMS and updated by the Administration as described in section R9-22-712.68(C).
- C. In addition to the requirement of this section, DRG reimbursement for new hospitals is determined under R9-22-712.60 through R9-22-712.79.

**R9-22-712.81. DRG Reimbursement: Updates**

In addition to the other updates provided for in sections R9-22-712.60 through R9-22-712.80, the Administration may update the version of the APR-DRG classification system established by 3M Health Information Systems, adjust the statewide standardized amount in section R9-22-712.62, the base payments in sections R9-22-712.63 and R9-22-712.64, the provider policy adjustor in section R9-22-712.65, service policy adjustors section R9-22-712.66, and the fixed loss amounts and marginal cost percentages used to calculate the outlier threshold in section R9-22-712.68 to the extent necessary to assure that payments are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available at least to the extent that such care and services are available to the general population in the geographic area. The Administration shall publish any proposed classification system on the agency’s website at least 30 days prior to the effective date, to ensure a sufficient period for public comment, as required by 42 C.F.R. § 447.205. In addition, the public notice shall be available for inspection during normal business hours at 701 E. Jefferson, Phoenix, Arizona. The requirements of 42 C.F.R. § 447.205 as of November 2, 2015 are incorporated by reference and do not include any later amendments.

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

[R17-201]

<u>1. Article, Part, or Section Affected (as applicable)</u>	<u>Rulemaking Action</u>
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 both the authorizing statute (general) and the implementing statute (specific):**

Authorizing statutes: A.R.S. §§ 23-364,23-376  
 Implementing statutes: A.R.S. Title 23, Chapter 2, Articles 8 and 8.1

**3. The effective date of the rule:**

October 3, 2017.

The Industrial Commission of Arizona (the “Commission”) requests an immediate effective date under A.R.S. § 41-1032(A)(1) (“[t]o preserve the public peace, health or safety”) and (A)(3) (“[t]o comply with deadlines in amendments to an agency’s governing statute . . . , if the need for an immediate effective date is not created due to the agency’s delay or inaction”).

The Commission requests an immediate effective date under A.R.S. § 41-1032(A)(1) (“[t]o preserve the public peace, health or safety”) and (A)(3) (“[t]o comply with deadlines in amendments to an agency’s governing statute . . . , if the need



for an immediate effective date is not created due to the agency’s delay or inaction”). Arizona voters approved Proposition 206, the Fair Wages and Healthy Families Act (the “Act”), in November 2016, and the Act’s minimum wage and earned paid sick time provisions went into effect on January 1 and July 1, 2017, respectively. In title and substance, the Act concerns the health of Arizona citizens. The Commission anticipates that the proposed rulemaking will facilitate broader employer compliance with the Act, thereby promoting public health. In addition, the Act fundamentally alters the Commission’s governing statutes by tasking it with enforcement of the Act’s earned paid sick time provisions, effective July 1, 2017. The Commission has worked diligently and transparently to craft rules that add clarity to the Act, ease the burdens of compliance for Arizona employers, and preserve the rights granted to employees by the Act. To assist the Commission in complying with its statutory enforcement obligations and to promote the health of Arizona citizens, the Commission requests an immediate effective date.

**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: 23 A.A.R. 1047, May 5, 2017
- Notice of Proposed Rulemaking: 23 A.A.R. 1019, May 5, 2017
- Notice of Supplemental Proposed Rulemaking: 23 A.A.R. 1799, July 7, 2017

**5. 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: PublicComments@azica.gov (include “Article 12 Notice of Final Rulemaking” in the subject line)

**6. 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 the Act in November 2016. The Act established a new state minimum wage effective January 1, 2017, and granted employees earned paid sick time rights effective July 1, 2017. The Act authorizes 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 address matters related to earned paid sick time. See *infra* § 10.

In addition to amendments related to the Act’s earned paid sick time provisions, 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 the Act’s posting requirements; amends R20-5-1209 to conform to current technologies, and includes various non-substantive amendments.

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

The Commission did not review or rely on any study relevant to the proposed amended rules.

**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 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 that the proposed rulemaking creates any impact beyond the Act, the Commission anticipates that the proposed amendments will reduce regulatory burden on employers by aligning Article 12 with current Arizona statutes and providing clarifications that reduce uncertainty for Arizona employers and employees. Among its provisions, the proposed rulemaking includes: (1) definitions (including “employee’s regular paycheck,” “health care professional,” and “smallest increment that the employer’s payroll system uses to account for absences or use of other time”) that offer clarity for employers and employees and reduce burden; (2) methods for calculating hourly rates of pay for various employee types, reducing the likelihood of disputes between employers and employees; and (3) allowance of front- loading options that exceed the accrual and carry-over requirements in the Act without burdening employers with recordkeeping requirements that provide no benefit to employees. In addition, the proposed rulemaking reduces 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.

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

The Commission made significant substantive changes to the proposed rulemaking in its Notice of Supplemental Proposed Rulemaking. These changes were primarily prompted by public comments received after the Commission published its May 5, 2017 Notice of Proposed Rulemaking. The Notice of Supplemental Proposed Rulemaking included the following substantive changes:

**Generally**

- Where necessary, included “equivalent paid time off” when referencing earned paid sick time.

**R20-5-1202**

- Amended the rule to apply definitions found in the Act to Article 12 and apply the definitions in Article 12 to the Act.

- Added the following definitions:

- “Amount of earned paid sick time available to the employee”;
- “Amount of earned paid sick time taken by the employee to date in the year”;
- “Amount of pay the employee has received as earned paid sick time”;
- “Employee’s regular paycheck”;
- “Equivalent paid time off”;
- “Health care professional”; and
- “Smallest increment that the employer’s payroll system uses to account for absences or use of other time”

- Amended and reorganized the definition of “same hourly rate,” as follows: (1) modified the methods for determining “same hourly rate” to result in hourly rates, not lump sums; (2) added a reference to minimum wage in each method of determining “same hourly rate”; (3) amended the method for determining “same hourly rate” for salaried employees; (4) modified and added an option for determining “same hourly rate” for commission, piece-rate, or fee-for-service employees; and (5) added language to subsection 25(f)(ii) referencing subsection 25(e).

**R20-5-1206**

- Changed Section title to reference the ability to “front load” earned paid sick time.
- Added subsections (F, G, and H) to address procedures for “front loading” earned paid sick time and the effect of “front loading” on accrual and carry over.
- Amended prior proposed subsection (H) (now subsection [I]) to address: (1) an employer’s carry over obligations; (2) an employer’s ability to permit greater carry over than that required by the Act; and (3) the impact of carry over on accrual, usage rights, and usage limits.

**R20-5-1210**

- Added reference in subsection (B) to the collective bargaining agreement exception found in A.R.S. § 23-381.
- Deleted subsections (B)(13) and (B)(14) and replaced with subsections (B)(13) through (B)(16), which: (1) make earned paid sick time recordkeeping requirements consistent with A.R.S. § 23-375’s notice requirements; (2) add a requirement to maintain records concerning employees’ earned paid sick time balances; and (3) define the phrase “[t]he employee’s earned paid sick time balance.”
- Amended subsection (C)(1) to reference the changes to subsection (B).

**R20-5-1218**

- Changed Section title to reference earned paid sick time and equivalent paid time off.

**11. An agency’s summary of the public or stakeholder comments made about the rulemaking:**

The Commission received numerous public and stakeholder comments in response to its May 5, 2017 Notice of Proposed Rulemaking. Based on these comments, the Commission made significant substantive changes to the proposed rules via its July 7, 2017 Notice of Supplemental Proposed Rulemaking. The Notice of Supplemental Rulemaking addressed the majority of the previously-submitted comments and rendered other comments moot. During the public comment period following publication of the Notice of Supplemental Proposed Rulemaking, the Commission received additional comments, only one of which reiterated a comment raised during the initial comment period. The Commission will therefore address those comments submitted after publication of the Notice of Supplemental Proposed Rulemaking.

**COMMENT 1: The proposed rules should include language permitting an employer to seek review from the Commission or the Superior Court.**

A.A.C. R20-5-1214, R20-5-1215, and R20-5-1216, as currently written, provide Commission and Superior Court review rights. Additional rule changes concerning review rights is unnecessary.

**COMMENT 2: Employers should not be required to report the information required by A.R.S. § 23-375(C) on an employee’s regular paycheck.**

Comment 2 is not responsive to the proposed rulemaking, as it takes issue with the Act’s notice requirements. Nevertheless, in an attempt to alleviate employer burden without diminishing employee rights under the Act, the proposed rules define the term “employer’s regular paycheck” to include electronic payroll records.



**COMMENT 3: The proposed rules should address the intersection of the Act’s earned paid sick time provisions and federal laws (including the ADA and the FMLA) and other state laws that extend other protections to employees (including Arizona’s workers’ compensation laws).**

The Act addresses potential conflicts between the Act and federal law in A.R.S. § 23-379, which provides that “[n]othing in this article shall be interpreted or applied so as to create a conflict with federal law.” Section 23-379 also provides that the Act’s earned paid sick time provisions “shall not be construed to preempt, limit, or otherwise affect the applicability of any other law . . . that extends other protections to employees.” The Commission believes these statutory provisions adequately address the intersection of the Act’s earned paid sick time provisions and related federal/state law. Although the Commission does not intend to promulgate rules addressing these issues, the Commission may provide additional guidance pursuant to A.R.S. § 23-376.

**COMMENT 4: Proposed rule 1206(F) burdens employers by requiring that they track exempt employees’ hours worked.**

For over a decade, Arizona’s administrative rules have required employers to track exempt employees’ hours. Pursuant to A.A.C. R20-5-1210(C), employers are required to keep a “record of the hours upon which payment of [an exempt employee’s] salary is based.” Proposed rule 1206(F) is consistent with existing rules and adds no additional burden. In addition, eliminating this requirement would interfere with the Commission’s statutorily- mandated duty to determine whether Arizona employers are complying with minimum wage and earned paid sick time requirements.

**COMMENT 5: The proposed rules should require that employers use the higher of a base rate or minimum wage when determining a commissioned employee’s hourly rate for earned paid sick time purposes.**

The Act provides that earned paid sick time shall be “compensated at the same hourly rate . . . as the employee normally earns during hours worked.” A.R.S. § 23-371. This language is somewhat incongruent in the context of commissioned employees, where employers may not have already established hourly rates for commissioned employees. To adequately address the treatment of commissioned employees, the proposed rules offer five methods for determining a commissioned employee’s hourly rate (which are to be followed in priority order). See proposed rule 1202(25)(d). The first method is to use an agreed-upon hourly rate, which can be no less than minimum wage. Per the Commission’s guidance, the Commission “will consider an employee-acknowledged policy concerning the hourly rate of pay adequate evidence of an agreement between employee and employer.” See FREQUENTLY ASKED QUESTIONS (FAQS) ABOUT MINIMUM WAGE AND EARNED PAID SICK TIME (Rev. July 3, 2017) at [https://www.azica.gov/sites/default/files/media/070317%20FREQUENTLY% 20ASKED%20QUESTIONS\\_Masterw-TOC%20FINAL.pdf](https://www.azica.gov/sites/default/files/media/070317%20FREQUENTLY%20ASKED%20QUESTIONS_Masterw-TOC%20FINAL.pdf). Where an employer establishes an agreed-upon hourly rate that equals or exceeds minimum wage, and the employer pays the employee this rate for earned paid sick time, the employer will be in compliance with the Act. The proposed rules also provide flexibility in the event that an employer has not established an hourly base rate for commissioned employees. In such cases, the employer may determine a commissioned employee’s hourly rate by utilizing the following (in priority order): (1) an hourly rate based on the amount the employee would have earned during the period earned paid sick time is used, if known; (2) an hourly rate based on the employer’s reasonable estimation of the amount the employee would have earned during the period of earned paid sick time used; (3) an hourly rate based on the employee’s earning over the previous 90 days, if the employee worked regularly during previous 90 days; and (4) an hourly rate based upon the employee’s earnings over the previous year. The Commission believes the options outlined in proposed rule 1202(25) will assist employers in determining an accurate rate of pay for commissioned employees who use earned paid sick time, while still permitting employers to establish an hourly rate in the manner the commenter recommended.

**COMMENT 6: The proposed rules’ earned paid sick time calculation should not include 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) because it places undue burdens on employers by requiring different PTO rates and incentivizes the use of earned paid sick time during shifts that are subject to shift differentials or hazard pay.**

The Act provides that earned paid sick time shall be “compensated at the same hourly rate . . . as the employee normally earns during hours worked.” A.R.S. § 23-371. The Commission considers the inclusion of shift differentials and hazard pay necessary to accurately reflect an employee’s hourly rate for earned sick time purposes. While the Commission recognizes that the inclusion of shift differentials and hazard pay may prevent an employer from using a singular hourly rate in the earned paid sick time context, the same burden exists when employers determine rates of pay for hours worked during overtime periods or holidays. The Commission’s Notice of Supplemental Proposed Rulemaking qualifies the inclusion of differing condition pay by specifying that it need only be included “if the employee would have been entitled to the shift differential or premium for the period of time in which earned paid sick time or equivalent paid time off is used.”

**COMMENT 7: The rules should provide that union employers may establish a bank of accumulated earned paid sick time that short-term or itinerant union employees can take from union employer to union employer.**

The Act does not contemplate the issue raised in Comment 7 and the proposed concept exceeds the scope of the Commission’s authorizing and implementing statutes. The Act specifies that employees hired after July 1, 2017, are not entitled to use accrued earned paid sick time until the ninetieth calendar day after commencing employment (unless the employer permits otherwise). See A.R.S. § 23-372. Therefore, the Act already contemplates short-term or itinerant-worker employment and denies these employees access to accrued earned paid sick time before their ninetieth day of employment (unless the employer permits otherwise). Promulgating a rule that obviates this statutory provision by allowing employees to use earned paid sick time within the first 90 days of employment exceeds the Commission’s authority. On the other hand, because A.R.S. § 23-381 provides employers subject to a collective bargaining agreement a method for opting out of the Act’s earned paid sick time provisions, these employers could elect to opt out and instead adopt an earned paid sick time banking system, consistent with the commenter’s requirements.



**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 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 on the competitiveness of business in this state to the impact on business in other states:**

No analysis was submitted.

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

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 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; Front Loading Earned Paid Sick Time; 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; Earned Paid Sick Time; Equivalent Paid Time Off; 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), 23-371, and 23-364 apply. In addition, unless the context otherwise requires, the following definitions shall apply to both the Act and this Article:

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, Chapter 2, 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. “Amount of earned paid sick time available to the employee” means the amount of earned paid sick time or equivalent paid time off that is available to the employee for use in the current year.
4. “Amount of earned paid sick time taken by the employee to date in the year” means the amount of earned paid sick time or equivalent paid time off taken by the employee to date in the current year. Where an employee has used available equivalent paid time off for either the purposes enumerated in A.R.S. § 23-373 or other purposes, the employer may count that usage towards the “amount of earned paid sick time taken by the employee to date in the year.”
5. “Amount of pay the employee has received as earned paid sick time” means the amount of pay the employee has received as earned paid sick time or equivalent paid time off to date in the current year. Where an employee has received pay for equivalent



- paid time off for the purposes enumerated in A.R.S. § 23-373 or other purposes, the employer may count that pay towards the “amount of pay the employee has received as earned paid sick time.”
- ~~3-6.~~ “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.
  - ~~4-7.~~ “Casual Basis,” when applied to babysitting services, means employment which is irregular or intermittent.
  - ~~5-8.~~ “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.
  - 9. “Communicable disease” has the meaning prescribed by A.R.S. § 36-661.
  - ~~6-10.~~ “Complainant” means a person or organization filing an administrative complaint under the Act.
  - ~~7-11.~~ “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.
  - 12. “Earned sick time” under A.R.S. § 23-364(G) means earned paid sick time.
  - 13. “Employee’s regular paycheck” means a regular payroll record that is readily available to employees and contains the information required by A.R.S. § 23-375(C), including physical or electronic paychecks or paystubs.
  - 14. “Equivalent paid time off” means paid time off provided under a paid leave policy, such as a paid time off policy, that makes available an amount of paid leave sufficient to meet the accrual requirements of the Act that may be used for the same purposes and under the same conditions as earned paid sick time.
  - ~~8-15.~~ “Filing” means receipt of a report, document, instrument, videotape, audiotape, or other written matter at an office of the Department.
  - 16. The term “health care professional” in A.R.S. § 23-373(G) has the same meaning as “health care professional,” as defined in this Section.
  - 17. “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.
  - 18. “Health care provider” has the meaning prescribed by A.R.S. § 36-661.
  - ~~9-19.~~ “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.
  - ~~10-20.~~ “Minimum wage” means the lowest rate of monetary compensation required under the Act.
  - ~~11-21.~~ “Monetary compensation” means cash or its equivalent due to an employee by reason of employment.
  - ~~12-22.~~ “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.
  - 23. “Public benefits” has the same meaning as “state or local public benefit,” as prescribed by A.R.S. § 1-502(I).
  - 24. “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.
  - 25. “Same hourly rate” means the following:
    - a. For employees paid on the basis of a single hourly rate, “same hourly rate” shall be the hourly rate the employee would have earned for the period of time in which earned paid sick time or equivalent paid time off is used, but shall in no case be less than minimum wage.
    - b. For employees who are paid multiple hourly rates of pay, “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 the employee would have earned, if known, for each hour of earned paid sick time or equivalent paid time off used.
  - ii. The weighted average of all hourly rates of pay during the previous pay period.
  - c. For employees who are paid a salary, no additional pay is due when the employee's use of earned paid sick time or equivalent paid time off results in no reduction in the employee's regular salary during the pay period in which the earned paid sick time or equivalent paid time off is used. "Same hourly rate" for salaried employees shall be determined in the following order of priority, but shall in no case be less than minimum wage:
    - i. The wages an employee earns during each pay period covered by the salary divided by the number of hours agreed to be worked during each pay period, if the number of hours to be worked during each pay period was previously established.
    - ii. The wages an employee earns during each workweek covered by the salary in the current year divided by 40 hours.
  - d. For employees paid on a commission, piece-rate, or fee-for-service basis, "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 previously agreed upon by the employer and the employee as: (1) a minimum hourly rate for work performed; or (2) an hourly rate for payment of earned paid sick time or equivalent paid time off.
    - ii. The wages that the employee would have been paid, if known, for the period of time in which earned paid sick time or equivalent paid time off is used, divided by the number of hours of earned paid sick time or equivalent paid time off used.
    - iii. A reasonable estimation of the commission, piece-rate, or fee-for-service compensation that the employee would have been paid for the period of time in which the earned paid sick time or equivalent paid time off is used, divided by the number of hours of earned paid sick time or equivalent paid time off used.
    - iv. The hourly average of all commission, piece-rate, or fee-for-service compensation that the employee earned during the previous 90 days, if the employee worked regularly during the previous 90-day period, based on: (1) hours that the employee actually worked; or (2) a 40-hour workweek.
    - v. The hourly average of all commission, piece-rate, or fee-for-service compensation that the employee earned during the previous 365 days, based on: (1) hours that the employee actually worked; or (2) a 40-hour workweek.
  - e. "Same hourly rate" includes 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) if the employee would have been entitled to the shift differential or premium for the period of time in which earned paid sick time or equivalent paid time off is used.
  - f. "Same hourly rate" does not include:
    - i. Additions to an employee's base rate for overtime or holiday pay;
    - ii. Subject to subsection (e), bonuses or other types of incentive pay; and
    - iii. Tips or gifts.
26. "Smallest increment that the employer's payroll system uses to account for absences or use of other time" means the smallest increment of time that an employer utilizes, by policy or practice, to account for absences or use of other paid time off.
- ~~13-27.~~ "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.
- ~~14-28.~~ "Violation" means a transgression of any statute or rule, or any part of a statute or rule, including both acts and omissions.
- ~~15-29.~~ "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.
- ~~16-30.~~ "Workday" means any fixed period of 24 consecutive hours.
- ~~17-31.~~ "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 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; Front Loading Earned Paid Sick Time; 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 employer who hires an employee after the beginning of the employer’s year is not required to provide additional earned paid sick time or equivalent paid time off during that year if the employer provides the employee for immediate use on the employee’s ninetieth calendar day after commencing employment an amount of earned paid sick time or equivalent paid time off that meets or exceeds the employer’s reasonable projection of the amount of earned paid sick time or equivalent paid time off that the employee would have accrued from the date of hire through the end of the employer’s year at a rate of one hour for every 30 hours worked. If the amount of earned paid sick time or equivalent paid time off provided is less than the employee would have accrued based on hours actually worked during the employer’s year, the employer shall immediately provide an amount of earned paid sick time or equivalent paid time off that reflects the difference between the employer’s projection and the amount of earned paid sick time or equivalent paid time off that the employee would have accrued for hours actually worked in the year.
- G. Subject to subsection (F), an employer with 15 or more employees that provides its employees for immediate use at the beginning of each year 40 or more hours of earned paid sick time or 40 or more hours of equivalent paid time off is not required to provide carry-over or additional accrual.
- H. Subject to subsection (F), an employer with fewer than 15 employees that provides its employees for immediate use at the beginning of each year 24 or more hours of earned paid sick time or 24 or more hours of equivalent paid time off is not required to provide carry-over or additional accrual.
- I. Unless an employer: (1) elects to pay an employee for unused earned paid sick time or equivalent paid time off at the end of a year pursuant to A.R.S. § 23-372(D)(4); or (2) meets the requirements of subsections (G) or (H), unused earned paid sick time and equivalent paid time off may be carried over to the next year, as follows:
  1. Subject to an employer’s entitlement to permit greater carry over, an employee of an employer with 15 or more employees may carry over to the following year up to 40 hours of unused earned paid sick time or equivalent paid time off.
  2. Subject to an employer’s entitlement to permit greater carry over, an employee of an employer with fewer than 15 employees may carryover to the following year up to 24 hours of unused earned paid sick time or equivalent paid time off.
  3. Carry over shall not affect accrual, usage rights, or usage limits under the Act.

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

- A. ~~Every~~ With the exception of small employers, every 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: (1) those employees' the pay period wages; and (2) those employees' earned paid sick time or equivalent paid time off 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. Subject to A.R.S. § 23-381 and ~~Except~~** 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. The amount of earned paid sick time available to the employee;
  14. The amount of earned paid sick time taken by the employee to date in the year;
  15. The amount of pay the employee has received as earned paid sick time; and
  16. The employee's earned paid sick time balance. "The employee's earned paid sick time balance" means the sum of earned paid sick time or equivalent paid time off that is: (1) carried over to the current year; (2) accrued to date in the current year; and (3) provided to date in the current year pursuant to A.R.S. § 23-372(D)(4) or A.A.C. R20-5-1206(F), (G), or (H).
- 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)(16) 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 who 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 minimum wage, earned paid sick time, or equivalent paid time off violation shall file a complaint with the Labor Department within one year from the date the wages, earned paid sick time, or equivalent paid time off 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, earned paid sick time, or equivalent paid time off payment requirement requirements, the Department shall order the employer to pay the employee, and if applicable, affected employees, the balance of the wages, earned paid sick time, or equivalent paid time off owed, including interest at the legal rate and an additional amount equal to twice the underpaid wages, earned paid sick time, or equivalent paid time off 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, Earned Paid Sick Time, Equivalent Paid Time Off, or Penalty Payments Owed**

- A. Upon determination that wages, earned paid sick time, equivalent paid time off, 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.





- 8. The preliminary summary of the economic, small business, and consumer impact:**  
Under A.R.S. § 41-1055(D)(2), the Department is not required to provide an economic, small business, and consumer impact statement.
- 9. The agency's contact person who can answer questions about the economic, small business, and consumer impact statement:**  
Not applicable
- 10. Where, when, and how persons may provide written comment to the agency on the proposed expedited rule under A.R.S. § 41-1027(C):**  
Close of record: Tuesday, October 31, 2017, 4:00 p.m.  
A person may submit written comments on the proposed expedited rules no later than the close of record to either of the individuals listed in item 4.
- 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:**
  - 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 rule does not require the issuance of a regulatory permit. Therefore, a general permit is 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:**  
Federal laws do not apply to the rule.
  - 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 such 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 rule follows:**

**TITLE 9. HEALTH SERVICES  
CHAPTER 6. DEPARTMENT OF HEALTH SERVICES  
COMMUNICABLE DISEASES AND INFESTATIONS**

**ARTICLE 6. REPORTING POST-EXPOSURE RABIES PROPHYLAXIS**

Section  
R9-6-601. Reporting Requirements

**ARTICLE 6. REPORTING POST-EXPOSURE RABIES PROPHYLAXIS**

**R9-6-601. Reporting Requirements**

A physician or an authorized designee, shall submit a written or electronic report to the Department of all patients for each individual exposed who receive post-exposure rabies prophylaxis. ~~The report shall include~~ that includes:

1. Name, age, address, and telephone number of the ~~person~~ individual exposed;
2. Date of report;
3. Reporting institution or physician;
4. Date of exposure;
5. Body part exposed;
6. Type of exposure: Bite or saliva contact (non-bite);
7. Species of animal;
8. Animal disposition: quarantined, euthanized, died, unable to locate;
9. Animal rabies test results, if any: positive or negative;
10. Treatment regimen; and
11. Date treatment was initiated.



**NOTICE OF PROPOSED EXPEDITED RULEMAKING**  
**TITLE 9. HEALTH SERVICES**  
**CHAPTER 25. DEPARTMENT OF HEALTH SERVICES**  
**EMERGENCY MEDICAL SERVICES**

[R17-192]

**PREAMBLE**

- 1. Article, Part, or Section Affected (as applicable)**                      **Rulemaking Action**

Article 1	Amend
R9-25-301	Amend
R9-25-305	Amend
R9-25-306	Amend
R9-25-401	Amend
R9-25-402	Amend
R9-25-403	Amend
R9-25-405	Amend
R9-25-406	Amend
R9-25-407	Amend
R9-25-408	Amend
R9-25-409	Amend
Table 12.1	Amend
  
- 2. Citations to the agency’s statutory authority for the rulemaking to include the authorizing statute (general) and the implementing statute (specific):**  
 Authorizing statutes: A.R.S. §§ 36-136(A)(7), 36-136(G), 36-2202, and 36-2209(A)(2)  
 Implementing statutes: A.R.S. §§ 36-2202, 36-2204, and 41-1072 through 41-1079
  
- 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 expedited rulemaking:**  
 Notice of Rulemaking Docket Opening: 23 A.A.R. 2951, October 20, 2017 (*in this issue*)
  
- 4. The agency’s contact person who can answer questions about the rulemaking:**

Name:	Terry Mullins, Bureau Chief
Address:	Arizona Department of Health Services Bureau of Emergency Medical Services and Trauma System 150 N. 18th Ave., Suite 540 Phoenix, AZ 85007-3248
Telephone:	(602) 364-3150
Fax:	(602) 364-3568
E-mail:	Terry.Mullins@azdhs.gov
or	
Name:	Robert Lane, Chief
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
  
- 5. An agency’s justification and reason why a rule should be made, amended, repealed or renumbered, under A.R.S. § 41-1027, to include an explanation about the rulemaking:**  
 As part of the five-year-review reports for 9 A.A.C. 25, Articles 1, 3, 4, and 12, the Arizona Department of Health Services (Department) identified several minor factors that affect the clarity of the rules. The five-year-review report for 9 A.A.C. 25, Articles 1 and 12 was approved by the Governor’s Regulatory Review Council (Council) on April 4, 2017, and the five-year-review report for 9 A.A.C. 25, Articles 3 and 4 was approved by the Council on May 2, 2017. The following changes are proposed in this rulemaking:
  - The title of Article 1 should be changed from “Definitions” to “General” because the Article now contains more than a Section of definitions.
  - Article 3:
    - R9-25-301 – correct the title to reflect its content and clarify a requirement in subsection (D)
    - R9-25-305 – remove a redundant requirement, correct cross-references, and remove obsolete requirements
    - R9-25-306 – correct a cross-reference and clarify the retention period for records
  - Article 4:



- R9-25-401 - correct a statutory reference
- R9-25-402 - correct a statutory reference
- R9-25-403 - correct a statutory reference
- R9-25-405 - correct a statutory reference
- R9-25-406 - correct a statutory reference
- R9-25-407 – clarify a requirement
- R9-25-408 - correct a statutory reference
- R9-25-409 - correct a statutory reference
- Article 12 – correct statutory references in Table 12.1

The Department believes that these changes are consistent with the purpose for A.R.S. § 41-1027 in that this rulemaking does not increase the cost of regulatory compliance, does not increase a fee, or reduce a procedural right of regulated persons, and either implements changes identified in a five-year-review report, removes obsolete subsections, or clarifies language of a rule without changing its effect.

**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 Department did not review or rely on any study for 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:**

Under A.R.S. § 41-1055(D)(2), the Department is not required to provide an economic, small business, and consumer impact statement.

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

Not applicable

**10. Where, when, and how persons may provide written comment to the agency on the proposed expedited rule under A.R.S. § 41-1027(C):**

Close of record: Tuesday, October 31, 2017, 4:00 p.m.

A person may submit written comments on the proposed expedited rules no later than the close of record to either of the individuals listed in item 4.

**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:**

**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 in Article 1 do not require the issuance of a regulatory permit. The rules in Articles 3 and 4 require the issuance of a specific agency authorization, which is authorized by A.R.S. § 36-2204(3) for training programs and A.R.S. § 36-2202 (A)(2) and (H) for EMCT certification, so a general permit is not applicable. The rules in Article 12 explain the process and timeframes for the review of applications for certifications, licenses, registrations, and requests for approval, all of which require the issuance of a specific agency authorization, which is authorized by A.R.S. § 36-2204(5) for ALS base hospitals, A.R.S. § 36-2204(3) for training programs, A.R.S. § 36-2202 (A)(2) and (H) for EMCT certification, A.R.S. §§ 36-2213 and 36-2214 for air ambulances and air ambulance services, and A.R.S. Title 36, Chapter 21.1, Article 2 for ground ambulances and ambulance services. Therefore, a general permit is 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:**

Federal laws do not apply to the rules in 9 A.A.C. 25.

**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 such 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 rule follows:**

**TITLE 9. HEALTH SERVICES  
CHAPTER 25. DEPARTMENT OF HEALTH SERVICES  
EMERGENCY MEDICAL SERVICES**



**ARTICLE 1. DEFINITIONS GENERAL**

**ARTICLE 3. TRAINING PROGRAMS**

Section

- R9-25-301. Definitions; Application for Certification (Authorized by A.R.S. §§ 36-2202(A)(3) and (4) and 36-2204(1) and (3))
- R9-25-305. Supplemental Requirements for Specific Courses (Authorized by A.R.S. §§ 36-2202(A)(3) and (4) and 36-2204(1) and (3))
- R9-25-306. Training Program Notification and Recordkeeping (Authorized by A.R.S. §§ 36-2202(A)(3) and (4) and 36-2204(1) and (3))

**ARTICLE 4. EMCT CERTIFICATION**

Section

- R9-25-401. EMCT General Requirements (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), (A)(6), and ~~(G)~~ (H) and 36-2204(1), (6), and (7))
- R9-25-402. EMCT Certification and Recertification Requirements (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), (A)(6), and ~~(G)~~ (H) and 36-2204(1), (6), and (7))
- R9-25-403. Application Requirements for EMCT Certification (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), and ~~(G)~~ (H) and 36-2204(1) and (6))
- R9-25-405. Extension to File an Application for EMCT Recertification (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), (A)(6), and ~~(G)~~ (H) and 36-2204(1), (4), (5), and (7))
- R9-25-406. Requirements for Downgrading of Certification (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), and ~~(G)~~ (H) and 36-2204(1) and (6))
- R9-25-407. Notification Requirements (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3) and (A)(4), 36-2204(1) and (6), and 36-2211)
- R9-25-408. Unprofessional Conduct; Physical or Mental Incompetence; Gross Incompetence; Gross Negligence (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), (A)(6), and ~~(G)~~ (H), 36-2204(1), (6), and (7), and 36-2211)
- R9-25-409. Enforcement Actions (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), (A)(6), and ~~(G)~~ (H), 36-2204(1), (6), and (7), and 36-2211)

**ARTICLE 12. TIME-FRAMES FOR DEPARTMENT APPROVALS**

Section

- Table 12.1. Time-frames (in days)

**ARTICLE 1. DEFINITIONS GENERAL**

**ARTICLE 3. TRAINING PROGRAMS**

**R9-25-301. Definitions; Application for Certification (Authorized by A.R.S. §§ 36-2202(A)(3) and (4) and 36-2204(1) and (3))**

- A. To apply for certification as a training program, an applicant shall submit an application to the Department, in a Department-provided format, including:
  1. The applicant’s name, address, and telephone number;
  2. The name, telephone number, and e-mail address of the applicant’s chief administrative officer;
  3. The name of each course the applicant plans to provide;
  4. Attestation that the applicant has the equipment and facilities that meet the requirements established according to A.R.S. § 36-2204 and available through the Department at [www.azdhs.gov](http://www.azdhs.gov) for the courses specified in subsection (A)(3);
  5. The name, telephone number, and e-mail address of the training program medical director;
  6. The name, telephone number, and e-mail address of the training program director;
  7. Attestation that the applicant will comply with all requirements in A.R.S. Title 36, Chapter 21.1 and 9 A.A.C. 25;
  8. Attestation that all information required as part of the application has been submitted and is true and accurate; and
  9. The signature or electronic signature of the applicant’s chief administrative officer or the chief administrative officer’s designated representative and date of signature or electronic signature.
- B. An applicant may submit to the Department a copy of an accreditation report if the applicant is currently accredited by a national accrediting organization.
- C. The Department shall certify a training program if the applicant:
  1. Has not operated a training program that has been decertified by the Department within five years before submitting the application,
  2. Submits an application that is complete and compliant with requirements in this Article, and
  3. Has not knowingly provided false information on or with an application required by this Article.
- D. The Department, ~~according to A.R.S. § 41-1009:~~
  1. Shall assess a training program at least once every 24 months after certification to determine ongoing compliance with the requirements of this Article; and
  2. May inspect a training program according to A.R.S. § 41-1009:
    - a. As part of the substantive review time-frame required in A.R.S. §§ 41-1072 through 41-1079, or
    - b. As necessary to determine compliance with the requirements of this Article.
- E. The Department shall approve or deny an application under this Article according to Article 12 of this Chapter.



F. A training program certificate is valid only for the name of the training program certificate holder and the courses listed by the Department on the certificate and may not be transferred to another person.

**R9-25-305. Supplemental Requirements for Specific Courses (Authorized by A.R.S. §§ 36-2202(A)(3) and (4) and 36-2204(1) and (3))**

- A. Except as specified in subsection (B), a training program certificate holder shall ensure that a certification course offered by the training program:
  - 1. Covers knowledge, skills, and competencies comparable to the national education standards established for a specific EMCT classification level;
  - 2. Prepares a student for:
    - a. A national certification organization examination for the specific EMCT classification level, or
    - b. A standardized certification test under the state certification process;
  - 3. Has no more than 24 students enrolled in each session of the course; and
  - 4. Has a minimum course length of:
    - a. For an EMT certification course, 130 hours;
    - b. For an AEMT certification course, 244 hours, including:
      - i. A minimum of 100 contact hours of didactic instruction and practical skills training, and
      - ii. A minimum of 144 contact hours of clinical training and field training; and
    - c. For a Paramedic certification course, 1000 hours, including:
      - i. A minimum of 500 contact hours of didactic instruction and practical skills training, and
      - ii. A minimum of 500 contact hours of clinical training and field training.
- B. A training program director shall ensure that, for an AEMT certification course or a Paramedic certification course, a student has one of the following:
  - 1. Current certification from the Department as an EMT or higher EMCT classification level,
  - 2. Documentation of completion of prior training in an EMT course or a course for a higher EMCT classification level provided by a training program certified by the Department or an equivalent training program, or
  - 3. Documentation of current registration in a national certification organization at the EMT classification level or higher EMCT classification level.
- C. A training program director shall ensure that for a course to prepare an EMT-I(99) for Paramedic certification:
  - 1. A student has current certification from the Department as an EMT-I(99);
  - 2. The course covers the knowledge, skills, and competencies established according to A.R.S. § 36-2204 and available through the Department at [www.azdhs.gov](http://www.azdhs.gov);
  - ~~3. No more than 24 students are enrolled in each session of the course;~~
  - ~~4.3~~ The minimum course length is 600 hours, including:
    - a. A minimum of 220 contact hours of didactic instruction and practical skills training, and
    - b. A minimum of 380 contact hours of clinical training and field training; and
  - ~~5.4~~ A minimum of 60 contact hours of training in anatomy and physiology are completed by the student:
    - a. As a prerequisite to the course,
    - b. As preliminary instruction completed at the beginning of the course session before the didactic instruction required in subsection ~~(C)(4)(a)~~ ~~(C)(3)(a)~~ begins, or
    - c. Through integration of the anatomy and physiology material with the units of instruction required in subsection ~~(C)(4)~~ ~~(C)(3)~~.
- D. A training program director shall ensure that for an EMT refresher course:
  - 1. A student has one of the following:
    - a. Current certification from the Department as an EMT or higher EMCT classification level,
    - b. Documentation of completion of prior training in an EMT course or a course for a higher EMCT classification level provided by a training program certified by the Department or an equivalent training program,
    - c. Documentation of current registration in a national certification organization at the EMT classification level or higher EMCT classification level, or
    - d. Documentation from a national certification organization requiring the student to complete the EMT refresher course to be eligible to apply for registration in the national certification organization;
  - 2. A student has documentation of current certification in adult, pediatric, and infant cardiopulmonary resuscitation through instruction consistent with American Heart Association recommendations for emergency cardiovascular care by EMCTs;
  - 3. The EMT refresher course covers:
    - ~~a. The the~~ knowledge, skills, and competencies in the national education standards established at the EMT classification level; ~~or~~
    - ~~b. Until the following dates, the knowledge, skills, and competencies established according to A.R.S. § 36-2204 and available through the Department at www.azdhs.gov:~~
      - ~~i. March 31, 2015, for a student who has documentation from a national certification organization of registration at the EMT classification level or higher EMCT classification level that expired on or before March 31, 2011;~~
      - ~~ii. March 31, 2016, for a student who has documentation from a national certification organization of registration at the EMT classification level or higher EMCT classification level that expired between April 1, 2011 and March 31, 2012; and~~
      - ~~iii. December 31, 2017, for a student who is not registered by a national certification organization;~~
  - 4. No more than 32 students are enrolled in each session of the course; and
  - 5. The minimum course length is 24 contact hours.



- E. A training program authorized to provide an EMT refresher course may administer a refresher challenge examination covering materials included in the EMT refresher course to an individual eligible for admission into the EMT refresher course.
- F. A training program director shall ensure that for an ALS refresher course:
1. A student has one of the following:
    - a. Current certification from the Department as an AEMT, EMT-I(99), or Paramedic;
    - b. Documentation of completion of a prior training course, at the AEMT classification level or higher, provided by a training program certified by the Department or an equivalent training program;
    - c. Documentation of current registration in a national certification organization at the AEMT or Paramedic classification level; or
    - d. Documentation from a national certification organization requiring the student to complete the ALS refresher course to be eligible to apply for registration in the national certification organization;
  2. A student has documentation of current certification in:
    - a. Adult, pediatric, and infant cardiopulmonary resuscitation through instruction consistent with American Heart Association recommendations for emergency cardiovascular care by EMCTs, and
    - b. For a student who has current certification as an EMT-I(99) or higher level of EMCT classification, advanced emergency cardiac life support;
  3. The ALS refresher course covers:
    - a. For a student who has current certification as an AEMT or documentation of completion of prior training at an AEMT classification level, the knowledge, skills, and competencies in the national education standards established for an AEMT;
    - b. For a student who has current certification as an EMT-I(99), the knowledge, skills, and competencies established according to A.R.S. § 36-2204 for an EMT-I(99) as of the effective date of this Section and available through the Department at [www.azdhs.gov](http://www.azdhs.gov); and
    - c. For a student who has current certification as a Paramedic or documentation of completion of prior training at a Paramedic classification level, the knowledge, skills, and competencies in the national education standards established for a Paramedic; and
    - d. ~~Until the following dates, the knowledge, skills, and competencies established according to A.R.S. § 36-2204 and available through the Department at [www.azdhs.gov](http://www.azdhs.gov):~~
      - i. ~~March 31, 2015, for a student who has documentation of completion of prior training at a level between EMT I(99) and Paramedic and registration from a national certification organization that expired on or before March 31, 2011;~~
      - ii. ~~March 31, 2016, for a student who has documentation of completion of prior training at a level between EMT I(99) and Paramedic and registration from a national certification organization that expired between April 1, 2011 and March 31, 2012;~~
      - iii. ~~March 31, 2017, for a student who has documentation of completion of prior training at a level between EMT I(99) and Paramedic and registration from a national certification organization that expired between April 1, 2012 and March 31, 2013; and~~
      - iv. ~~December 31, 2017, for a student who has documentation of completion of prior training at a level between EMT I(99) and Paramedic and is not registered by a national certification organization;~~
  4. No more than 32 students are enrolled in each session of the course; and
  5. The minimum course length is 48 contact hours.
- G. A training program authorized to provide an ALS refresher course may administer a refresher challenge examination covering materials included in the ALS refresher course to an individual eligible for admission into the ALS refresher course.
- R9-25-306. Training Program Notification and Recordkeeping (Authorized by A.R.S. §§ 36-2202(A)(3) and (4) and 36-2204(1) and (3))**
- A. At least 10 days before the start date of a course session, a training program certificate holder shall submit to the Department the following information in a Department-provided format:
1. Identification of the training program;
  2. Identification of the course;
  3. The name of the training program medical director;
  4. The name of the training program director;
  5. The name of the course session's lead instructor;
  6. The course session start date and end date;
  7. The physical location at which didactic training and practical skills training will be provided;
  8. The days of the week and times of each day during which didactic training and practical skills training will be provided;
  9. The number of clock hours of didactic training and practical skills training;
  10. If applicable, the number of hours of clinical training and field training included in the course session;
  11. The date, start time, and location of the final examination for the course;
  12. Attestation that the lead instructor is qualified under R9-25-304(A)(4)(a); and
  13. The name and signature of the chief administrative officer or program director and the date signed.
- B. The Department shall review the information submitted according to subsection (A) and, within five days after receiving the information:
1. Approve a course session, issue an identifying number to the course session, and notify the training program certificate holder of the approval and identifying number; or
  2. Disapprove a course session that does not comply with requirements in this Article and notify the training program certificate holder of the disapproval.
- C. A training program certificate holder shall ensure that:



1. No later than 10 days after the date a student completes all course requirements, the training program director submits to the Department the following information in a Department-provided format:
    - a. Identification of the training program;
    - b. The name of the training program director;
    - c. Identification of the course and the start date and end date of the course session completed by the student;
    - d. The name, date of birth, and mailing address of the student who completed the course;
    - e. The date the student completed all course requirements;
    - f. The score the student received on the final examination;
    - g. Attestation that the student has met all course requirements;
    - h. Attestation that all information submitted is true and accurate; and
    - i. The signature of the training program director and the date signed; and
  2. No later than 10 days after the date an individual passes a refresher challenge examination administered by the training program, the training program director submits to the Department the following information in a Department-provided format;
    - a. Identification of the training program;
    - b. Identification of the:
      - i. Refresher challenge examination administered, and
      - ii. Course for which the refresher challenge examination substitutes;
    - c. The name of the training program medical director;
    - d. The name of the training program director;
    - e. The name, date of birth, and mailing address of the individual who passed the refresher challenge examination;
    - f. The date and location at which the refresher challenge examination was administered;
    - g. The score the individual received on the refresher challenge examination;
    - h. Attestation that the individual:
      - i. Met the requirements for taking the refresher challenge examination, and
      - ii. Passed the refresher challenge examination;
    - i. Attestation that all information submitted is true and accurate; and
    - j. The name and signature of the training program director and the date signed.
- D.** A training program certificate holder shall ensure that:
1. A record is established for each student enrolled in a course session, including;
    - a. The student’s name and date of birth;
    - b. A copy of the student’s enrollment agreement or contract;
    - c. Identification of the course in which the student is enrolled;
    - d. The start date and end date for the course session;
    - e. Documentation supporting the student’s eligibility to enroll in the course;
    - f. Documentation that the student meets prerequisites for the course, established as specified in R9-25-304(A)(2)(e)(i) R9-25-304(A)(2)(d)(i);
    - g. The student’s attendance records;
    - h. The student’s clinical training records, if applicable;
    - i. The student’s field training records, if applicable;
    - j. The student’s grades;
    - k. Documentation of the final examination for the course, including:
      - i. A copy of each scored written test attempted or completed by the student, and
      - ii. All forms used as part of the comprehensive practical skills test attempted or completed by the student; and
    - l. A copy of the student’s certificate of completion required in R9-25-304(F)(1);
  2. A student record required in subsection (D)(1) is maintained for at least three years after the end date of a student’s course session and provided to the Department at the Department’s request;
  3. A record is established for each individual to whom a refresher challenge examination is administered, including:
    - a. The individual’s name and date of birth;
    - b. Identification of the refresher challenge examination administered to the individual;
    - c. Documentation supporting the individual’s eligibility for a refresher challenge examination;
    - d. The date the refresher challenge examination was administered;
    - e. Documentation of the refresher challenge examination, including:
      - i. A copy of the scored written test attempted or completed by the individual, and
      - ii. All forms used as part of the comprehensive practical skills test attempted or completed by the individual; and
    - f. A copy of the individual’s certificate of completion required in R9-25-304(F)(2); and
  4. A record required in subsection (D)(3) is maintained for at least three years after the date the refresher challenge examination was administered and provided to the Department at the Department’s request.

**ARTICLE 4. EMCT CERTIFICATION**

**R9-25-401. EMCT General Requirements (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), (A)(6), and ~~(H)~~ (H) and 36-2204(1), (6), and (7))**

- A.** Except as provided in R9-25-404(E) and R9-25-405, an individual shall not act as an EMCT unless the individual has current certification or recertification from the Department.
- B.** An EMCT shall act as an EMCT only:
  1. As authorized under the EMCT’s scope of practice as specified in Article 5 of this Chapter; and



2. For an EMCT required to have medical direction according to A.R.S. Title 36, Chapter 21.1 and R9-25-502, as authorized by the EMCT's administrative medical director under:
  - a. Treatment protocols, triage protocols, and communication protocols approved by the EMCT's administrative medical director as specified in R9-25-201(E)(2); and
  - b. Medical recordkeeping, medical reporting, and prehospital incident history report requirements approved by the EMCT's administrative medical director as specified in R9-25-201(E)(3)(b).
- C. Except as provided in A.R.S. § 36-2211, the Department shall certify or re-certify an individual as an EMCT for a period of two years.
- D. An individual whose EMCT certificate is expired shall not apply for recertification, except as provided in R9-25-404(A).
- E. The Department shall comply with the confidentiality requirements in A.R.S. §§ 36-2220(E) and 36-2245(M).

**R9-25-402. EMCT Certification and Recertification Requirements (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), (A)(6), and ~~(G)~~ (H) and 36-2204(1), (6), and (7))**

- A. The Department shall not certify an EMCT if the applicant:
  1. Is currently:
    - a. Incarcerated for a criminal conviction,
    - b. On parole for a criminal conviction,
    - c. On supervised release for a criminal conviction, or
    - d. On probation for a criminal conviction;
  2. Within 10 years before the date of filing an application for certification required by this Article, has been convicted of any of the following crimes, or any similarly defined crimes in this state or in any other state or jurisdiction, unless the conviction has been absolutely discharged, expunged, or vacated:
    - a. 1st or 2nd degree murder;
    - b. Attempted 1st or 2nd degree murder;
    - c. Sexual assault;
    - d. Attempted sexual assault;
    - e. Sexual abuse of a minor;
    - f. Attempted sexual abuse of a minor;
    - g. Sexual exploitation of a minor;
    - h. Attempted sexual exploitation of a minor;
    - i. Commercial sexual exploitation of a minor;
    - j. Attempted commercial sexual exploitation of a minor;
    - k. Molestation of a child;
    - l. Attempted molestation of a child; or
    - m. A dangerous crime against children as defined in A.R.S. § 13-705;
  3. Within five years before the date of filing an application for certification required by this Article, has been convicted of a misdemeanor involving moral turpitude or a felony in this state or any other state or jurisdiction, other than a misdemeanor involving moral turpitude or a felony listed in subsection (A)(2), unless the conviction has been absolutely discharged, expunged, or vacated;
  4. Within five years before the date of filing an application for certification required by this Article, has had EMCT certification or recertification revoked in this state or certification, recertification, or licensure at an EMCT classification level revoked in any other state or jurisdiction; or
  5. Knowingly provides false information in connection with an application required by this Article.
- B. The Department shall not re-certify an EMCT, if:
  1. While certified, the applicant has been convicted of a crime listed in subsection (A)(2), or any similarly defined crimes in this state or in any other state or jurisdiction, unless the conviction has been absolutely discharged, expunged, or vacated; or
  2. The applicant knowingly provides false information in connection with an application required by this Article.
- C. The Department shall make probation a condition of EMCT certification if, within two years before the date of filing an application under R9-25-403, an applicant has been convicted of a misdemeanor in this state or in any other state or jurisdiction, involving:
  1. Possession, use, administration, acquisition, sale, manufacture, or transportation of an intoxicating liquor, dangerous drug, or narcotic drug, as defined in A.R.S. § 13-3401, unless the conviction has been absolutely discharged, expunged, or vacated; or
  2. Driving or being in physical control of a vehicle while under the influence of an intoxicating liquor, a dangerous drug, or a narcotic drug, as defined in A.R.S. § 13-3401, unless the conviction has been absolutely discharged, expunged, or vacated.
- D. Except as provided in subsection (E), the Department shall make probation a condition of EMCT recertification if an applicant:
  1. Is currently:
    - a. Incarcerated for a criminal conviction,
    - b. On parole for a criminal conviction,
    - c. On supervised release for a criminal conviction, or
    - d. On probation for a criminal conviction; or
  2. Within five years before the date of filing an application under R9-25-404, has been convicted of a misdemeanor involving moral turpitude or a felony in this state or any other state or jurisdiction, other than those listed in subsection (A)(2), unless the conviction has been absolutely discharged, expunged, or vacated.
- E. As specified in R9-25-409, the Department may make probation a condition of EMCT recertification if an applicant, within two years before the date of filing an application under R9-25-404, has been convicted of a misdemeanor in this state or in any other state or jurisdiction, involving:
  1. Possession, use, administration, acquisition, sale, manufacture, or transportation of an intoxicating liquor, dangerous drug, or narcotic drug, as defined in A.R.S. § 13-3401, unless the conviction has been absolutely discharged, expunged, or vacated; or



- 2. Driving or being in physical control of a vehicle while under the influence of an intoxicating liquor, a dangerous drug, or a narcotic drug, as defined in A.R.S. § 13-3401, unless the conviction has been absolutely discharged, expunged, or vacated.
- F. If the Department makes probation a condition of EMCT certification or recertification, the Department shall fix the period and terms of probation that will:
  - 1. Protect the public health and safety, and
  - 2. Rehabilitate and educate the applicant.

**R9-25-403. Application Requirements for EMCT Certification (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), and ~~(G)~~ (H) and 36-2204(1) and (6))**

- A. An individual may apply for initial EMCT certification if:
  - 1. The individual is at least 18 years of age;
  - 2. The individual complies with the requirements in A.R.S. § 41-1080;
  - 3. The individual is not ineligible under R9-25-402; and
  - 4. One of the following applies to the individual:
    - a. The individual has not previously applied for certification from the Department or has withdrawn an application for certification;
    - b. An application for certification submitted by the individual was denied by the Department two or more years before the present date;
    - c. Except as provided in R9-25-404(A)(2) or (3), the individual’s certification as an EMCT is expired;
    - d. The individual’s certification as an EMCT was revoked by the Department five or more years before the present date; or
    - e. The individual has current certification as an EMCT and is applying for certification at a different classification level of EMCT.
- B. An applicant for initial EMCT certification shall submit to the Department an application in a Department-provided format, including:
  - 1. A form containing:
    - a. The applicant’s name, address, telephone number, email address, date of birth, gender, and Social Security number;
    - b. The level of EMCT certification being requested;
    - c. Responses to questions addressing the applicant’s criminal history according to R9-25-402(A)(1) through (3) and (C);
    - d. Whether the applicant has within the five years before the date of the application had:
      - i. EMCT certification or recertification revoked in Arizona; or
      - ii. Certification, recertification, or licensure at an EMCT classification level revoked in another state or jurisdiction;
    - e. Attestation that all information required as part of the application has been submitted and is true and accurate; and
    - f. The applicant’s signature or electronic signature and date of signature;
  - 2. For each affirmative response to a question addressing the applicant’s criminal history required in subsection (B)(1)(c), a detailed explanation on a Department-provided form and supporting documentation;
  - 3. For each affirmative response to subsection (B)(1)(d), a detailed explanation on a Department-provided form and supporting documentation;
  - 4. If applicable, a copy of certification, recertification, or licensure at an EMCT classification level issued to the applicant in another state or jurisdiction;
  - 5. A copy of one of the following for the applicant:
    - a. U.S. passport, current or expired;
    - b. Birth certificate;
    - c. Naturalization documents; or
    - d. Documentation of legal resident alien status; and
  - 6. One of the following:
    - a. Either:
      - i. A certificate of completion showing that within two years before the date of the application, the applicant completed statewide standardized training; and
      - ii. A statewide standardized certification test; or
    - b. Documentation of current registration in a national certification organization at the applicable or higher level of EMCT classification.
- B. The Department shall approve or deny an application for initial EMCT certification according to Article 12 of this Chapter.
- C. If the Department denies an application for initial EMCT certification, the applicant may request a hearing according to A.R.S. Title 41, Chapter 6, Article 10.

**R9-25-405. Extension to File an Application for EMCT Recertification (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), (A)(6), and ~~(G)~~ (H) and 36-2204(1), (4), (5), and (7))**

- A. Before the expiration of a current certificate, an EMCT who is unable to meet the recertification requirements in R9-25-404 because of personal or family illness, military service, or authorized federal or state emergency response deployment may apply to the Department in writing for an extension of time to file for recertification by submitting:
  - 1. The following information in a Department-provided format:
    - a. The EMCT’s name, address, telephone number, and email address;
    - b. The EMCT’s current certification number;
    - c. The reason for requesting the extension; and
    - d. The EMCT’s signature or electronic signature and date of signature; and
  - 2. For an exemption based on military service or authorized federal or state emergency response deployment, a copy of the EMCT’s military orders or documentation of authorized federal or state emergency response deployment.



- B. The Department may grant an extension of time to file for recertification:
  - 1. For personal or family illness, for no more than 180 days; or
  - 2. For each military service or authorized federal or state emergency response deployment, for the term of service or deployment plus 180 days.
- C. An individual applying for or granted an extension of time to file for recertification:
  - 1. Remains certified according to A.R.S. § 41-1092.11 during the extension period, and
  - 2. Shall submit an application for recertification according to R9-25-404.
- D. An individual who does not meet the recertification requirements in R9-25-404 within the extension period or has the application for recertification denied by the Department:
  - 1. Is not an EMCT, and
  - 2. May submit an application to the Department for initial EMCT certification according to R9-25-403.
- E. The Department shall approve or deny a request for an extension to file for EMCT recertification according to Article 12 of this Chapter.
- F. If the Department denies a request for an extension to file for EMCT recertification, the applicant may request a hearing according to A.R.S. Title 41, Chapter 6, Article 10.

**R9-25-406. Requirements for Downgrading of Certification (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), and ~~(G)~~ (H) and 36-2204(1) and (6))**

An individual who holds current EMCT certification at a classification level higher than EMT and who is not under investigation according to A.R.S. § 36-2211 may apply for:

- 1. Continued certification at a lower EMCT classification level for the remainder of the certification period by submitting to the Department:
  - a. A written request containing:
    - i. The EMCT's name, address, email address, telephone number, date of birth, and Social Security number;
    - ii. The lower EMCT classification level requested;
    - iii. Attestation that the applicant has not committed an act or engaged in conduct that would warrant revocation of a certificate under A.R.S. § 36-2211;
    - iv. Attestation that all information submitted is true and accurate; and
    - v. The applicant's signature or electronic signature and date of signature; and
  - b. Either:
    - i. A written statement from the EMCT's administrative medical director attesting that the EMCT is able to perform at the lower EMCT classification level requested; or
    - ii. If applying for continued certification as an EMT, an Arizona EMT refresher certificate of completion or an Arizona EMT refresher challenge examination certificate of completion signed by the training program director designated for the Arizona EMT refresher course; or
- 2. Recertification at a lower EMCT classification level according to R9-25-404.

**R9-25-407. Notification Requirements (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), and (A)(4), 36-2204(1) and (6), and 36-2211)**

- A. No later than 30 days after the date an EMCT's name legally changes, the EMCT shall submit to the Department:
  - 1. A completed form provided by the Department containing:
    - a. The name under which the EMCT is currently certified by the Department;
    - b. The EMCT's address, telephone number, and Social Security number; and
    - c. The EMCT's new name; and
  - 2. Documentation showing that the name has been legally changed.
- B. No later than 30 days after the date an EMCT's address or email address changes, the EMCT shall submit to the Department a completed form provided by the Department containing:
  - 1. The EMCT's name, telephone number, and Social Security number; and
  - 2. The EMCT's new address or email address.
- C. An EMCT shall notify the Department in writing no later than 10 days after the date the EMCT:
  - 1. Is incarcerated or is placed on parole, supervised release, or probation for any criminal conviction;
  - 2. Is convicted of:
    - a. A crime specified in R9-25-402(A)(2),
    - b. A misdemeanor involving moral turpitude,
    - c. A felony in this state or any other state or jurisdiction, or
    - d. A misdemeanor specified in R9-25-402(E);
  - 3. Has registration revoked or suspended by a national certification organization; or
  - 4. Has certification, recertification, or licensure at an EMCT classification level revoked or suspended in another state or jurisdiction.

**R9-25-408. Unprofessional Conduct; Physical or Mental Incompetence; Gross Incompetence; Gross Negligence (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), (A)(6), and ~~(G)~~ (H), 36-2204(1), (6), and (7), and 36-2211)**

- A. For purposes of A.R.S. § 36-2211(A)(1), unprofessional conduct is an act or omission made by an EMCT that is contrary to the recognized standards or ethics of the Emergency Medical Technician profession or that may constitute a danger to the health, welfare, or safety of a patient or the public, including:
  - 1. Impersonating an EMCT of a higher level of certification or impersonating a health professional as defined in A.R.S. § 32-3201;
  - 2. Permitting or allowing another individual to use the EMCT's certification for any purpose;



- 3. Aiding or abetting an individual who is not certified according to this Chapter in acting as an EMCT or in representing that the individual is certified as an EMCT;
  - 4. Engaging in or soliciting sexual relationships, whether consensual or non-consensual, with a patient while acting as an EMCT;
  - 5. Physically or verbally harassing, abusing, threatening, or intimidating a patient or another individual while acting as an EMCT;
  - 6. Making false or materially incorrect entries in a medical record or willful destruction of a medical record;
  - 7. Failing or refusing to maintain adequate records on a patient;
  - 8. Soliciting or obtaining monies or goods from a patient by fraud, deceit, or misrepresentation;
  - 9. Aiding or abetting an individual in fraud, deceit, or misrepresentation in meeting or attempting to meet the application requirements for EMCT certification or EMCT recertification contained in this Article, including the requirements established for:
    - a. Completing and passing a course provided by a training program; and
    - b. The national certification organization examination process and national certification organization registration process;
  - 10. Providing false information or making fraudulent or untrue statements to the Department or about the Department during an investigation conducted by the Department;
  - 11. Being incarcerated or being placed on parole, supervised release, or probation for any criminal conviction;
  - 12. Being convicted of a misdemeanor identified in R9-25-402(E), which has not been absolutely discharged, expunged, or vacated;
  - 13. Having national certification organization registration revoked or suspended by the national certification organization for material noncompliance with national certification organization rules or standards; and
  - 14. Having certification, recertification, or licensure at an EMCT classification level revoked or suspended in another state or jurisdiction.
- B.** Under A.R.S. § 36-2211, physical or mental incompetence of an EMCT is the EMCT’s lack of physical or mental ability to provide emergency medical services as required under this Chapter.
- C.** Under A.R.S. § 36-2211 gross incompetence or gross negligence is an EMCT’s willful act or willful omission of an act that is made in disregard of an individual’s life, health, or safety and that may cause death or injury.

**R9-25-409. Enforcement Actions (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), (A)(6), and ~~(G)~~ (H), 36-2204(1), (6), and (7), and 36-2211)**

- A.** If the Department determines that an applicant or EMCT is not in substantial compliance with applicable laws and rules, under A.R.S. §§ 36-2204 or 36-2211, the Department may:
- 1. Take the following action against an applicant or EMCT:
    - a. After notice is provided according to A.R.S. § 36-2211 and, if applicable, A.R.S. Title 41, Chapter 6, Article 10, issue:
      - i. A decree of censure to the EMCT, or
      - ii. An order of probation to the EMCT; or
    - b. After notice and opportunity to be heard is provided according to A.R.S. Title 41, Chapter 6, Article 10:
      - i. Deny an application,
      - ii. Suspend the EMCT’s certificate, or
      - iii. Revoke the EMCT’s certificate; and
  - 2. Assess civil penalties against the EMCT.
- B.** In determining which action in subsection (A) is appropriate, the Department shall consider:
- 1. Prior disciplinary actions;
  - 2. The time interval since a prior disciplinary action, if applicable;
  - 3. The applicant’s or EMCT’s motive;
  - 4. The applicant’s or EMCT’s pattern of conduct;
  - 5. The number of offenses;
  - 6. Whether the applicant or EMCT failed to comply with instructions from the Department;
  - 7. Whether interim rehabilitation efforts were made by the applicant or EMCT;
  - 8. Whether the applicant or EMCT refused to acknowledge the wrongful nature of the misconduct;
  - 9. Whether the applicant or EMCT made timely and good-faith efforts to rectify the consequences of the misconduct;
  - 10. The submission of false evidence, false statements, or other deceptive practices during an investigation or disciplinary process;
  - 11. The vulnerability of a patient or other victim of the applicant’s or EMCT’s conduct, if applicable; and
  - 12. How much control the applicant or EMCT had over the processes or situation leading to the misconduct.

**ARTICLE 12. TIME-FRAMES FOR DEPARTMENT APPROVALS**

**Table 12.1. Time-frames (in days)**

Type of Application	Statutory Authority	Overall Time-frame	Administrative Completeness Time-frame	Time to Respond to Written Notice	Substantive Review Time-frame	Time to Respond to Comprehensive Written Request
ALS Base Hospital Certification (R9-25-204)	A.R.S. §§ 36-2201, 36-2202(A)(3), and 36-2204(5)	45	15	60	30	60
Training Program Certification (R9-25-301)	A.R.S. §§ 36-2202(A)(3) and 36-2204(1) and (3)	120	30	60	90	60
Addition of a Course (R9-25-303)	A.R.S. §§ 36-2202(A)(3) and 36-2204(1) and (3)	90	30	60	60	60



EMCT Certification (R9-25-403)	A.R.S. §§ 362202(A)(2), (3), and (4), <del>36-2202(G)</del> 36-2202(H), and 362204(1)	120	30	90	90	270
EMCT Recertification (R9-25-404)	A.R.S. §§ 362202(A)(2), (3), (4), and (6), <del>36-2202(G)</del> 36-2202(H), and 362204(1) and (4)	120	30	60	90	60
Extension to File for EMCT Recertification (R9-25-405)	A.R.S. §§ 362202(A)(2), (3), (4), and (6), <del>36-2202(G)</del> 36-2202(H), and 362204(1) and (7)	30	15	60	15	60
Downgrading of Certification (R9-25-406)	A.R.S. §§ 362202(A)(2), (3), and (4), <del>36-2202(G)</del> 36-2202(H), and 362204(1) and (6)	30	15	60	15	60
Initial Air Ambulance Service License (R9-25-704)	A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), 36-2213, 36-2214, and 36-2215	150	30	60	120	60
Renewal of an Air Ambulance Service License (R9-25-705)	A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), 36-2213, 36-2214, and 36-2215	90	30	60	60	60
Initial Certificate of Registration for an Air Ambulance (R9-25-802)	A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), 36-2212, 36-2213, 36-2214, and 36-2240(4)	90	30	60	60	60
Renewal of a Certificate of Registration for an Air Ambulance (R9-25-802)	A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), 36-2212, 36-2213, 36-2214, and 36-2240(4)	90	30	60	60	60
Initial Certificate of Necessity (R9-25-902)	A.R.S. §§ 36-2204, 36-2232, 36-2233, 36-2240	450	30	60	420	60
Provision of ALS Services (R9-25-902)	A.R.S. §§ 36-2232, 36-2233, 36-2240	450	30	60	420	60
Transfer of a Certificate of Necessity (R9-25-902)	A.R.S. §§ 36-2236(A) and (B), 36-2240	450	30	60	420	60
Renewal of a Certificate of Necessity (R9-25-904)	A.R.S. §§ 36-2233, 36-2235, 36-2240	90	30	60	60	60
Amendment of a Certificate of Necessity (R9-25-905)	A.R.S. §§ 36-2232(A)(4), 36-2240	450	30	60	420	60
Initial Registration of a Ground Ambulance Vehicle (R9-25-1001)	A.R.S. §§ 36-2212, 36-2232, 36-2240	90	30	60	60	60
Renewal of a Ground Ambulance Vehicle Registration (R9-25-1001)	A.R.S. §§ 36-2212, 36-2232, 36-2240	90	30	60	60	60



Establishment of Initial General Public Rates (R9-25-1101)	A.R.S. §§ 36-2232, 36-2239	450	30	60	420	60
Adjustment of General Public Rates (R9-25-1102)	A.R.S. §§ 36-2234, 36-2239	450	30	60	420	60
Contract Rate or Range of Rates Less than General Public Rates (R9-25-1103)	A.R.S. §§ 36-2234, 36-2239	450	30	60	420	60
Ground Ambulance Service Contracts (R9-25-1104)	A.R.S. § 36-2232	450	30	60	420	60
Ground Ambulance Service Contracts with Political Subdivisions (R9-25-1104)	A.R.S. §§ 36-2232, 36-2234(K)	30	15	15	15	Not Applicable
Subscription Service Rate (R9-25-1105)	A.R.S. § 36-2232(A)(1)	450	30	60	420	60

**NOTICE OF PROPOSED EXPEDITED RULEMAKING**  
**TITLE 17. TRANSPORTATION**  
**CHAPTER 5. DEPARTMENT OF TRANSPORTATION**  
**COMMERCIAL PROGRAMS**

[R17-202]

**PREAMBLE**

- 1. Article, Part, or Section Affected (as applicable)**

<ul style="list-style-type: none"> <li>R17-5-801</li> <li>R17-5-802</li> <li>R17-5-803</li> <li>R17-5-804</li> <li>R17-5-805</li> <li>R17-5-806</li> <li>R17-5-807</li> <li>R17-5-808</li> <li>R17-5-809</li> <li>R17-5-810</li> </ul>	<p><b><u>Rulemaking Action</u></b></p> <ul style="list-style-type: none"> <li>Amend</li> </ul>
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- 2. Citations to the agency’s statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**

Authorizing statutes: A.R.S. §§ 28-366, 28-4001, 28-4002, 28-4007, 28-4081, 28-4148  
 Implementing statutes: A.R.S. §§ 20-237, 28-4007, 28-4033, 28-4084, 28-4135, and 28-4148
  
- 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 expedited rulemaking:**

Notice of Rulemaking Docket Opening: 23 A.A.R. 2953, October 20, 2017 (*in this issue*)
  
- 4. The agency’s contact person who can answer questions about the rulemaking:**

Name: Jane McVay  
 Address: Department of Transportation  
 206 S. 17th Ave., MD 140A  
 Phoenix, AZ 85007  
 Telephone: (602) 712-4279  
 E-mail: jmcvay@azdot.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 Department received approval from Matt Clark in the Governor’s Office on June 28, 2017 for an exemption from the rulemaking moratorium. This proposed expedited rulemaking complies with the requirements for expedited rulemaking in A.R.S. § 41-1027(A). The proposed expedited rules do not increase the cost of regulatory compliance by insurance companies that submit motor vehicle insurance information to the Department, do not increase a fee, and do not reduce the procedural rights of persons regulated. The rules detail the mandatory insurance reporting system, electronic reporting process, and information that insurance



companies report to the Department on different types of motor vehicle liability policies. The Department is conducting this rulemaking under A.R.S. § 41-1027(A)(3) for the purposes of correcting name changes and clarifying the language of a rule without changing its effect, and under A.R.S. § 41-1027(A)(7) to implement a course of action, without material change, proposed in the five-year review report on the Department's mandatory insurance and financial responsibility rules, 17 A.A.C. 5, Article 8, approved by the Governor's Regulatory Review Council (GRRC) on July 6, 2017. These changes update the Department's business practices relating to the electronic reporting system used by insurance companies to report motor vehicle liability insurance coverage to the Department, clarify reporting requirements for insurance companies, and make the rules clearer, more concise, and more understandable.

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

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

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

Not applicable

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

This rulemaking is exempt from the requirement in A.R.S. § 41-1055(G) to prepare an economic, small business, and consumer impact statement under A.R.S. § 41-1055(D)(2).

**9. The name and address of agency personnel with whom persons may communicate regarding the proposed expedited rules:**

Name: Jane McVay  
Address: Department of Transportation  
206 S. 17th Ave., MD 140A  
Phoenix, AZ 85007  
Telephone: (602) 712-4279  
E-mail: jmcvay@azdot.gov

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

The Department has scheduled the following oral proceeding on the proposed rules:

Date: November 1, 2017  
Time: 1:30 p.m.  
Location: Arizona Department of Transportation  
206 S. 17th Ave.  
Phoenix, AZ 85007

Written comments on the proposed rulemaking should be directed to the person listed under item 4 and may be submitted for 30 days from the posting on the Department's website until the close of record at 5 p.m. on November 1, 2017.

Pursuant to Title VI of the Civil Rights Act of 1964, and the Americans with Disabilities Act (ADA), ADOT does not discriminate on the basis of race, color, national origin, age, gender or disability. Persons that require a reasonable accommodation based on language or disability should contact ADOT Civil Rights at (602) 712-8946 or [civilrightsoffice@azdot.gov](mailto:civilrightsoffice@azdot.gov). Requests should be made as early as possible to ensure the state has an opportunity to address the accommodation.

Personas que requieren asistencia o una adaptacion razonable porhabilidad limitada en Ingles o discapacidad deben ponerse en contacto con la Oficina de Derechos Civiles de ADOT al (602) 712-8946 or [civilrightsoffice@azdot.gov](mailto:civilrightsoffice@azdot.gov). Las solicitudes deben hacerse tan pronto como sea posible paraasegurar que ele estado tiene la oportunidad de abordar el alojamiento.

**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 are prescribed by statute that are specifically applicable to ADOT or this rulemaking.

**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 do not 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:**

A specific federal law is not applicable to the 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:**

A business competitive analysis has not been submitted to the Department.

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

The rules do not contain any incorporations by reference.

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



TITLE 17. TRANSPORTATION
CHAPTER 5. DEPARTMENT OF TRANSPORTATION
COMMERCIAL PROGRAMS

ARTICLE 8. MANDATORY INSURANCE AND FINANCIAL RESPONSIBILITY

Section

- R17-5-801. Definitions
R17-5-802. Insurance Company Electronic Reporting Requirement; Applicability
R17-5-803. Insurance Company Reportable Activity
R17-5-804. Record Matching Criteria for a Vehicle-specific Policy
R17-5-805. Record Matching Criteria for a Non-vehicle-specific Commercial Policy
R17-5-806. Division-authorized Department-authorized EDI Reporting Methods; Reporting Schedule
R17-5-807. X12 Data Format for Policy Receipt and Error Return
R17-5-808. Insurance Company Reporting Errors; Resolution; Noncompliance
R17-5-809. Insurance Company Failure to Submit Required Data; Request for Hearing
R17-5-810. Self-Insurance as Alternate Proof of Financial Responsibility; Provisions; Applicability

R17-5-801. Definitions

In addition to the definitions under A.R.S. §§ 28-101 and 28-4001, in this Chapter, unless otherwise specified:

Arizona Mandatory Insurance Reporting System Guide for Insurance Companies means the Department's guide that is available on the agency's website and provides technical information to a company about information transmission between the Department and the company.

Company means an insurance or indemnity company authorized to write motor vehicle liability coverage in Arizona.

Customer number means the system-generated, or other distinguishing number, assigned by the Division Department to each person conducting business with the Division Department, as prescribed in R17-5-805. The customer number of a private individual is generally the person's driver license or non-operating identification license number. The customer number of a business is generally its federal employer identification number.

Division means the Arizona Department of Transportation's Motor Vehicle Division.

EDI means electronic data interchange, which is the transmission of data in a standardized format from one computer to another without the use of magnetic tape.

EDI reporting means the weekly computer-to-computer transmission of data from a company to the Division Department.

Error return means the immediate computer-to-computer transmission, from the Division Department to a company, of all data reporting errors received during EDI reporting.

FEIN means the federal employer identification number or federal tax identification number used to identify a business entity.

FTP means file transfer protocol, which is a common protocol used by the Division Department for exchanging files over any network that supports EDI reporting transmitted through the Internet or Intranet.

Information exchange means EDI reporting where a company or service provider transmits a report to the Division Department through a connection to a private information network.

MVD: Motor Vehicle Division means the Arizona Department of Transportation's Motor Vehicle Division.

NAIC means the National Association of Insurance Commissioners.

Private information network means the value-added network used by a company or service provider to facilitate EDI transmissions to the Division Department and to provide other network services where fees are charged for the network connection based on the number of characters and messages transmitted.

Reportable activity means the information required to be transmitted to the Division Department under A.R.S. § 28-4148 and this Article.

Self-insurer means a person or entity that has met the qualifications, completed the application process, and received a certificate of self-insurance issued by the Division Department under Section R17-5-810.

Service provider means a person or entity that provides the reports for an insurance company through a connection to a private information network or an FTP for EDI reporting.

SR22 means a certification filed, by a company duly authorized to transact business in this state, as proof of financial responsibility for the future, which guarantees that the insured owner or operator has in effect at least the minimum motor vehicle liability insurance coverage required under A.R.S. Title 28, Chapter 9, Article 3.

SR26 means a certification filed by a company duly authorized to transact business in this state, which notifies the Division Department that an insured owner or operator required to maintain proof of financial responsibility for the future, under A.R.S. Title 28, Chapter 9, Article 3, is no longer covered under a previously reported SR22.

Value-added Network network means a private network provider that is hired by a company to facilitate EDI or provide other network services.

X12 means the American National Standards Institute, Accredited Standards Committee, uniform standards for the inter-industry electronic exchange of business transactions by EDI.



“X12 (TS811)” means X12 Transaction Set 811, Consolidated Service Invoice – Statement, version 3050, which is the specific set of EDI transactions developed for the insurance industry in the X12 standard format for automobile liability insurance reporting.

**R17-5-802. Insurance Company Electronic Reporting Requirement; Applicability**

- A. A company that provides motor vehicle liability insurance coverage for an Arizona vehicle shall electronically transmit to the ~~Division~~ Department all reportable activity under A.R.S. § 28-4148 and R17-5-803 using one of the authorized EDI reporting methods identified in ~~R17-5-806~~ the Arizona Mandatory Insurance Reporting System Guide for Insurance Companies. Each transmission shall include all of the applicable record matching criteria prescribed under R17-5-804 or R17-5-805.
- B. ~~Effective May 1, 2007, a~~ A company that issues 1,000 or more SR22 policies per calendar year shall electronically transmit to the ~~Division~~ Department all SR22 and SR26 activity using one of the ~~Division-authorized~~ Department-authorized EDI reporting methods identified in ~~R17-5-806~~ the Arizona Mandatory Insurance Reporting System Guide for Insurance Companies. Each transmission shall include all of the applicable record matching criteria prescribed under R17-5-804 or R17-5-805.
- C. The ~~Division~~ Department shall not accept or record an out-of-state motor vehicle liability insurance policy for a passenger vehicle, even if written by a company authorized to transact business in this state.

**R17-5-803. Insurance Company Reportable Activity**

- A. A company shall transmit to the ~~Division~~ Department:
1. All reportable activity, not previously reported, that was processed by the company seven or fewer days before each reporting date; or
  2. A statement of inactivity, if no reportable activity occurred by the reporting date.
- B. For the purpose of this Article, reportable activity shall include:
1. A policy cancellation;
  2. A policy non-renewal;
  3. A new policy issuance;
  4. A commercial policy reissuance;
  - ~~4-5.~~ A vehicle added to a policy;
  - ~~5-6.~~ A vehicle deleted from a policy;
  - ~~6-7.~~ A policy reinstatement; and
  - ~~7-8.~~ Effective May 1, 2007, all All SR22 and SR26 filings by insurance companies issuing 1,000 or more SR22 policies per calendar year.
- C. Reportable activity does not include the addition or deletion of a vehicle to or from a non-vehicle-specific commercial policy.

**R17-5-804. Record Matching Criteria for a Vehicle-specific Policy**

For each vehicle-specific policy transmitted to the ~~Division~~ Department, a company shall include all of the following information to assist with the matching of policies to ~~MVD~~ Department customers:

1. The complete and valid vehicle identification number;
2. The policy number; and
3. The NAIC number of the reporting company.

**R17-5-805. Record Matching Criteria for a Non-vehicle-specific Commercial Policy**

- A. For each non-vehicle-specific commercial policy transmitted to the ~~Division~~ Department, a company shall include all of the following information to assist with the matching of policies to ~~MVD~~ Department customers:
1. The ~~MVD Customer~~ Department customer number of the insured:
    - a. If a policy covers all vehicles registered in the name of a business or organization, the ~~Customer~~ customer number is the FEIN of the business or organization, or a system-generated number; or
    - b. If a policy covers all vehicles registered in the name of a private individual, the ~~Customer~~ customer number is the Arizona Driver License number or the non-operating identification license number of the private individual;
  2. The policy number; and
  3. The NAIC number of the ~~reporting~~ responsible company.
- B. If the MVD Customer number required under subsection (A)(1) is not available to a company, the company may provide the complete and valid vehicle identification number of each vehicle covered under the policy in-lieu of the MVD Customer number.

**R17-5-806. ~~Division-authorized~~ Department-authorized EDI Reporting Methods; Reporting Schedule**

- A. A company shall transmit to the ~~Division~~ Department all reportable activity listed in R17-5-803 using ~~one of the following Division-authorized~~ a Department-authorized EDI reporting ~~methods~~ method specified in the Arizona Mandatory Insurance Reporting System Guide for Insurance Companies:
- ~~1. EDI reporting by information exchange; or~~
  - ~~2. EDI reporting by encrypted FTP.~~
- B. A company shall transmit all reportable activity to the ~~Division~~ Department at least once every seven days.

**R17-5-807. X12 Data Format for Policy Receipt and Error Return**

- A. Reporting format. A company shall transmit to the ~~Division~~ Department all reportable activity using the format prescribed in the Arizona Mandatory Insurance Reporting System Guide for Insurance Companies provided by the ~~Division~~ Department.
- B. Error return format. The ~~Division~~ Department shall return to a company all reporting errors received during a transmission of reportable activity using the X12 error return format prescribed in the Arizona Mandatory Insurance Reporting System Guide for Insurance Companies Arizona Mandatory Insurance Reporting System Guide for Insurance Companies.



C. The Department shall return to a company an acknowledgment that a transmission of reportable activity was received and processed using the format in the *Arizona Mandatory Insurance Reporting System Guide for Insurance Companies*.

**R17-5-808. Insurance Company Reporting Errors; Resolution; Noncompliance**

- A. The ~~Division~~ Department shall:
  1. Return to a company, using the X12 ~~Error Return~~ error return format provided in R17-5-807(B), all reporting errors received during or after a transmission; and
  2. Instruct the company to correct all reporting errors affecting the ~~Division's~~ Department's processing of the required data.
- B. All companies reporting electronic policy information shall notify the ~~Division~~ Department prior to making changes to any reporting systems, or previously established policy reporting formats, that may affect the ~~Division's~~ Department's ability to match and process the information received.

**R17-5-809. Insurance Company Failure to Submit Required Data; Request for Hearing**

If a company fails to submit the data required under A.R.S. § 28-4148, and this Article, the ~~Division~~ Department shall:

1. Send to the company, a dated written notice, which:
  - a. Identifies the business week or reporting period in which the company did not submit the required information;
  - b. Instructs the company to submit the information for the identified business week or reporting period within seven days of the date of the notice;
  - c. Informs the company that a failure to respond to the ~~Division's~~ Department's request within the allotted time-frame, shall result in a referral of the matter to the Arizona Department of Insurance, under A.R.S. § 20-237, which may result in a civil penalty for each violation of up to \$250 per day for each day the insurer is in violation of A.R.S. § 28-4148; and
  - d. Provides notice of the company's right to request a hearing with the Arizona Department of Insurance under A.R.S. § 20-237; and
2. Advise the Arizona Department of Insurance if the company fails to comply with the ~~Division's~~ Department's written notice provided under this Section.

**R17-5-810. Self-insurance as Alternate Proof of Financial Responsibility; Provisions; Applicability**

- A. Self-insurance applicant qualification. A person or entity may apply for self-insurance under this Section if the applicant:
  1. Owns the minimum number of vehicles prescribed under A.R.S. § 28-4007(A) with current Arizona registration;
  2. Demonstrates minimum assets of \$1 million on documentation required under subsections (C) and (D);
  3. Meets any additional financial responsibility requirements under A.R.S. § 28-4033(A), according to the insured vehicle's weight and/or intended use; and
  4. Provides a business office contact for the company with a current phone number and mailing information.
- B. A self-insurance applicant shall provide, on a self-insurance application form provided by the ~~Division~~ Department, the following information:
  1. Applicant's name;
  2. Business name, if applicable;
  3. Mailing address, city, state, and ZIP code;
  4. A selection of coverage type:
    - a. Public liability only; or
    - b. Public liability and property damage;
  5. Number of vehicles in the applicant's fleet;
  6. A selection list that describes the nature of the applicant's business;
  7. A description of any hazardous materials transported by type, class, and weight;
  8. A report of all accidents in the prior 39-month period before the application date;
  9. The applicant's signature and official business title to certify that all information is true and correct; and
  10. Acknowledgment by a notary public or by the signature of an authorized ~~Motor Vehicle~~ ~~Division~~ Department agent.
- C. Supplementary documentation. In addition to a completed self-insurance application form, the applicant shall submit a profit and loss statement certified by a Certified Public Accountant for the 12-month period before the application date. The profit and loss statement shall include one of the following:
  1. A balance sheet; or
  2. An annual financial report.
- D. On approval of an application, the ~~Division~~ Department shall issue a certificate of self-insurance that is continuously valid, but shall require the self-insurer to submit a 12-month update of supplementary documentation prescribed under subsection (C) on or before July 1 of each successive year.
- E. An initial self-insurance applicant or a self-insurer making an annual update shall submit documentation required under subsections (B) through (D) to the following address:
 

Motor Vehicle Division  
Financial Responsibility Unit  
P.O. Box 2100, Mail Drop 535M  
Phoenix, AZ 85001-2100
- F. A self-insurer shall keep a copy of the self-insurance certificate in each covered vehicle at all times.
- G. A self-insurer shall submit periodic, written notification updates to the ~~Division~~ Department of ~~each vehicle~~ vehicles to be added or removed from self-insurance coverage. The written notification shall include the vehicle identification number of each vehicle.
- H. A self-insurer that terminates self-insurance shall provide new evidence of financial responsibility as required under A.R.S. § 28-4135 for each vehicle previously covered under a self-insurance certificate.



- I. In addition to the reasonable grounds prescribed under A.R.S. § 28-4007(C), the ~~Division~~ Department may cancel a self-insurance certificate under the following circumstances:
  - 1. A self-insurer fails to comply with provisions of the ~~Division's~~ Department's annual update requirement under subsection (D),  
or
  - 2. A self-insurer no longer owns the covered business or fleet.
- J. For the purpose of A.R.S. § 28-4007(C) and this Section, the ~~Division~~ Department shall conduct a self-insurance cancellation hearing according to the provisions prescribed under 17 A.A.C. 1, Article 5.



NOTICES OF PROPOSED EXEMPT RULEMAKING

This section of the Arizona Administrative Register contains Notices of Proposed Exempt Rulemaking. An agency may be exempt from rulemaking standards outlined in the Arizona Administrative Procedures Act (APA).

An agency's exemption is listed in the Preamble of the rulemaking as specified under: A.R.S. §§ 41-1005 or 41-1057; or a specific statute; or if a rule is promulgated by the Corporation Commission, it is exempt from Attorney General review under a court decision as determined by the Commission.

If an agency determines it is exempt under the law or court decision, the law may still require publication of the Proposed Exempt Rulemaking in this section to solicit and review public comments on the rulemaking.

Some agencies, even though completely exempt, may still elect to follow certain provisions of the APA, such as circulating its exempt rulemaking for comment. If an agency chooses this option, our office encourages filing the notice with our office for publication in the Register.

Please note, if a statute dictates that an agency is completely exempt from the rulemaking process, the agency is authorized to file a Notice of Exempt Rulemaking.

In all cases, an agency must still follow the procedures as established by our office in order to have its rulemaking package published.

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the interpretation of the proposed exempt rule should be directed to the agency proposing them. Refer to Item #5 of the Preamble to contact the person charged with the rulemaking.

NOTICE OF PROPOSED EXEMPT RULEMAKING
TITLE 2. ADMINISTRATION
CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

[R17-203]

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), and the statute or session law authorizing the exemption:
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 R1-1-409(A) that pertain to the record of the exempt rulemaking:
5. The name and address of agency personnel with whom persons may communicate regarding 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:



- 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. **The summary of the economic, small business, and consumer impact, if applicable:**  
Not applicable
- 10. **A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and the final rulemaking package (if applicable):**  
Not applicable
- 11. **An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments, if applicable:**  
On September 28, 2017, the Commission approved the proposed amendments publication on the Commission's website and in the *Administrative Register*. The Commission is soliciting public comment for 60 days. No action has been taken on the proposed amendments.
- 12. **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 not be 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:**  
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:**  
Not applicable
- 13. **A list of any Incorporated by reference material and its location in the rules:**  
Not applicable
- 14. **Whether the rule was previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the 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 2. ADMINISTRATION  
CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION**

**ARTICLE 1. GENERAL PROVISIONS**

Section  
R2-20-106. Distribution of Funds to Certified Candidates

**ARTICLE 1. GENERAL PROVISIONS**

**R2-20-106. Distribution of Funds to Certified Candidates**

- A. No change
  - 1. No change
    - a. No change
    - b. No change
  - 2. No change
  - 3. No change
- B. No change
- C. No change
- D. No change
- E. No change
- F. No change
- G. Pursuant to A.R.S. § 16-953(A), a participating candidate shall return to the Fund:
  - 1. ~~at~~**All of his or her** primary election funds not committed to expenditures (1) during the primary election period; and (2) for goods or services directed to the primary election. A candidate shall not be deemed to have violated A.R.S. § 16-953(A) or this subsection on account of failure to use all materials purchased with primary election funds prior to the primary election, provided such candidate exercises good faith and diligent efforts to comply with the requirement that goods and services purchased





- provides explanation for the application of 16-942(B) to any entity that fails to file reports pursuant to Chapter 6 pursuant to A.R.S. 16-957 (providing procedures for application of penalties against “persons” who are found in violation of the Clean Elections Act); *see also* A.R.S. 16-901 (defining entity as “a corporation, limited liability company, labor organization, partnership, trust, association, organization, joint venture, cooperative, unincorporated organization or association or other organized group that consists of more than one individual.”)
- provides that an entity shall not be found to be a political committee unless certain criteria are met. Provides that an entity may argue that, by a preponderance of the evidence, it is not a political committee pursuant to any definition in Title 16 and that the Commission may, in such case, determine the entity is not a committee.

The Commission’s rulemakings are exempt from Title 41, Ch. 6, Article 3, pursuant to A.R.S. § 16-956. Some provisions of these rules are primarily the result of SB1516 (2016). SB 1516 contains provisions that raise serious questions under the Arizona and U.S. Constitutions. Among other things, SB 1516 includes provisions that attempt to preempt the Commission’s rulemaking authority (A.R.S. § 16-901(42)), narrow the definitions of expenditure and contribution and eliminate the definition of political committee adopted by the Clean Elections Act in 1998, raising serious constitutional questions under the Voter Protection Act of the Arizona Constitution.

The Commission does not, by adopting these rules, waive any legal objection to the enactment of laws that violate the Voter Protection Act. Rather, it adopted these rules in the interest of harmonizing the Commission’s rules with the existing statutes in order to avoid confusion within the regulated community and encourage consistency between the Commission’s rules and the policies of other election-related offices.

In addition to the VPA issues, the provisions of SB 1516 raise questions of equal protection regarding the treatment of corporations registered in Arizona that also have 501 status with the IRS and questions under Article 7, §. 16 of the Arizona Constitution regarding the publication of campaign contributions and expenditures. The Commission notes these issues for the record, but again, seeks as much as possible to harmonize its rules. The Commission retains its full authority to enforce Article 2 of Chapter 6 of Title 16 consistent with the terms of the statute, as well as the court interpretations which confirm its straightforward terms.

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. **The summary of the economic, small business, and consumer impact, if applicable:**  
Not applicable
10. **A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and the final rulemaking package (if applicable):**  
Not applicable.
11. **An agency’s summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments, if applicable:**  
The Commission solicits public comment throughout the rulemaking process.
12. **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 not be 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:**  
Not applicable
  - b. **Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than the federal law and if so, citation to the statutory authority to exceed the requirements of the 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 and its location in the rules:**  
Not applicable
14. **Whether the rule was previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the 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 2. ADMINISTRATION

### CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION



ARTICLE 1. GENERAL PROVISIONS

Section R2-20-109. Independent Expenditure Reporting Requirements

ARTICLE 1. GENERAL PROVISIONS

R2-20-109. Independent Expenditure Reporting Requirements

- A. In accordance with A.R.S. § 16-958(E), all persons obligated to file any campaign finance report under any provisions of Chapter 6, Article 2 of the Arizona Revised Statutes shall file such reports using the Secretary of State’s Internet-based finance-reporting system, except if:
  - 1. Expressly provided otherwise by another Commission rule; or
  - 2. That system, or the necessary function on the system, is unavailable, in which case the executive director shall implement a suitable process.
- B. Independent Expenditure Reporting Requirements.
  - 1. Any person making independent expenditures cumulatively exceeding the amount prescribed in A.R.S. § 16-941(D) in an election cycle shall file campaign finance reports in accordance with A.R.S. § 16-958 and Commission rules.
  - 2. Any person who fails to file a timely campaign finance report pursuant to A.R.S. § 16-941(D), A.R.S. §16-958, shall be subject to a civil penalty as prescribed in A.R.S. § 16-942(B). Subsection R2-20-109(B)(4) does not apply to reports pursuant to A.R.S. §§ 16-941(D) and -958 or this subsection. Any expenditure advocating against one or more candidates shall be considered an expenditure on behalf of any opposing candidate(s). Penalties shall be assessed as follows:
    - a. For an election involving a candidate for statewide office, the civil penalty shall be \$300 per day.
    - b. For an election involving a legislative candidate, the civil penalty shall be \$100 per day.
    - c. The penalties in (a) and (b) shall be doubled if the amount not reported for a particular election cycle exceeds ten (10%) percent of the applicable adjusted primary election spending limit or adjusted general election spending limit.
    - d. The dollar amounts in items (a) and (b), and the spending limits in item (c) are subject to adjustment of A.R.S. § 16-959.
    - e. Penalties imposed pursuant to this subsection shall not exceed twice the amount of expenditures not reported.
  - 3. A.R.S. § 16-942(B) applies to any entity including political committees that accepts contributions or makes expenditures on behalf of any candidate regardless of any other contributions taken or expenditures made and fails to timely file a campaign finance report under Chapter 6 of Title 16, Arizona Revised Statutes. Any expenditure advocating against one or more candidates shall be considered an expenditure on behalf of any opposing candidate(s). Penalties shall be assessed as follows:
    - a. For an election involving a candidate for statewide office, the civil penalty shall be \$300 per day.
    - b. For an election involving a legislative candidate, the civil penalty shall be \$100 per day.
    - c. The penalties in (a) and (b) shall be doubled if the amount not reported for a particular election cycle exceeds ten (10%) percent of the applicable adjusted primary election spending limit or adjusted general election spending limit.
    - d. The dollar amounts in items (a) and (b), and the spending limits in item (c) are subject to adjustment of A.R.S. § 16-959.
    - e. Penalties imposed pursuant to this subsection shall not exceed twice the amount of expenditures not reported.
  - 4. For purposes of A.A.C. R2-20-109(B)(3):
    - a. An entity shall not be found to have the predominant purpose of influencing elections unless, a preponderance of the evidence establishes that during a two-year legislative election cycle, the total reportable contributions made by the entity, in any combination, in a calendar year exceeds \$1,000 and is more than fifty percent (50%) of the entity’s total spending during the election cycle.
      - i. For purposes of this provision, a “reportable contribution” or “reportable expenditure” shall be limited to a contribution or expenditure, as defined in title 16 of the Arizona revised statutes, that must be reported to the Arizona secretary of state, the Arizona citizens clean elections commission, or local filing officer in Arizona. A contribution or expenditure that must be reported to the federal election commission or to the election authority of any other state, but not to the Arizona secretary of state, the Arizona citizens clean elections commission or a local filing officer in Arizona, shall not be considered a reportable contribution or reportable expenditure.
      - ii. For purposes of this provision, “total spending” shall not include volunteer time or fundraising and administrative expenses but shall include all other spending by the organization.
      - iii. For purposes of this provision, grants to other organizations shall be treated as follows:
        - (1) A grant made to a political committee or an organization organized under section 527 of the internal revenue code shall be counted in total spending and as a reportable contribution or reportable expenditure, unless expressly designated for use outside Arizona or for federal elections, in which case such spending shall be counted in total spending but not as a reportable contribution or reportable expenditure.
        - (2) If the entity making a grant takes reasonable steps to ensure that the transferee does not use such funds to make a reportable contribution or reportable expenditure, such a grant shall be counted in total spending but not as a reportable contribution or reportable expenditure.
      - iv. If the entity making a grant earmarks the grant for reportable contributions or reportable expenditures, knows the grant will be used to make reportable contributions or reportable expenditures, knows that a recipient will likely use a portion of the grant to make reportable contributions or reportable expenditures, or responds to a solicitation for reportable contributions or reportable expenditures, the grant shall be counted in total spending and the relevant portion of the grant as set forth in subsection (v) of this section shall count as a reportable contribution or reportable expenditure.
      - v. Notwithstanding subsections (iii) and (iv) the amount of a grant counted as a reportable contribution or reportable expenditure shall be limited to the lesser of the grant or the following:
        - (1) The amount that the recipient organization spends on reportable contributions and reportable expenditures, plus
        - (2) The amount that the recipient organization gives to third parties but not more than the amount that such third par-





- 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. **The summary of the economic, small business, and consumer impact, if applicable:**  
Not applicable
- 10. **A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and the final rulemaking package (if applicable):**  
Not applicable
- 11. **An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments, if applicable:**  
The Commission solicits public comment throughout the rulemaking process.
- 12. **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 not be 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:**  
Not applicable
  - b. **Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than the federal law and if so, citation to the statutory authority to exceed the requirements of the 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 and its location in the rule:**  
Not applicable
- 14. **Whether the rule previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the 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 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

ARTICLE 1. GENERAL PROVISIONS

Section

R2-20-111. Non-participating Candidate Reporting Requirements and Contribution Limits

ARTICLE 1. GENERAL PROVISIONS

R2-20-111. Non-participating Candidate Reporting Requirements and Contribution Limits

- A. Any person may file a complaint with the Commission alleging that any non-participating candidate or that candidate's campaign committee has failed to comply with or violated A.R.S. § 16-941(B). Complaints shall be processed as prescribed in Article 2 of these rules. In addition to those penalties outlined in R2-20-222(B), a non-participating candidate or candidate's campaign committee violating A.R.S. § 16-941(B) shall be subject to penalties prescribed in A.R.S. § 16-941(B) and A.R.S. § 16-942(B) and (C) as applicable.
- B. Penalties under A.R.S. § 16-942(B), for a violation by or on behalf of any non-participating candidate or that candidate's campaign committee of any reporting requirement imposed by chapter 6 of title 16, Arizona Revised Statutes, in association with any violation of A.R.S. § 16-941(B):
  - 1. For an election involving a candidate for statewide office, the civil penalty shall be \$300 per day.
  - 2. For an election involving a legislative candidate, the civil penalty shall be \$100 per day.
  - 3. The penalties in (a) and (b) shall be doubled if the amount not reported for a particular election cycle exceeds ten percent (10%) of the applicable one of the adjusted primary election spending limit or adjusted general election spending limit.
  - 4. The dollar amounts in items (a) and (b), and the spending limits in item (c) are subject to adjustment of A.R.S. § 16-959.
- C. Penalties under A.R.S. § 16-942(C): Where a campaign finance report filed by a non-participating candidate or that candidate's campaign committee indicates a violation of A.R.S. § 16-941(B) that involves an amount in excess of ten percent (10%) of the sum of the adjusted primary election spending limit and the adjusted general election spending limits specified by A.R.S. § 16-961(G) and (H) as adjusted pursuant to A.R.S. § 16-959, that violation shall result in disqualification of a candidate or forfeiture of office.
- D. Penalties under A.R.S. § 16-941(B): Regardless of whether or not there is a violation of a reporting requirement, a person who violates A.R.S. § 16-941(B) is subject to a civil penalty of three times the amount of money that has been received, expended, or prom-



ised in violation of A.R.S. § 16-941(B) or three times the value in money for an equivalent of money or other things of value that have been received, expended, or promised in violation of A.R.S. § 16-941(B).

- E.** The twenty percent reduction in A.R.S. § 16-941(B) applies to all campaign contributions limits on contributions that are permitted to be accepted by nonparticipating candidates.
- F.** Contribution limits as adjusted by A.R.S. § 16-931 shall be the base level contribution limits subject to reduction pursuant to A.R.S. § 16-941(B).



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

NOTICE OF FINAL EXEMPT RULEMAKING
TITLE 2. ADMINISTRATION
CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

[R17-206]

PREAMBLE

- 1. Article, Part or Sections Affected (as applicable) Rulemaking Action
2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):
3. The effective date of the rules:
4. A list of all notices published in the Register as specified in R1-1-409(A) that pertain to the record of the exempt rulemaking:
5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:
6. An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from regular rulemaking procedures:
7. A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:
8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:
9. The summary of the economic, small business, and consumer impact:
10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):
11. A summary of the comments made regarding the rule and the agency response to them:
12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:
13. Incorporations by reference and their location in the rules:



**14. Was this rule previously made as an emergency rule? If so, please indicate the Register citation:**  
Not applicable

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

**TITLE 2. ADMINISTRATION**  
**CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION**

**ARTICLE 4. AUDITS**

Section

R2-20-402.01. ~~Random~~ Audits of Participating Legislative Candidates

**ARTICLE 4. AUDITS**

**R2-20-402.01. ~~Random~~ Audits of Participating Legislative Candidates**

To ensure compliance with the Act and Commission rules, the Commission shall conduct ~~random~~ audits of all participating legislative candidates after each ~~election primary election period and each general election period~~. Candidates who win their primary election will not be subject to an audit until after the general election. ~~Random audits~~ Audits shall include the review of campaign finance reports for the entire election cycle and related documentation in accordance with procedures established by the Commission. The Commission may hire independent accounting firms to carry out the ~~random~~ audits. ~~The selection of legislative candidates for audit shall be determined by random lot at a Commission meeting. Candidates shall not be subject to selection for random audit for the general election period that were selected for random audit following the primary election period.~~



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 (RENEWAL)

TITLE 21. CHILD SAFETY

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

[R17-207]

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 renewal 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:
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:



- 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 (emergency renewal):**  
September 29, 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 horizon-tally. 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; or as required in R21-8-112(6)(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 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 BOXING AND MIXED MARTIAL ARTS COMMISSION

[R17-193]

- 1. Title and its heading: 4, Professions and Occupations
Chapter and its heading: 3, State Boxing and Mixed Martial Arts Commission
Article and its heading: 1, Equipment
2, Weigh-in and Examination
3, Conduct of Contests
4, Administration
Section numbers: R4-3-101 through R4-3-105; R4-3-201 through R4-3-203; R4-3-301 through R4-3-310; R4-3-401 through R4-3-414 and Table 1. (As part of this rulemaking, Sections and tables may be added, deleted, repealed, or modified as necessary.)

2. The subject matter of the proposed rule: By statute, the Boxing and Mixed Martial Arts Commission is responsible for regulating certain unarmed-combat sports, including boxing. This rulemaking relates only to the sections listed above, which have not been substantially amended since their adoption in 1981. Statutory and industry changes have occurred after 1981 that need to be addressed. The following rules of Title 4, Chapter 3, were previously recodified on April 23, 1999: R4-3-415 to R4-3-424. All rules under Title 4, Chapter 3, Article 5, expired on April 30, 2002. By separate rulemaking, the Agency intends to consolidate a comprehensive set of rules governing all unarmed-combat sports into Title 19, Chapter 2, Article 6. The comprehensive set of rules will borrow portions of those currently existing boxing regulations from Title 4 that still are viable. Thereafter, the Agency will repeal any remaining rules in Title 4, Chapter 3, Articles 1 through 4.

3. A citation to all published notices relating to the proceeding: None published

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

Name: Aiden Fleming
Address: Arizona Department of Gaming
1110 W. Washington, Suite 450
Phoenix, AZ 85007
Telephone: (602) 255-3879
Fax: (602) 255-3883
E-mail: afleming@azgaming.gov

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

The Agency will accept written comments from 8:00 a.m. until 5:00 p.m., Monday through Friday (except state holidays), at the address listed in item #4. The date, time, and location of an oral proceeding will be included in the Notice of Proposed Rulemaking. Oral comments may also be made at the following times and places, as long as the rulemaking record has opened and has not closed prior to these dates:

- October 25, 2017, at 10:00 a.m. at Suite 250, 1110 W. Washington St., Phoenix, Arizona 85007
November 29, 2017, at 10:00 a.m. at Suite 250, 1110 W. Washington St., Phoenix, Arizona 85007
December 20, 2017, at 10:00 a.m. at Suite 250, 1110 W. Washington St., Phoenix, Arizona 85007

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



**NOTICE OF RULEMAKING DOCKET OPENING**  
**DEPARTMENT OF HEALTH SERVICES**  
**COMMUNICABLE DISEASES**

[R17-194]

- 1. **Title and its heading:** 9, Health Services  
**Chapter and its heading:** 6, Department of Health Services - Communicable Diseases  
**Article and its heading:** 6, Reporting Post-Exposure Rabies Prophylaxis  
**Section numbers:** R9-6-601 (*The Department may add, delete, or modify other Sections, as necessary.*)
  
- 2. **The subject matter of the proposed rules:**  
 Arizona Revised Statutes (A.R.S.) § 36-136(H)(1) requires the Arizona Department of Health Services (Department) to make rules defining and prescribing “reasonably necessary measures for detecting, reporting, preventing, and controlling communicable and preventable diseases.” The Department has adopted in Arizona Administrative Code (A.A.C.) Title 9, Chapter 6, Article 6 a rule to implement the above mentioned statute with respect to post-exposure rabies prophylaxis reporting. As part of the five-year-review report for 9 A.A.C. 6, Article 6, the Department identified that the rule could be clearer if the same term for the individual receiving post-exposure rabies prophylaxis were used in the rule, rather than “patient” in the lead-in and “person exposed” in subsection (1), and if minor grammatical errors were corrected. After receiving an exception from the Governor’s rulemaking moratorium established by Executive Order 2017-02, the Department is revising the rule by expedited rulemaking to make these changes to reduce a regulatory burden while achieving the same regulatory objective, comply with statutory requirements, and help eliminate confusion on the part of the public. The proposed amendments will conform to rulemaking format and style requirements of the Governor’s Regulatory Review Council and the Office of the Secretary of State. The Department may add, delete, or modify other Sections, as necessary.
  
- 3. **A citation to all published notices relating to the proceeding:**  
 Notice of Proposed Expedited Rulemaking: 23 A.A.R. 2917, October 20, 2017 (*in this issue*)
  
- 4. **The name and address of agency personnel with whom persons may communicate regarding the rules:**  
 Name: Ken Komatsu, State Epidemiologist  
 Address: Arizona Department of Health Services  
 Bureau of Epidemiology and Disease Control  
 150 N. 18th Ave., Suite 100  
 Phoenix, AZ 85007-3248  
 Telephone: (602) 364-3587  
 Fax: (602) 364-3199  
 E-mail: Ken.Komatsu@azdhs.gov  
 or  
 Name: Robert Lane, Chief  
 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
  
- 5. **The time during which the agency will accept written comments and the time and place where oral comments may be made:**  
 To be announced in the Notice of Proposed Expedited Rulemaking (see page 2917 in this issue)
  
- 6. **A timetable for agency decisions or other action on the proceeding, if known:**  
 To be announced in the Notice of Proposed Expedited Rulemaking

**NOTICE OF RULEMAKING DOCKET OPENING**  
**DEPARTMENT OF HEALTH SERVICES**  
**EMERGENCY MEDICAL SERVICES**

[R17-195]

- 1. **Title and its heading:** 9, Health Services  
**Chapter and its heading:** 25, Department of Health Services - Emergency Medical Services  
**Articles and their headings:** 1, Definitions  
 3, Training Programs  
 4, EMCT Certification  
 12, Time-frames for Department Approvals  
**Section numbers:** Article 1; R9-25-301, R9-25-305, R9-25-306, R9-25-401, R9-25-402, R9-25-403, R9-25-405 through R9-25-409, and Table 12.1



(The Department may add, delete, or modify other Sections, as necessary.)

- 2. The subject matter of the proposed expedited rules:**  
Arizona Revised Statutes (A.R.S.) §§ 36-2202(A)(3) and (4) and 36-2209(A)(2) require the Arizona Department of Health Services (Department) to adopt standards and criteria pertaining to the quality of emergency care, rules necessary for the operation of emergency medical services, and rules for carrying out the purposes of A.R.S. Title 36, Chapter 21.1. The Department has adopted rules to implement these statutes in 9 A.A.C. 25. As part of the five-year-review reports for 9 A.A.C. 25, Articles 1, 3, 4, and 12, the Department identified several minor factors that affect the clarity of the rules. After receiving an exception from the Governor’s rulemaking moratorium established by Executive Order 2017-02 specific to these changes, the Department plans to clarify the rules in these Articles through expedited rulemaking, under A.R.S. § 41-1027, consistent with the five-year review reports. The Department believes that making these changes will eliminate confusion, improve the rules' effectiveness, and reduce regulatory burden. The proposed amendments will conform to rulemaking format and style requirements of the Governor’s Regulatory Review Council and the Office of the Secretary of State.
- 3. A citation to all published notices relating to the proceeding:**  
Notice of Proposed Expedited Rulemaking: 23 A.A.R. 2919, October 20, 2017 (in this issue)
- 4. The name and address of agency personnel with whom persons may communicate regarding the rules:**  
Name: Terry Mullins, Bureau Chief  
Address: Arizona Department of Health Services  
Bureau of Emergency Medical Services and Trauma System  
150 N. 18th Ave., Suite 540  
Phoenix, AZ 85007-3248  
Telephone: (602) 364-3150  
Fax: (602) 364-3568  
E-mail: Terry.Mullins@azdhs.gov  
or  
Name: Robert Lane, Chief  
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
- 5. The time during which the agency will accept written comments and the time and place where oral comments may be made:**  
To be announced in the Notice of Proposed Expedited Rulemaking (see page 2919 in this issue)
- 6. A timetable for agency decisions or other action on the proceeding, if known:**  
To be announced in the Notice of Proposed Expedited Rulemaking

**NOTICE OF RULEMAKING DOCKET OPENING  
DEPARTMENT OF REVENUE  
LUXURY TAX SECTION**

[R17-196]

- 1. Title and its heading:** 15, Revenue  
**Chapter and its heading:** 3, Department of Revenue – Luxury Tax Section  
**Article and its heading:** 3, Taxes on Tobacco Products  
**Section numbers:** R15-3-301, R15-3-305, R15-3-306, R15-3-309, R15-3-311, R15-3-312, R15-3-314, R15-3-316, R15-3-317, R15-3-318
- 2. The subject matter of the proposed rule:**  
The Arizona Department of Revenue (“Department”) is amending the rules to address recent changes to the authorizing statutes in 2017 Ch. 60 and 2017 Ch. 178, including changes to the electronic filing and payment requirements. The Department is amending the rules to address licensing requirements. The Department is adding a new section to address recent changes regarding the use of a vehicle or residence to store, sell or distribute tobacco products. The Department is amending the rules to address technical corrections.
- 3. A citation to all published notices relating to the proceeding:**  
Not applicable
- 4. The name and address of agency personnel with whom persons may communicate regarding the rule:**  
Name: Amanda Cook-McGraw  
Address: Arizona Department of Revenue  
Mail Code 1300  
1600 W. Monroe



Phoenix, AZ 85007  
 Telephone: (602) 716-6128  
 Fax: (602) 716-7998  
 E-mail: acook-mcgraw@azdor.gov

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

To be published in the Notice of Proposed Rulemaking.

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

Unknown

**NOTICE OF RULEMAKING DOCKET OPENING  
 DEPARTMENT OF REVENUE  
 TRANSACTION PRIVILEGE AND USE TAX**

[R17-197]

- 1. Title and its heading:** 15, Revenue
- Chapter and its heading:** 5, Department of Revenue – Transaction Privilege and Use Tax
- Article and its heading:** 6, Prime Contracting Classification
- Section numbers:** R15-5-601

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

Taxpayer Bonds for Contractors

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

Notice of Proposed Rulemaking: 23 A.A.R. 2893, October 20, 2017 (*in this issue*)

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

Name: Christie Comanita  
 Address: Arizona Department of Revenue  
 1600 W. Monroe – Mail Code 1300  
 Phoenix, AZ 85007  
 Telephone: (602) 716-6791  
 Fax: (602) 716-7996  
 E-mail: ccomanita@azdor.gov

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

To be published in the Notice of Proposed Rulemaking (see page 2893 in this issue).

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

Unknown

**NOTICE OF RULEMAKING DOCKET OPENING  
 DEPARTMENT OF TRANSPORTATION  
 COMMERCIAL PROGRAMS**

[R17-208]

- 1. Title and its heading:** 17, Transportation
- Chapter and its heading:** 5, Department of Transportation - Commercial Programs
- Article and its heading:** 8, Mandatory Insurance and Financial Responsibility
- Section numbers:** R17-5-801 through R17-5-810 (*Sections may be added, deleted, or modified as necessary.*)

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

The Department is initiating this expedited rulemaking to implement, without material change, pursuant to A.R.S. § 41-1027(A)(7), a course of action proposed in a five-year review report on the Department’s Mandatory Insurance and Financial Responsibility rules. This report was approved by the Governor’s Regulatory Review Council (GRRC) on July 6, 2017. In addition, this rulemaking is initiated pursuant to A.R.S. § 41-1027(A)(3) to correct name changes and clarify rule language without changing its effect. The rules implement changes proposed in the five-year review report and needed to reflect the Department’s current business practices relating to the electronic reporting system used by insurance companies to report motor vehicle liability insurance coverage to the Department of Transportation. The rule changes increase the clarity, conciseness, and understandability of the rules, and ensure that the rules are consistent with related statutes.

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

Notice of Proposed Expedited Rulemaking: 23 A.A.R. 2930, October 20, 2017 (*in this issue*)

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

Name: Jane McVay  
 Address: Arizona Department of Transportation  
 206 S. 17th Ave., MD 140A



Phoenix, AZ 85007

Telephone: (602) 712-4279

E-mail: jmcvay@azdot.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 may be submitted at any time prior to the close of the public record, which will be on November 1, 2017 at 5 p.m., to the person listed under item 4. Oral comments may be made during regular business hours. Information on the oral proceeding that has been scheduled is provided in the Notice of Proposed Expedited Rulemaking in this issue on page 2930.

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

To be determined

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

[R17-198]

**1. Title and its heading:**

19, Alcohol, Horse and Dog Racing, Lottery, and Gaming

**Chapter and its heading:**

2, Arizona Racing Commission

**Article and its heading:**

6, State Boxing Administration

**Section numbers:**

R19-2-601 to R19-2-606 (As part of this rulemaking, sections may be added, deleted, repealed, or modified as necessary.)

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

By statute, the Boxing and Mixed Martial Arts Commission is responsible for regulating certain unarmed-combat sports, including boxing, mixed martial arts, kickboxing, Muay Thai, and Toughman contests. Boxing regulations are currently split between Title 19, Chapter 2, Article 6, and Title 4, Chapter 3, Articles 1 through 4. Rules for regulation of unarmed combat disciplines other than boxing have not been adopted previously. Instead, there has been adoption of a substantive policy statement establishing rules for mixed martial arts. The proposed rules are a reengineered blueprint for consolidating the regulation of all forms of unarmed combat into one Title, Chapter, and Article of the Administrative Code. In Title 19, Chapter 2, the title of Article 6 will be amended from "State Boxing Administration" to "State Boxing and Mixed Martial Arts Commission: Administration of Unarmed Combat Sports," to more correctly describe the authority of the Commission and the purpose of the rules. Parts will be introduced to separate areas of regulation. The proposed rules are designed to improve and clarify the Agency's regulation of unarmed-combat sports, with renewed emphasis on the safety of unarmed combatants. For example, the proposed rules will add concussion-testing protocols and refine anti-doping regulations.

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

None published

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

Name: Aiden Fleming

Address: Arizona Department of Gaming  
1110 W. Washington, Suite 450  
Phoenix, AZ 85007

Telephone: (602) 255-3879

Fax: (602) 255-3883

E-mail: afleming@azgaming.gov

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

The Agency will accept written comments from 8:00 a.m. until 5:00 p.m., Monday through Friday (except state holidays), at the address listed in item #4. The date, time, and location of an oral proceeding will be included in the Notice of Proposed Rulemaking. Oral comments may also be made at the following times and places, as long as the rulemaking record has opened and not closed prior to these dates:

October 25, 2017, at 10:00 a.m. at Suite 250, 1110 W. Washington St., Phoenix, Arizona 85007

November 29, 2017, at 10:00 a.m. at Suite 250, 1110 W. Washington St., Phoenix, Arizona 85007

December 20, 2017, at 10:00 a.m. at Suite 250, 1110 W. Washington St., Phoenix, Arizona 85007

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

To be determined.



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**NOTICE OF AGENCY GUIDANCE DOCUMENTS**

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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.

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

[M17-292]

- 1. Title of the guidance document and the guidance document number by which the document is referenced:**  
GD-115-PHL-MED: Guidelines for Interpreting Requirements Related to Opioid Prescribing and Treatment in an Emergency Situation
- 2. Date of the publication of the guidance document and the effective date of the document if different from the publication:**  
Date of publication: October 20, 2017  
Effective date: October 1, 2017
- 3. Summary of the contents of the guidance document:**  
The guidance document provides information about how requirements related to opioid prescribing and treatment in Arizona Administrative Code (A.A.C.) R9-10-120 may be applied by a licensed health care institution in an emergency situation.
- 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 name and address of the person to whom questions and comments about the guidance document may be directed:**  
Name: Kathy McCanna, Branch Chief  
Address: Arizona Department of Health Services  
Health Care Institution Licensing  
150 N. 18th Ave., Suite 400  
Phoenix, AZ 85007  
Telephone: (602) 364-2841  
Fax: (602) 364-4808  
E-mail: Kathryn.McCanna@azdhs.gov  
or  
Name: Robert Lane, Chief  
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 document:**  
The guidance document is available, free of charge, on the Arizona Department of Health Services website at: <http://azdhs.gov/director/administrative-counsel-rules/rules/index.php#guidance-home>. Copies of the guidance document may also be obtained from the Arizona Department of Health Services, Bureau of Medical Facilities Licensing, 150 N. 18th Avenue, Suite 450, 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.



NOTICES OF SUBSTANTIVE POLICY STATEMENT

The Administrative Procedure Act (APA) requires the publication of Notices of Substantive Policy Statement issued by agencies (A.R.S. § 41-1013(B)(14)).

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

Substantive policy statements are advisory only. A substantive policy statement does not include internal procedural documents that only affect an agency's internal

procedures and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the APA.

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

NOTICE OF SUBSTANTIVE POLICY STATEMENT
DEPARTMENT OF HEALTH SERVICES

[M17-293]

1. Title of the substantive policy statement and the substantive policy statement number by which the substantive policy statement is referenced:

SP-098-PHL-MED: Exceptions to Informed Consent Requirements in an Emergency

2. Date the substantive policy statement was issued and the effective date of the policy statement if different from the issuance date:

Effective date: October 1, 2017

3. Summary of the contents of the substantive policy statement:

The substantive policy statement notifies the public of the Arizona Department of Health Service's interpretation regarding when a hospital would not need to obtain informed consent from a patient before providing treatment

4. Federal or state constitutional provision; federal or state statute, administrative rule, or regulation; or final court judgment that underlies the substantive policy statement:

A.R.S. §§ 36-405(A) and 36-407(A) and A.A.C. R9-10-101, A.A.C. R9-10-208(3), and A.A.C. R9-10-208(B)(3)(a)

5. A statement as to whether the substantive policy statement is a new statement or a revision:

This is a new substantive policy statement.

6. The agency contact person who can answer questions about the substantive policy statement:

Name: Kathryn McCanna, Branch Chief
Address: Arizona Department of Health Services
Public Health Licensing Services
Health Care Institutions Licensing
150 N. 18th Ave., Suite 400
Phoenix, AZ 85007

Telephone: (602) 364-2841
Fax: (602) 364-4808
E-mail: Kathryn.McCanna@azdhs.gov

or

Name: Robert Lane, Manager
Address: Arizona Department of Health Services
Office of Administrative Counsel and Rules
150 N. 18th Ave., Suite 201
Phoenix, AZ 85007

Telephone: (602) 542-1020
Fax: (602) 364-1150
E-mail: Robert.Lane@azdhs.gov

7. Information about where a person may obtain a copy of the substantive policy statement and the costs for obtaining the policy statement:

A copy of the substantive policy statement 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/director/administrative-counsel-rules/rules/index.php#sps-licensing. A copy of the substantive policy statement may also be obtained from the Arizona Department of Health Services, Public Health Licensing Services, 150 N. 18th Ave., Suite 400, 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.

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 Technical Registration, Board of; 4 A.A.C. 30; p. 1488  
 Transportation, Department of - Commercial Programs; 17 A.A.C. 5; p. 2865  
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 Water Infrastructure Finance Authority of Arizona; 18 A.A.C. 15; p. 615

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**Substantive Policy Statement, Notices of**

Contractors, Registrar of; p. 468  
 Environmental Quality, Department of; pp. 1380, 1577, 1689  
 Health Services, Department of; p. 193  
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 Land Department, State; pp. 469-470  
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 Water Infrastructure Finance Authority; pp. 307-308



**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>
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
September 29, 2017	October 20, 2017	November 20, 2017
October 6, 2017	October 27, 2017	November 27, 2017
October 13, 2017	November 3, 2017	December 4, 2017
October 20, 2017	November 10, 2017	December 11, 2017
October 27, 2017	November 17, 2017	December 18, 2017
November 3, 2017	November 24, 2017	December 26, 2017
November 10, 2017	December 1, 2017	January 2, 2018
November 17, 2017	December 8, 2017	January 8, 2018
November 24, 2017	December 15, 2017	January 16, 2018
December 1, 2017	December 22, 2017	January 22, 2018
December 8, 2017	December 29, 2017	January 29, 2018
December 15, 2017	January 5, 2018	February 5, 2018
December 22, 2017	January 12, 2018	February 12, 2018
December 29, 2017	January 19, 2018	February 20, 2018
January 5, 2018	January 26, 2018	February 26, 2018
January 12, 2018	February 2, 2018	March 5, 2018
January 19, 2018	February 9, 2018	March 12, 2018
January 26, 2018	February 16, 2018	March 19, 2018
February 2, 2018	February 23, 2018	March 26, 2018
February 9, 2018	March 2, 2018	April 2, 2018
February 16, 2018	March 9, 2018	April 9, 2018
February 23, 2018	March 16, 2018	April 16, 2018



## 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.



GOVERNOR'S REGULATORY REVIEW COUNCIL
NOTICE OF ACTION TAKEN AT THE
OCTOBER 3, 2017 MEETING

[M17-294]

Rules:

BOARD OF COSMETOLOGY (R-17-1001)

Title 4, Chapter 10, Board of Cosmetology

Amend: R4-10-101; R4-10-104; R4-10-105; R4-10-107; R4-10-108; R4-10-110; R4-10-203;
R4-10-204; R4-10-205; R4-10-206; R4-10-208; R4-10-302; R4-10-306; R4-10-403;
R4-10-404

New Section: R4-10-206.1; R4-10-304.1

COUNCIL ACTION: APPROVED

DEPARTMENT OF HEALTH SERVICES (R-17-1002)

Title 9, Chapter 16, Article 4, Registration of Sanitarians

Amend: Article 4; R9-16-401; R9-16-402; R9-16-403; R9-16-404; R9-16-405; R9-16-406;
R9-16-407; R9-16-408; R9-16-409

New Section: Table 4.1

Repeal: Table 1

COUNCIL ACTION: APPROVED

ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (R-17-1003)

Title 9, Chapter 22, Article 7, Standards for Payments

Amend: R9-22-712.60; R9-22-712.62; R9-22-712.63; R9-22-712.64; R9-22-712.65;
R9-22-712.66; R9-22-712.68; R9-22-712.71; R9-22-712.72; R9-22-712.80;
R9-22-712.81

COUNCIL ACTION: APPROVED

INDUSTRIAL COMMISSION (R-17-1005)

Title 20, Chapter 5, Article 12, Arizona Minimum Wage and Earned Paid Sick Time Practice and Procedure

Amend: Article 12; 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

COUNCIL ACTION: APPROVED

DEPARTMENT OF ENVIRONMENTAL QUALITY (R-17-1004)

Title 18, Chapter 9, Article 6, Reclaimed Water Conveyances; Article 7, Direct Reuse of Reclaimed Water

Amend: Article 7; R18-9-A701; R18-9-A702; R18-9-A703; R18-9-A704; R18-9-A705; R18-9-A706; R18-9-B701;
R18-9-B702; Table 1; R18-9-B703; R18-9-B704; R18-9-B705; R18-9-B706; R18-9-B707; R18-9-B708;
R18-9-B709; R18-9-B710; R18-9-C701; R18-9-D701; R18-9-D702

New Part: Part A; Part B; Part C; Part D; Part E

New Section: R18-9-A707; R18-9-E701

Renumber: R18-9-701; R18-9-702; R18-9-703; R18-9-704; R18-9-705; R18-9-706; R18-9-707; R18-9-708; R18-9-709; R18-9-
710; R18-9-711; R18-9-712; R18-9-713; R18-9-714; R18-9-715; R18-9-716; R18-9-717; R18-9-718; R18-9-719;
R18-9-A701; R18-9-A702; R18-9-A703; R18-9-A704; R18-9-A705; R18-9-A706; R18-9-B701; R18-9-B702; Table
1; R18-9-B703; R18-9-B704; R18-9-B705; R18-9-B706; R18-9-B707; R18-9-B708; R18-9-B709; R18-9-B710;



R18-9-C701; R18-9-D701; R18-9-D702

**Repeal:** Article 6; R18-9-601; R18-9-602; R18-9-603; R18-9-720

**COUNCIL ACTION: APPROVED**

Five-Year-Review Reports:

**DEPARTMENT OF HEALTH SERVICES (F-17-0907)**

Title 9, Chapter 6, Article 7, Required Immunizations for Child Care or School Entry

**COUNCIL ACTION: APPROVED**

**DEPARTMENT OF HEALTH SERVICES (F-17-0908)**

Title 9, Chapter 10, Article 2, Hospitals

**COUNCIL ACTION: APPROVED**

**ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (F-17-0902)**

Title 9, Chapter 28, Article 3, Preadmission Screening (PAS)

**COUNCIL ACTION: APPROVED**

**ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (F-17-1003)**

Title 9, Chapter 28, Article 6, RFP and Contract Process

**COUNCIL ACTION: APPROVED**

**ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (F-17-1004)**

Title 9, Chapter 28, Article 7, Standards for Payments

**COUNCIL ACTION: APPROVED**

**DEPARTMENT OF EMERGENCY AND MILITARY AFFAIRS (F-17-1008)**

Title 8, Chapter 2, Article 1, Search and Rescue; Article 3, Governor’s Emergency Fund; Article 6, Hazardous Materials Training Program, Student and Instructor Evidence of Completion

**COUNCIL ACTION: APPROVED**

**DEPARTMENT OF ENVIRONMENTAL QUALITY (F-17-1009)**

Title 18, Chapter 11, Article 6, Impaired Water Identification

**COUNCIL ACTION: APPROVED**

**CONSIDERATION AND DISCUSSION OF THE REVIEW OF RULES OUTSIDE OF THE FIVE-YEAR-REVIEW PROCESS:**

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

Title 18, Chapter 2, Article 7:

Table 1: Emission Limitations for Small, Medium, and Large HMIWI

Table 2: Emissions Limitations for Rural HMIWI

Title 18, Chapter 2, Article 17:

Appendix 12: Procedures for Determining Ambient Air Concentrations for Hazardous Air Pollutants

Title 18, Chapter 8, Article 2:

R18-8-269: Standards Applicable to the State-owned Hazardous Waste Facility



Title 18, Chapter 12, Article 6:

- R18-12-601: Eligibility
- R18-12-602: Applicability
- R18-12-603: General Application and Direct Payment Request Requirements
- R18-12-604: Reimbursement Application Process
- R18-12-605: Preapproval Application Process
- R18-12-606: Direct Payment Request Process
- R18-12-607: Schedule of Corrective Action Costs
- R18-12-608: Scope and Standard of Review
- R18-12-609: Copayments: Applicability, Waivers, and Credits
- R18-12-610: Interim Determinations, Informal Appeals, and Requests for Information
- R18-12-611: Final Determinations and Formal Appeals
- R18-12-612: Priority of Assurance Account Payments
- R18-12-613: Determining Financial Need Priority Ranking Points
- R18-12-614: Financial Documents for Determining Financial Need Priority Ranking Points
- R18-12-615: Risk Priority Ranking Points

Title 18, Chapter 12, Article 7:

- R18-12-701: Allocations of Grant Account Funds
- R18-12-702: Eligible Projects
- R18-12-703: Amount of Grant Per Applicant or Facility
- R18-12-704: Grant Application Submission Period
- R18-12-705: Grant Application Process
- R18-12-706: Grant Application Contents
- R18-12-707: Work Plan
- R18-12-708: Business Plan
- R18-12-709: Review of Application
- R18-12-710: Feasibility Determination
- R18-12-711: Criteria for Determining Priority Ranking Points for Applicants Other Than Local Governments
- R18-12-712: Criteria for Determining Priority Ranking Points for Applicants That Are Local Governments
- R18-12-713: Determination of Grants to be Issued
- R18-12-714: Grant Issuance; Notification; Payment

Title 18, Chapter 12, Article 9:

- R18-12-901: Regulated Substance Fund
- R18-12-902: Monitored Natural Attenuation (MNA) Account
- R18-12-903: Monitored Natural Attenuation (MNA) Program

Title 18, Chapter 13, Article 25:

- R18-13-2501: Recycling Emblem Description and Usage

Title 18, Chapter 17, Article 1:

- R18-17-102: Toxic Substances List

**COUNCIL ACTION: REPORT REQUIRED BY OCTOBER 10, 2017**