



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Rules can be: made (all new text); amended (rules on file, changing text); repealed (removing text); or renumbered (moving rules to a different Section number).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 New rules in this publication (whether proposed or made) are denoted with underlining; repealed text is stricken.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

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.

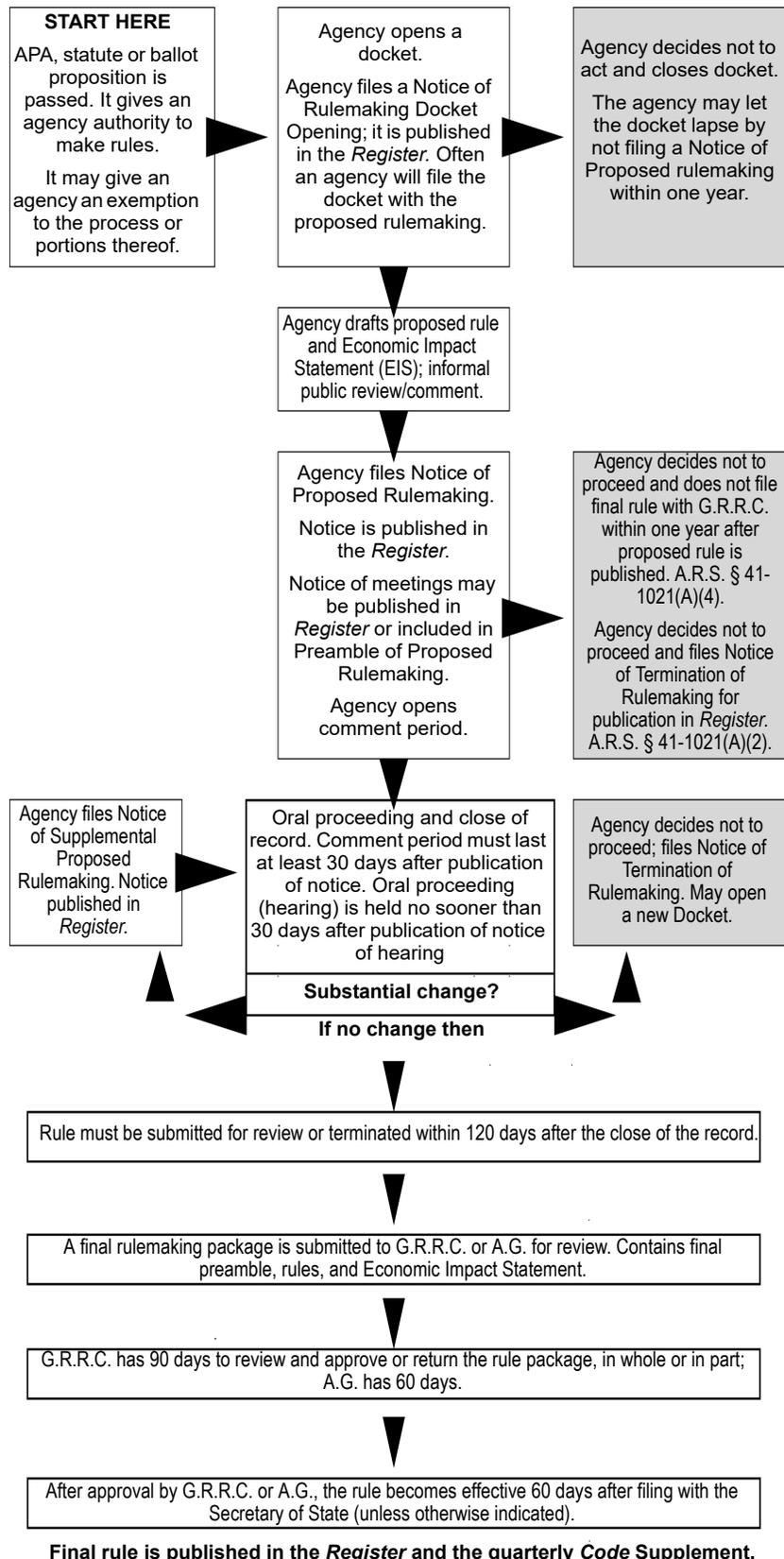
An agency may not have a public meeting scheduled on the Notice of Proposed Rulemaking. If not, you may request that the agency schedule a proceeding. This request must be put in writing within 30 days after the published Notice of Proposed Rulemaking.

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.

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

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

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

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

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

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.

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

Acronyms

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

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

APA – *Administrative Procedure Act*

A.R.S. – *Arizona Revised Statutes*

CFR – *Code of Federal Regulations*

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

FR – *Federal Register*

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

U.S.C. – *United States Code*

About Preambles

The Preamble is the part of a rulemaking package that contains information about the rulemaking and provides agency justification and regulatory intent.

It includes reference to the specific statutes authorizing the agency to make the rule, an explanation of the rule, reasons for proposing the rule, and the preliminary Economic Impact Statement.

The information in the Preamble differs between rulemaking notices used and the stage of the rulemaking.



NOTICES OF PROPOSED RULEMAKING

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

A proposed rulemaking is filed by an agency upon completion and submittal of a Notice of Rulemaking Docket Opening. Often these two documents are filed at the same time and published in the same *Register* issue.

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

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

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

**NOTICE OF PROPOSED RULEMAKING
TITLE 4. PROFESSIONS AND OCCUPATIONS
CHAPTER 22. BOARD OF OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY**

[R19-48]

PREAMBLE

- | | |
|---|---------------------------------|
| <u>1. Article, Part, or Section Affected (as applicable)</u> | <u>Rulemaking Action</u> |
| R4-22-102 | Amend |
| Table 1 | Amend |
| R4-22-201 | Amend |
| R4-22-202 | Amend |
| R4-22-207 | 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. § 32-1803(C)(1)
 Implementing statute: A.R.S. §§ 32-1822, 32-1834, and 32-3248.02
- 3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:**
 Notice of Rulemaking Docket Opening: 25 A.A.R. 723, March 22, 2019
- 4. The agency's contact person who can answer questions about the rulemaking:**
 Name: Barbara Prah-Wix, Interim Executive Director
 Address: Board of Examiners in Osteopathic Medicine and Surgery
 1740 W. Adams St., Suite 2410
 Phoenix, AZ 85007
 Telephone: (602) 771-2526
 Fax: (480) 657-7715
 E-mail: Barbara.Prah@azdo.gov
 Web site: www.azdo.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 Board is amending its rules to address three recent statutory changes. Under Laws 2016, Chapter 137, the legislature adopted the Interstate Medical Licensure Compact (See A.R.S. §§ 32-3241 to 32-3246) and created a new, temporary license to allow an applicant for Arizona licensure to obtain a non-renewable, temporary license to practice osteopathic medicine in Arizona while the application for full licensure is processed. A.R.S. § 32-1834 authorizes the Board to establish a fee for the temporary license. This rulemaking establishes the fee and as required under A.R.S. § 41-1073, establishes the time frame within which the Board will act on an application for a temporary license.
 Under Laws 2017, Chapter 265, the legislature required all applicants for licensure to submit to the Board a full set of fingerprints for the purpose of obtaining a state and federal criminal records check. This rulemaking places the fingerprint requirement into rule and adds the fee for processing the fingerprints.
 Under Laws 2018, Chapter 1, the legislature added A.R.S. § 32-3248.02, which requires a health professional authorized to prescribe or dispense schedule II controlled substances to complete three hours of opioid-related, substance use disorder-related, or addiction-related continuing medical education during each license renewal cycle. This rulemaking establishes the new CME requirement.



Exemptions from Executive Order 2017-02 for the purpose of this rulemaking were provided by Mara Mellstrom, Policy Advisor in the Office of the Governor, in e-mails dated April 21, June 29, and October 19, 2017.

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

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

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

Not applicable

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

Under statute, no one is required to obtain a temporary license so no one is required to pay the fee established in this rulemaking. An osteopathic physician voluntarily obtains a temporary license and pays the fee because the osteopathic physician believes the cost is outweighed by the benefit of being able to practice medicine while the application for full licensure is processed.

An applicant will incur the expense of submitting to the Board a full set of fingerprints for the purpose of obtaining a state and federal criminal records check. This is a cost the legislature determined is offset by the concern for public health and safety.

The impact of the change to the CME requirement will be minimal. Licensees are not being required to obtain an additional hour of CME. Rather, they are being required simply to ensure three of the 40 statutorily required CME hours address opioid-related, substance use disorder-related, or addiction-related prescribing.

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

Name: Barbara Prah-Wix, Interim Executive Director
Address: Board of Examiners in Osteopathic Medicine and Surgery
1740 W. Adams St., Suite 2410
Phoenix, AZ 85007
Telephone: (602) 771-2526
Fax: (480) 657-7715
E-mail: Barbara.Prah@azdo.gov
Web site: www.azdo.gov

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

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

Date: Saturday, May 18, 2019
Time: 1:00 p.m.
Location: 1740 W. Adams St., Conference Room A
Phoenix, AZ 85007

11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

None

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

The licenses listed in Table 1 are general permits consistent with A.R.S. § 41-1037 because they are issued to qualified individuals or entities to conduct activities that are substantially similar in nature.

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

No rule in the rulemaking is more stringent than federal law. Federal law applies to the provision of health care but no federal law addresses the subject matter of this rulemaking.

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

No analysis was submitted.

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

None

13. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 22. BOARD OF OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY

ARTICLE 1. GENERAL PROVISIONS

Section
R4-22-102. Fees and Charges



Table 1. Time Frames (in days)

ARTICLE 2. LICENSING

- Section
- R4-22-201. Application Required
- R4-22-202. Determining Qualification for Licensure
- R4-22-207. Continuing Medical Education; Waiver; Extension of Time to Complete

ARTICLE 1. GENERAL PROVISIONS

R4-22-102. Fees and Charges

- A. Under the specific authority provided by A.R.S. §§ 32-1826(A) and 32-1871(A)(5), the Board establishes and shall collect the following fees for the Board’s licensing activities:
 - 1. Application for license to practice osteopathic medicine, \$400;
 - ~~2.~~ 2. Application for a temporary license to practice osteopathic medicine, \$250;
 - ~~3.~~ 3. Issuance of initial license, \$180 (prorated);
 - ~~3.~~ 4. Biennial renewal of license, \$636 plus the penalty and reimbursement fees specified in A.R.S. § 32-1826(B), if applicable;
 - ~~4.~~ 5. Locum tenens registration, \$300;
 - ~~5.~~ 6. Annual registration of an approved internship, residency, or clinical fellowship program or short-term residency program, \$50;
 - ~~6.~~ 7. Teaching license, \$318;
 - ~~7.~~ 8. Five-day educational teaching permit, \$106; and
 - ~~8.~~ 9. Annual registration to dispense drugs and devices, \$240 (initial registration fee is prorated).
- B. Under the specific authority provided by A.R.S. § 32-1826(C), the Board establishes and shall collect the following charges for services provided by the Board:
 - 1. ~~Verification of~~ Verifying a license to practice osteopathic medicine issued by the Board and copy of licensee’s complaint history, \$10;
 - 2. ~~Issuance of~~ Issuing a duplicate license, \$10;
 - 3. Processing fingerprints for a state and federal criminal records check, \$50;
 - ~~3.~~ 4. ~~List~~ Providing a list of physicians licensed by the Board, \$25.00 if for non-commercial use or \$100 if for commercial use;
 - ~~4.~~ 5. Copying records, documents, letters, minutes, applications, and files, 25¢ per page;
 - ~~5.~~ 6. ~~Copy of~~ Copying an audio tape, \$35.00; and
 - ~~6.~~ 7. ~~Digital~~ Providing information in a digital medium not requiring programming, \$100.
- C. Except as provided under A.R.S. § 41-1077, the fees listed in subsection (A) are not refundable.

Table 1. Time Frames (in days)

Type of License	Statutory Authority	Overall Time Frame	Administrative Completeness Time Frame	Substantive Review Time Frame
License	A.R.S. § 32-1822	120	30	90
License Renewal	A.R.S. § 32-1825	120	30	90
<u>Temporary License</u>	<u>A.R.S. § 32-1834</u>	<u>30</u>	<u>20</u>	<u>10</u>
90-day Locum Tenens Registration	A.R.S. § 32-1823	60	30	30
One-year Renewable Training Permit	A.R.S. § 32-1829(A)	60	30	30
Short-term Training Permit	A.R.S. § 32-1829(C)	60	30	30
One-year Training Permit at Approved School or Hospital	A.R.S. § 32-1830	60	30	30
Two-year Teaching License	A.R.S. § 32-1831	60	30	30
Registration to Dispense Drugs and Devices	A.R.S. § 32-1871	90	30	60
Renewal of Registration to Dispense Drugs and Devices	A.R.S. §§ 32-1826(A)(11) and 32-1871	60	30	30
Approval of Educational Program for Medical Assistants	A.R.S. § 32-1800(17)	60	30	30
Retired Status	A.R.S. § 32-1832	90	30	60



ARTICLE 2. LICENSING

R4-22-201. Application Required

An individual or entity that seeks a license or other approval from the Board shall complete and submit an application form prescribed by the Board. The Board has prescribed the following application forms, which are available from the Board office or web site:

- 1. License,
- 2. Temporary license,
- ~~2,3.~~ License renewal,
- ~~3,4.~~ Locum tenens registration,
- ~~4,5.~~ Initial registration to dispense,
- ~~5,6.~~ Registration to dispense renewal,
- ~~6,7.~~ Renewable one-year post-graduate training permit,
- ~~7,8.~~ Renewal of post-graduate training permit,
- ~~8,9.~~ Short-term training permit,
- ~~9,10.~~ Two-year teaching license, and
- ~~10,11.~~ Approval of an educational program for medical assistants.

R4-22-202. Determining Qualification for Licensure

- A. To obtain a license, an applicant shall submit:
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
 - 5. A full set of fingerprints and the charge specified in R4-22-102(B);
 - ~~5,6.~~ No change
 - ~~6,7.~~ No change
- B. No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
 - 5. No change
- C. No change
- D. No change
 - 1. No change
 - 2. No change
 - 3. No change
- E. No change
 - 1. No change
 - 2. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
- F. No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
 - 5. No change
 - 6. No change
 - 7. No change

R4-22-207. Continuing Medical Education; Waiver; Extension of Time to Complete

- A. No change
 - 1. At least 24 hours are obtained by completing CME classified by the AOA as Category 1A; ~~and,~~
 - 2. No more than 16 hours are obtained by completing CME classified as American Medical Association Category 1 approved by an ACCME-accredited CME provider; ~~and~~
 - 3. At least the number of CME hours specified under A.R.S. § 32-3248.02 address opioid-related, substance use disorder-related, or addiction-related prescribing and are obtained under subsection (A)(1) or (2).
- B. No change
- C. No change
 - 1. No change
 - a. No change
 - b. No change
 - i. No change
 - ii. No change



maintenance, and utilization of wildlife under the jurisdiction of the State for the benefit of all the citizens.

This proposed rulemaking contains rule language included in the Notice of Proposed Rulemaking, see 24 A.A.R. 529, March 16, 2018, which was approved by the Governor's Regulatory Review Council on February 5, 2019 and becomes effective on June 1, 2019.

An exemption from Executive Order 2019-01 was provided for this rulemaking by Hunter Moore, Natural Resource Policy Advisor, Governor's Office, in an email dated February 15, 2019.

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

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

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

Not applicable

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

The Commission's intent in adopting the rule is to address social concerns associated with predator/fur-bearing contests, and to proscribe the manner and method of take for participants to a predators/fur-bearings contest. Wildlife predator/fur-bearing hunting contest that link economic gain to the greatest number or variety of animals killed are contrary to the important principle that the take of wildlife should not be allowed to go to waste or taken for economic gain. The Commission believes the rulemaking will benefit the State and persons regulated by the rule by reducing regulatory uncertainty, and strengthening consistency with the principles that guide the Commission's public trust responsibility to conserve wildlife for the benefit of the citizens of Arizona. Extensive public controversy exists about predator/fur-bearing contests that award prizes to participants who kill the largest number or variety of predator/fur-bearing animals or the contest is based on the combined weight of animals a participant kills. To the extent these contests reflect on the overall hunting community, public outrage with these events has the potential to threaten hunting as a legitimate wildlife management function. Regulated hunting fundamentally supports wildlife conservation efforts in North America. The loss of hunting would equate to a measurable loss in conservation efforts, and would represent a failure of the Commission in its duty to preserve wildlife for the beneficial use of present and future generations. The Commission anticipates the rulemaking will impose a burden on persons regulated by the rule by prohibiting wildlife predator/fur-bearing contests. The Commission anticipates the rulemaking will result in no impact to agencies or political subdivisions of this State, private and public employment in businesses, or State revenues. The Commission has determined the rulemaking will not require any new full-time employees. The Commission has determined that there are no less intrusive or costly alternative methods of achieving the purpose of the rulemaking. The Department will incur costs related to the cost of rulemaking and implementing the rule. The Commission has determined that the benefits of the rulemaking outweigh any costs.

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

Name: Celeste Cook, Rules and Policy Manager
Address: Arizona Game and Fish Department
5000 W. Carefree Highway
Phoenix, AZ 85086
Telephone: (623) 236-7390
E-mail: CCook@azgfd.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:

Date: June 21, 2019
Time: 9:00 a.m.
Location: 5000 W. Carefree Highway
Phoenix, AZ 85086
Close of record: To be determined

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 reason why a general permit is not used:

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

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

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

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

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

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

Not applicable

**13. The full text of the rules follows:****TITLE 12. NATURAL RESOURCES
CHAPTER 4. GAME AND FISH COMMISSION****ARTICLE 3. TAKING AND HANDLING OF WILDLIFE**

Section
R12-4-303. Unlawful Devices, Methods, and Ammunition

ARTICLE 3. TAKING AND HANDLING OF WILDLIFE**R12-4-303. Unlawful Devices, Methods, and Ammunition**

- A. In addition to the prohibitions prescribed under A.R.S. §§ 17-301 and 17-309, the following devices, methods, and ammunition are unlawful for taking wildlife in this state:
1. A person shall not use any of the following to take wildlife:
 - a. Fully automatic firearms, including firearms capable of selective automatic fire.
 - b. Tracer or armor-piercing ammunition designed for military use.
 - c. Any smart device as defined under R12-4-301.
 - d. Any self-guided projectiles.
 2. A person shall not take big game using full-jacketed or total-jacketed bullets that are not designed to expand upon impact,
 3. A person shall not use or possess any of the following while taking wildlife:
 - a. Poisoned projectiles or projectiles that contain explosives or a secondary propellant.
 - b. Pitfalls of greater than 5-gallon size, explosives, poisons, or stupefying substances, except as permitted under A.R.S. § 17-239 or as allowed by a scientific collecting permit issued under A.R.S. § 17-238.
 - c. Any lure, attractant, or cover scent containing any cervid urine.
 - d. Electronic night vision equipment, electronically enhanced light-gathering devices, thermal imaging devices or laser sights projecting a visible light; except for devices such as laser range finders projecting a non-visible light, scopes with self-illuminating reticles, and fiber optic sights with self-illuminating sights or pins that do not project a visible light onto an animal.
 4. A person shall not by any means:
 - a. Hold wildlife at bay other than during daylight hours, unless authorized by Commission Order.
 - b. Injure, confine, place, or use a tracking device in or on wildlife for the purpose of taking or aiding in the take of wildlife.
 - c. Place any substance, device, or object in, on, or by any water source to prevent wildlife from using that water source.
 - d. Place any substance in a manner intended to attract bears.
 - e. Use a manual or powered jacking or prying device to take reptiles or amphibians.
 - f. Use dogs to pursue, tree, corner or hold at bay any wildlife for a hunter, unless that hunter is present for the entire hunt.
 - g. Take migratory game birds, except Eurasian collared-doves:
 - i. Using a shotgun larger than 10 gauge, a shotgun of any description capable of holding more than three shells unless it is plugged with a one-piece filler that cannot be removed without disassembling the shotgun so that its total capacity does not exceed three shells.
 - ii. Using electronically amplified bird calls or baits.
 - iii. By means or aid of any motordriven land, water, or air conveyance, or any sailboat used for the purpose of or resulting in the concentrating, driving, rallying, or stirring up of any migratory bird.
 - iv. Activities described under subsections (g)(i) through (g)(iii) are prohibited under 50 C.F.R. 20.21, revised October 1, 2015. The material incorporated by reference in this Section does not include any later amendments or editions. The incorporated material is available at any Department office, online from the Government Printing Office website www.gpoaccess.gov, or may be ordered from the Superintendent of Documents, P.O. Box 979050, St. Louis, MO 63197-9000.
 - h. Discharge any of the following devices while taking wildlife within one-fourth mile (440 yards) of an occupied farmhouse or other residence, cabin, lodge or building without permission of the owner or resident:
 - i. Arrow or bolt,
 - ii. Hybrid device, or
 - iii. Pneumatic weapon .35 caliber or larger.
 - i. Participate in, organize, promote, or solicit participation in a contest where a participant uses or intends to use any device or implement to capture or kill predatory animals or fur-bearing animals as defined under A.R.S. § 17-101. For the purposes of this subsection, "contest" means a competition among participants where participants must register or record entry and pay a fee and prizes or cash are awarded to winning or successful participants.
 5. A person shall not use a live-action trail camera, or images from a live-action trail camera, for the purpose of:
 - a. Taking or aiding in the take of wildlife, or
 - b. Locating wildlife for the purpose of taking or aiding in the take of wildlife.
 6. A person shall not use images of wildlife produced or transmitted from a satellite or other device that orbits the earth for the purpose of:
 - a. Taking or aiding in the take of wildlife, or
 - b. Locating wildlife for the purpose of taking or aiding in the take of wildlife.
 - c. This subsection does not prohibit the use of mapping systems or programs.



- 7. A person shall not use edible or ingestible substances to aid in taking big game. The use of edible or ingestible substances to aid in taking big game is unlawful when:
 - a. A person places edible or ingestible substances for the purpose of attracting or taking big game, or
 - b. A person knowingly takes big game with the aid of edible or ingestible substances placed for the purpose of attracting wildlife to a specific location.
- 8. Subsection (A)(7) does not limit Department employees or Department agents in the performance of their official duties.
- 9. For the purposes of subsection (A)(7), edible or ingestible substances do not include any of the following:
 - a. Water.
 - b. Salt.
 - c. Salt-based materials produced and manufactured for the livestock industry.
 - d. Nutritional supplements produced and manufactured for the livestock industry and placed during the course of livestock or agricultural operations.
- B. It is unlawful for a person who is a prohibited possessor to take wildlife with a deadly weapon or prohibited weapon.
- C. Wildlife taken in violation of this Section is unlawfully taken.
- D. This Section does not apply to any activity allowed under A.R.S. § 17-302, to a person acting within the scope of their official duties as an employee of the state or United States, or as authorized by the Department.

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

[R19-59]

PREAMBLE

- 1. **Article, Part, or Section Affected (as applicable)** **Rulemaking Action**
 R20-5-507 Amend
- 2. **Citations to agency’s statutory rulemaking authority to include the authorizing statute and the implementing statute:**
 Authorizing statute: A.R.S. § 23-491.04(A)(2)
 Implementing statute: A.R.S. § 23-491.06
 Note: An exemption from Executive Order 2019-01 was provided for this rulemaking by Kaitlin Harrier, Policy Advisor in the Office of the Arizona Governor, by e-mail dated March 4, 2019.
- 3. **Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:**
 Notice of Rulemaking Docket Opening: 25 A.A.R. 895, April 12, 2019 (*in this issue*)
- 4. **The agency’s contact person who can answer questions about the rulemaking:**
 Name: Jessie Atencio, Director
 Address: Division of Occupational Safety and Health
 Industrial Commission of Arizona
 800 W. Washington St., Suite 203
 Phoenix, AZ 85007
 Telephone: (602) 542-5795
 Fax: (602) 542-1614
 E-mail: Jessie.atencio@azdosh.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:**

Pursuant to A.R.S. §§ 23-491.04(A)(2) and 23-491.06, the Industrial Commission of Arizona (the “Commission”) is required to promulgate standards and regulations necessary to carry out Title 23, Chapter 2, Article 12 (Safety Conditions for Elevators and Similar Conveyances), including adopting national consensus standards. The Commission is proposing to amend A.A.C. R20-5-507 (Safety Code for Elevators, Escalators, Dumbwaiters, Moving Walks, Material Lifts, and Dumbwaiters with Automatic Transfer Devices) to incorporate by reference national consensus standards contained in ASME A17.7-2007 (Performance-Based Safety Code for Elevators and Escalators).

Currently, R20-5-507 incorporates the national consensus standards contained in ASME A17.1-2007 (Safety Code for Elevators and Escalators), which apply to the construction and installation of elevators and other conveyances. ASME A17.7-2007 (Performance-Based Safety Code for Elevators and Escalators) contains national consensus performance standards for elevators and other conveyances and would permit the use of newer elevator/escalator technologies that may not fall under ASME A17.1-2007. Although ASME A17.1-2007 references ASME A17.7-2007, R20-5-507 does not expressly adopt ASME A17.7-2007. Thus, elevator/escalator technologies not permitted by ASME A17.1-2007 arguably cannot be installed in Arizona. The proposed rulemaking would expressly adopt ASME A17.7-2007, as referenced in ASME A17.1-2007, enabling the construction and installation of more modern equipment (such as pneumatic elevators) which use newer technologies based on the industry mechanical and engineering standards.



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

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

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

Not applicable

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

The Industrial Commission anticipates that the proposed rulemaking will have no adverse economic, small business, or consumer impact. The proposed rulemaking is intended to reduce regulatory burden by enabling the construction and installation of new elevator/escalator technologies that are currently not permitted under A.A.C. R20-5-507.

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

Name: Jessie Atencio, Director
 Address: Division of Occupational Safety and Health
 Industrial Commission of Arizona
 800 W. Washington St., Suite 203
 Phoenix, AZ 85007
 Telephone: (602) 542-5795
 Fax: (602) 542-1614
 E-mail: Jessie.atencio@azdosh.gov

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

Written comments can be submitted to the address listed in item 9 by the close of the comment period, which is at 5:00 p.m. on May 20, 2019. An oral proceeding on the proposed amended rule is scheduled for May 20, 2019, at 9:00 a.m., at the Industrial Commission of Arizona, 800 W. Washington, Room 339, Phoenix, AZ 85007.

11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

Not applicable

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

The proposed amended rule does 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:

There is not a federal law applicable to the subject of the proposed rulemaking.

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

No analysis was submitted.

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

The Industrial Commission of Arizona is proposing to amend R20-5-507 (Safety Code for Elevators, Escalators, Dumbwaiters, Moving Walks, Material Lifts, and Dumbwaiters with Automatic Transfer Devices) to incorporate by reference national consensus standards contained in ASME A17.7-2007 (Performance-Based Safety Code for Elevators and Escalators). A copy of ASME A17.7-2007 (Performance-Based Safety Code for Elevators and Escalators) is available for inspection or reproduction at the Arizona Division of Occupational Safety and Health, 800 West Washington Street, Room 203, Phoenix, AZ 85007, or may be obtained from the American Society of Mechanical Engineers (ASME) at Three Park Avenue, New York, New York 10016- 5990 or at <http://www.asme.org>.

13. The full text of the rules follows:

TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE

CHAPTER 5. INDUSTRIAL COMMISSION OF ARIZONA

ARTICLE 5. ELEVATOR SAFETY

R20-5-507. Safety Code for Elevators, Escalators, Dumbwaiters, Moving Walks, Material Lifts, and Dumbwaiters with Automatic Transfer Devices

Every owner or operator of an elevator, escalator, dumbwaiter, moving walk, material lift, or dumbwaiter with automatic transfer device, installed on or after the effective date of this Section shall comply with the ASME A17.1-2007 (Safety Code for Elevators and Escalators) or ASME A17.7-2007 (Performance-Based Safety Code for Elevators and Escalators) as referenced in ASME A17.1-2007, which are incorporated by reference. This incorporation by reference does not include any later amendments or editions of the incorporated matter. A copy of this referenced material is available for review at the Industrial Commission of Arizona, 800 West Washington Street, Phoenix,



Arizona 85007, and may be obtained from ASME at Three Park Avenue, New York, New York 10016- 5990 or at http://www.asme.org. Every owner or operator of an elevator, escalator, dumbwaiter, moving walk, material lift, or dumbwaiter with an automatic transfer device, installed between May 5, 2009, and the effective date of this Section shall comply with ASME A17.1- 2007 or, as an alternative, may comply with ASME A17.7- 2007. Every owner or operator of an elevator, escalator, dumbwaiter, moving walk, material lift, or dumbwaiter with an automatic transfer device, installed before the effective date of this Section May 5, 2009, shall comply with the ASME A17.1 Safety Code for Elevators and Escalators in effect at the time of installation or, as an alternative, may comply with ASME A17.1-2007 or ASME 17.7-2007.

NOTICE OF PROPOSED RULEMAKING
TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE
CHAPTER 6. DEPARTMENT OF INSURANCE

[R19-49]

PREAMBLE

- 1. Article, Part or Section Affected (as applicable) Rulemaking Action
Article 11 Amend
R20-6-1101 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. § 20-143
Implementing statute: A.R.S. § 20-1133
3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:
Notice of Rulemaking Docket Opening: 25 A.A.R. 896, April 12, 2019 (in this issue)
4. The agency's contact person who can answer questions about the rulemaking:
Name: Mary E. Kosinski
Address: Arizona Department of Insurance
100 N. 15th Ave., Suite 102
Phoenix, AZ 85007-2624
Telephone: (602) 364-3100
E-mail: mkosinski@azinsurance.gov
5. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation about the rulemaking:
This rule incorporates by reference National Association of Insurance Commissioners (NAIC) Model Regulation to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act (Model Regulation). Under A.R.S. § 20-1133, the Director is required to adopt rules as necessary to comply with the requirements of the social security disability amendments of 1980 (P.L. 96-265, 42 U.S.C. § 1395ss) and federal laws or regulations pertaining to that section, so that Arizona may retain its full authority to regulate minimum standards for Medicare supplement insurance.
Because A.R.S. § 41-1028 requires a statement that incorporated matter does not include any later amendments or editions of the incorporated matter, the Department seeks to amend R20-6-1101 to accomplish the mandate of A.R.S. § 20-1133 to reflect changes made by the NAIC to the Model Regulation.
In addition, both the Department and the NAIC have addresses that are no longer correct in the current rule. The Department needs to update these addresses to remain compliant with A.R.S. § 41-1028(D) which requires: The rules shall state where copies of the incorporated matter are available from the agency issuing the rule and from the agency of the United States or this state or the organization or association originally issuing the matter.
6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:
None
7. 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:
Not applicable
9. The agency's contact person who can answer questions about the economic, small business and consumer impact statement:
Not applicable
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:
No proceeding is scheduled. Persons may request an oral proceeding on the proposed rule by contacting:
Name: Mary E. Kosinski



Address: Arizona Department of Insurance
 100 N. 15th Ave., Suite 102
 Phoenix, AZ 85007-2624
 Telephone: (602) 364-3100
 E-mail: mkosinski@azinsurance.gov

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:

Not applicable

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

The rule does not require a permit.

A.R.S. § 20-216 authorizes the Department to issue a certificate of authority to insurers doing business in Arizona if they meet statutorily specified criteria. No general permit is used.

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:

Under A.R.S. § 20-1133, the Director is required to adopt rules as necessary to comply with the requirements of the social security disability amendments of 1980 (P.L. 96-265, 42 U.S.C. § 1395ss) and federal laws or regulations pertaining to that section, so that Arizona may retain its full authority to regulate minimum standards for Medicare supplement insurance.

The rule is not more stringent than the 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

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

R20-6-1101(A) references the National Association of Insurance Commissioner’s (NAIC) Model Regulation to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act, August 2016.

13. The full text of the rules follows:

TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE

CHAPTER 6. DEPARTMENT OF INSURANCE

ARTICLE 11. MEDICARE SUPPLEMENT INSURANCE

Section

R20-6-1101. Incorporation by Reference and Modifications

ARTICLE 11. MEDICARE SUPPLEMENT INSURANCE

R20-6-1101. Incorporation by Reference and Modifications

A. The Department incorporates by reference the Model Regulation to Implement the National Association of Insurance Commissioners (NAIC) Medicare Supplement Insurance Minimum Standards Model Act, ~~October 2008~~ August 2016 (Model Regulation), and no future editions or amendments, which is on file with the Department of Insurance, ~~2910 N. 44th St., Phoenix, AZ 85018~~ 100 N. 15th Ave., Suite 102, Phoenix, AZ 85007-2624 and available from the National Association of Insurance Commissioners, Publications Department, ~~2301 McGee St., Suite 800, Kansas City, MO 64108~~ 1100 Walnut Street, Suite 1500, Kansas City, MO 64106-2197.

B. The Model Regulation is modified as follows:

1. In addition to the terms defined in the Model Regulation, the following definitions apply:
 - a. “Agent” means an insurance producer as defined in A.R.S. § 20-281(5).
 - b. “Commissioner” means the Director of the Arizona Department of Insurance.
 - c. “HMO” and “health maintenance organization” mean a health care services organization as defined in A.R.S. § 20-1051(7).
 - d. “Regulation” means Article.

2. Section 3(A)(2) reads:

(2) All certificates issued under group Medicare supplement policies, which certificates have been delivered or issued for delivery in this state including association plans.

3. Section ~~8A(7)(e)~~ 8(A)(7)(c) reads:

c. Each Medicare supplement policy shall provide that benefits and premiums under the policy shall be suspended (for any period that may be provided by federal regulation) at the request of the policyholder if the policyholder is entitled to benefits under Section 226(b) of the Social Security Act and is covered under a group health plan (as defined in Section 1862(b)(1)(A)(v) of the Social Security Act). If suspension occurs and if the policyholder or certificate holder loses coverage under the group health plan, the policy shall be automatically reinstated (effective as of the date of loss of coverage) if the policyholder provides notice of loss of coverage within 90 days after the date of the loss of the group health plan and pays the premium attributable to the supplemental policy period, effective as of the date of termination of enrollment in the group health plan.

~~3-4.~~ Section 8.1 is revised to insert the citation to A.R.S. § 20-1133 as follows:



The following standards are applicable to all Medicare supplement policies or certificates delivered or issued for delivery in this state on or after June 1, 2010. No policy or certificate may be advertised, solicited, delivered, or issued for delivery in this state as a Medicare supplement policy or certificate unless it complies with these benefit standards. No issuer may offer any [1990 Standardized Medicare supplement benefit plan] for sale on or after June 1, 2010. Benefit standards applicable to Medicare supplement policies and certificates issued before June 1, 2010 remain subject to the requirements of A.R.S. § 20-1133.

4-5. Section 8.1(A)(7)(c) is revised to read as follows:

Each Medicare supplement policy shall provide that benefits and premiums under the policy shall be suspended (for any period that may be provided by federal regulation) at the request of the policyholder if the policyholder is entitled to benefits under Section 226(b) of the Social Security Act and is covered under a group health plan (as defined in Section 1862(b)(1)(A)(v) of the Social Security Act). If suspension occurs and if the policyholder or certificate holder loses coverage under the group health plan, the policy shall be automatically reinstated (effective as of the date of loss of coverage) if the policyholder provides notice of loss of coverage within 90 days after the date of the loss and pays the premium attributable to the period, effective as of the date of termination of enrollment in the group health plan.

5-6. Section 9.1 is revised to insert the citation to A.R.S. § 20-1133 as follows:

The following standards are applicable to all Medicare supplement policies or certificates delivered or issued for delivery in this state on or after June 1, 2010. No policy or certificate may be advertised, solicited, delivered or issued for delivery in this state as a Medicare supplement policy or certificate unless it complies with these benefit plan standards. Benefit plan standards applicable to Medicare supplement policies and certificates issued before June 1, 2010 remain subject to the requirements of A.R.S. § 20-1133.

6-7. Section 9.2 is revised to insert the citation to A.R.S. § 20-1133 as follows:

The Medicare Access and CHIP Reauthorization Act of 2015 (MACRA) requires the following standards are applicable to all Medicare supplement policies or certificates delivered or issued for delivery in this state to individuals newly eligible for Medicare on or after January 1, 2020. No policy or certificate that provides coverage of the Medicare Part B deductible may be advertised, solicited, delivered or issued for delivery in this state as a Medicare supplement policy or certificate to individuals newly eligible for Medicare on or after January 1, 2020. All policies must comply with the following benefit standards. Benefit plan standards applicable to Medicare supplement policies and certificates issued to individuals eligible for Medicare before January 1, 2020, remain subject to the requirements of A.R.S. § 20-1133.

8. ~~Subsection G of Section 15~~ Section 15(G) is revised as follows:

G An insurer shall not file or request approval of a rate structure for its Medicare supplement policies or certificates based upon attained-age rating as a structure or methodology.

7. ~~Tables for PLAN F or HIGH DEDUCTIBLE PLAN F~~ are revised as follows:-

- a. For the table entitled "PARTS A & B" a column heading is revised from "AFTER YOU PAY \$[2000] DEDUCTIBLE,** PLAN PAYS" to "[AFTER YOU PAY \$[2000] DEDUCTIBLE,**] PLAN PAYS."
- b. For the table entitled "PARTS A & B" a column heading is revised from "IN ADDITION TO \$[2000] DEDUCTIBLE,** YOU PAY" to "[IN ADDITION TO \$[2000] DEDUCTIBLE,**] YOU PAY."
- c. For the table entitled "OTHER BENEFITS — NOT COVERED BY MEDICARE" a column heading is revised from "AFTER YOU PAY \$[2000] DEDUCTIBLE,** PLAN PAYS" to "[AFTER YOU PAY \$[2000] DEDUCTIBLE,**] PLAN PAYS."
- d. For the table entitled "OTHER BENEFITS — NOT COVERED BY MEDICARE" a column heading is revised from "IN ADDITION TO \$[2000] DEDUCTIBLE,** YOU PAY" to "[IN ADDITION TO \$[2000] DEDUCTIBLE,**] YOU PAY."

8-9. Section 23 is revised as follows:

- A. If a Medicare supplement policy or certificate replaces another Medicare supplement policy or certificate, the replacing issuer shall waive any time periods applicable to preexisting conditions, waiting periods, elimination periods and probationary periods in the new Medicare supplement policy or certificate to the extent such time was spent under the original policy.
- B. If a Medicare supplement policy or certificate replaces another Medicare supplement policy or certificate which has been in effect for at least six months, the replacing policy shall not provide any time period applicable to preexisting conditions, waiting periods, elimination periods and probationary periods.



- 9. A summary of the economic, small business, and consumer impact:**
There is little to no economic, small business, or consumer impact, other than the minimal cost to the Committee to prepare the rule package. The rule will have minimal economic impact, if any, because it reduces regulatory burden while still achieving the same regulatory objective. Thus, the economic impact is minimized.
- 10. A description of any changes between the proposed rulemaking, including supplemental notices, and the final rulemaking:**
None
- 11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:**
The ASRS received no written comments regarding the rulemaking. No one attended the oral proceeding on February 12, 2019.
- 12. All agencies shall list any 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 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:**
Federal law applies to retirement programs, but no federal law specifically applies to this rulemaking.
 - c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:**
No analysis was submitted.
- 13. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rule:**
No materials are incorporated by reference.
- 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 2. ADMINISTRATION
CHAPTER 9. GOVERNING COMMITTEE FOR TAX DEFERRED ANNUITY
AND DEFERRED COMPENSATION PLANS**

ARTICLE 1. GENERAL PROVISIONS

Section

R2-9-101. ~~Employee Solicitation for Tax-Deferred Annuities and Deferred Compensation Plans~~ Repealed

ARTICLE 1. GENERAL PROVISIONS

- R2-9-101. ~~Employee Solicitation for Tax-Deferred Annuities and Deferred Compensation Plans~~ Repealed**
- ~~A.~~** ~~The administrator under contract with the Governing Committee shall draft and present an annual business plan that describes its approach to educating and marketing to employees regarding the tax-deferred annuity and deferred compensation plans. The administrator's business plan is subject to the approval of the Governing Committee. The business plan shall include:~~
 - ~~1. Enrollment and participation goals for employees;~~
 - ~~2. Performance measures for the administrator;~~
 - ~~3. Plans for achieving the goals and performance measures;~~
 - ~~4. An explanation of the effect of participation on take-home pay and future retirement income; and~~
 - ~~5. Information regarding retirement planning and investment options.~~
 - ~~B.~~** ~~The administrator shall establish and follow written procedures that provide for the impartial representation of the available investment options and investment products offered under the tax-deferred annuity and deferred compensation plans. The written procedures are subject to the advance written approval of the Governing Committee. The procedures shall:~~
 - ~~1. Include directives to the administrator's personnel that information provided to the employees shall be presented in a fair and equal manner, allowing employees to make individual choices based upon their specific investment needs or desires;~~
 - ~~2. Be adequate to ensure that the administrator's personnel will not engage in preferential solicitation of any investment option or investment product; and~~
 - ~~3. Include a means of monitoring at reasonable intervals the adequacy of the procedures and reporting the results of the monitoring to the Governing Committee.~~
 - ~~C.~~** ~~The failure of the administrator to present the plan required in subsection (A), or the failure of the administrator to establish and follow the procedures required in subsection (B), is a breach of its contract with the Governing Committee.~~



NOTICE OF FINAL RULEMAKING
TITLE 6. ECONOMIC SECURITY
CHAPTER 5. DEPARTMENT OF ECONOMIC SECURITY
SOCIAL SERVICES

[R19-50]

PREAMBLE

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

Article 33	New Article
R6-5-3301	New Section
R6-5-3302	New Section
R6-5-3303	New Section
R6-5-3304	New Section
R6-5-3305	New Section
R6-5-3306	New Section
R6-5-3307	New Section

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. §§ 46-202 and 41-1954(A)(3)
 Implementing statute: A.R.S. § 46-902(1)

3. **The effective date of the rules:**
 May 20, 2019
 - a. **If the agency selected a date earlier than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):**
 Not applicable

 - b. **If the agency selected a date later than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):**
 Not applicable

4. **Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rulemaking:**
 Notice of Rulemaking Docket Opening: 24 A.A.R. 2362, August 24, 2018
 Notice of Proposed Rulemaking: 24 A.A.R. 2357, August 24, 2018

5. **The agency's contact person who can answer questions about the rulemaking:**
 Name: Christian J. Eide
 Address: Department of Economic Security
 P.O. Box 6123, Mail Drop 1292
 Phoenix, AZ 85005
 or
 Department of Economic Security
 1789 W. Jefferson St., Mail Drop 1292
 Phoenix, AZ 85007
 Telephone: (602) 542-9199
 Fax: (602) 542-6000
 E-mail: ceide@azdes.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 federal Achieving a Better Life Experience Act of 2014 (ABLE Act) was enacted on December 19, 2014 as part of the Tax Increase Prevention Act of 2014 (Public Law 113-295). The ABLE Act amends the Internal Revenue Code to exempt a qualified ABLE program from taxation. A qualified ABLE program is defined as "a program established by a state, or agency or instrumentality thereof under which a person may make contributions for a taxable year, for the benefit of an individual...to an ABLE account which is established for the purpose of meeting the qualified disability expenses of the designated beneficiary of the account." Public Law 113-295. H.B. 2388, signed into law on May 12, 2016, established the state Achieving a Better Life Experience (ABLE) Program, through which contributions may be made to an account of an eligible disabled person to meet qualifying disability expenses. H.B. 2388 requires the Department to adopt rules for the ABLE Program. The proposed rulemaking will provide clarification for the implementation and administration of the program.

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 Department did not review or rely on any study relevant to the 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 economic impact of operating the program is expected to be minimal (less than \$1,000) on small businesses and consumers. Operating the program does not have any negative financial impact upon private persons and consumers, except for the fees established by the Plan (ABLE Program or a State Treasurer’s 529A ABLE program), the Plan Manager (service provider), Mutual Funds, and the prepaid card provider. The public benefits from the program because it gives certain individuals with disabilities, as well as their families and friends, the opportunity to contribute to a tax-exempt savings account at a lower cost that can be used for maintaining health, independence, and quality of life.

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

The Department added language to R6-5-3301 Definitions for “Cash” as well as to R6-5-3305(2) Contributions for clarity.

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

The Department received no comments on this rulemaking.

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:

No other matters are prescribed.

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

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:

Achieving a Better Life Experience Act of 2014 (Public Law 113-295).

The Department has determined that the rule is not more stringent than the applicable federal law.

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

No analysis was submitted.

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 6. ECONOMIC SECURITY

**CHAPTER 5. DEPARTMENT OF ECONOMIC SECURITY
SOCIAL SERVICES**

ARTICLE 33. RESERVED ACHIEVING A BETTER LIFE EXPERIENCE

Section

- R6-5-3301. Definitions
- R6-5-3302. Program Manager
- R6-5-3303. Fees
- R6-5-3304. Opening an Account
- R6-5-3305. Contributions
- R6-5-3306. Statements
- R6-5-3307. Program to Program Transfers and Rollovers

ARTICLE 33. RESERVED ACHIEVING A BETTER LIFE EXPERIENCE

R6-5-3301. Definitions

The following definitions apply to this Article:

1. “ABLE” means the Achieving a Better Life Experience Act.
2. “Account” means an individual account in the fund established as prescribed for a single designated beneficiary.
3. “Aggregate Account Balance” means the total amount in an account on a particular date.
4. “Applicant” means any individual who applies to open an Account in the Program.



5. “Cash” means personal check, cashier’s check, money order, debit card, Automated Clearing House (ACH) payments, or a similar cash equivalent.
6. “Code” means the federal Internal Revenue Code of 1986, as amended (26 U.S.C. 529A).
7. “Committee” means the same as in A.R.S. § 46-901(3).
8. “Department” means the Arizona Department of Economic Security.
9. “Designated Beneficiary” means the same as in A.R.S. § 46-901(5).
10. “Designated Representative” means a person who is authorized to act on behalf of a Designated Beneficiary.
11. “Disability Certification” means the certification described in Section 529A of the Code.
12. “Eligible Individual” means the same as in A.R.S. § 46-901(6).
13. “IRS” means the federal Internal Revenue Service.
14. “Program” means the same as in A.R.S. § 46-901(9).
15. “Program Manager” means the entity selected by the Department for the Program in accordance with A.R.S. § 46-903(C)(1)-(8).
16. “Qualified Disability Expenses” means the same as in A.R.S. § 46-901(10).
17. “Qualified Withdrawal” or “Qualified Distribution” means a withdrawal from an Account to pay Qualified Disability Expenses of the Designated Beneficiary.
18. “Secretary” means the United States Secretary of the Treasury or his/her delegate.
19. “SSA” means the Social Security Administration.

R6-5-3302. Program Manager

Responsibilities of the Program Manager:

1. The Program Manager shall implement the Program, including the administration and management of the Program.
2. The Program Manager shall ensure adequate safeguards to prevent aggregate contributions on behalf of a Designated Beneficiary in excess of the limit established by the Department under section 529(b)(6) of the Code. For purposes of this Section, aggregate contributions include contributions under any prior qualified ABLE program of any state or agency or instrumentality of either.
3. The Program Manager shall compile or cause to be compiled the necessary information to complete any reports.
4. The Program Manager may contract with third parties to assist the Department and Program Manager in the educational and promotional activities for the Program.
5. The Program Manager may use forms provided or promulgated by the SSA, the IRS, or other federal agencies for the purposes of the ABLE Program. The Program Manager may also promulgate its own forms reasonably necessary to implement the ABLE Program.

R6-5-3303. Fees

1. The Program Manager may impose administrative, maintenance, investment management and investment fees on Designated Beneficiaries.
2. The Program Manager may impose a nonrefundable application fee to review and process paper applications.

R6-5-3304. Opening an Account

1. To open an Account in the Program, an individual shall submit a completed application form, pay the application fee, if any, and pay an initial minimum contribution to the Account, if any, to the Program Manager at <https://az-able.com/>.
2. The Program Manager may require a minimum initial contribution to open an Account.
3. The content of the application form shall be prescribed by the Program Manager, but shall include at a minimum, the following information:
 - a. The name, address, social security number and birth date of the Designated Beneficiary;
 - b. The name, address and social security number of the Designated Representative, if the Designated Beneficiary is not the applicant;
 - c. Evidence that the Designated Beneficiary is an Eligible Individual;
 - d. Any additional information required by the Program Manager.
4. Completed applications shall be submitted as specified on the application form.
5. Applications that are incomplete or fail to meet the requirements established by the Department and the Program Manager shall be rejected. Reapplication is permissible.

R6-5-3305. Contributions

1. Any person may make contributions to an Account, subject to the limitations imposed by federal law.
2. Except in the case of program-to-program transfers, contributions may be made in cash or a similar cash equivalent.
3. Annual contributions to an Account from all sources, except contributions received in program-to-program transfers, are limited to the per-beneficiary amount excluded from the federal gift tax under federal law.
4. Excess contributions and excess aggregate contribution shall be returned to contributors.

R6-5-3306. Statements

1. Account statements shall be provided to Designated Beneficiaries and Designated Representatives in accordance with the Act.
2. Account statements may be provided to other individuals authorized to receive that information under the Electronic Signatures in Global and National Commerce Act (15 U.S.C. 96 *et seq.*) and the Truth in Lending Act (15 U.S.C. 1601 *et seq.*).



An air pollution Stage II *warning* will be declared in the event that air pollution warning levels occur and are expected to continue or recur within 24 hours. ADEQ will also declare a warning stage if air pollution alert levels persist for 48 hours with no improvement in air quality. For automotive related pollutants, ADEQ will request that schools, industry, businesses, and government facilities restrict motor vehicle traffic as much as possible. For other pollutants, ADEQ will request that applicable sources further reduce emissions of the pollutant that is subject to the warning. Delegated authorities will make a similar request for sources under their jurisdiction.

For Stage III, if exceedances at the emergency air pollution level occur and are expected to continue or recur within 24 hours, or if warning levels persist for 48 hours and conditions are not expected to improve, an air pollution *emergency* will be declared. At the emergency air pollution level, ADEQ will notify the Governor's Office. The Governor may request that all industrial, construction, commercial, governmental, and institutional facilities be closed. The use of motor vehicles may be prohibited except for emergency situations that have been approved by law enforcement.

This rule incorporates by reference the August 2018 Final Procedures Manual titled "Procedures for Prevention of Emergency Episodes", which is on file at ADEQ. The procedures manual is being revised as part of this rulemaking; however, the manual is not included in the rule language. The procedures manual contains the processes that ADEQ must follow in the event of an air pollution emergency episode. These processes outline the preparations and response techniques for public notification and informing emission sources of relevant information regarding the pollutant of a given air pollution emergency episode. These preplanned strategies are designed to minimize the cost and effort required of regulated entities, while simultaneously curtailing emissions. Successful implementation of the strategies according to the episode stages outlined in the rule expedite emission curtailment and prevent pollution concentrations from reaching levels that may cause significant harm to public health.

Background.

Fine particulate matter (PM_{2.5}) is able to travel deep into the respiratory tract, reaching the lungs. Exposure to PM_{2.5} can cause short-term health effects such as eye, nose, throat and lung irritation, coughing, sneezing, runny nose and shortness of breath. Exposure can also affect lung function and worsen medical conditions such as asthma and heart disease. Scientific studies have linked increases in daily PM_{2.5} exposure with increased respiratory and cardiovascular hospital admissions, emergency department visits and deaths. Studies suggest that long-term exposure to fine particulate matter may be associated with increased rates of chronic bronchitis, reduced lung function and increased mortality from lung cancer and heart disease. People with breathing and heart problems, children and the elderly may be particularly sensitive to PM_{2.5}. To protect human health, EPA sets National Ambient Air Quality Standards (NAAQS) for six criteria pollutants, including PM.

In July 1997 EPA promulgated revisions to the PM NAAQS by adding a new standard for PM_{2.5}. Due to the potential health effects associated with long- and short-term exposure to PM_{2.5}, EPA set an annual and a 24-hour PM_{2.5} standard. The 1997 primary annual PM_{2.5} standard was set as the annual arithmetic mean, averaged over 3 years, at 15 micrograms per cubic meter (µg/m³). The primary 24-hour standard was set at 65 µg/m³, the annual 98th percentile of daily (24-hour) values, averaged over three years (62 FR 38652, July 18, 1997).

In 2006 EPA revised the PM_{2.5} NAAQS and lowered the 24-hour average standard from 65 to 35 µg/m³ and retained the level of the annual primary standard (71 FR 61144, October 17, 2006).

On January 15, 2013 EPA again revised the NAAQS for PM_{2.5}, this time lowering the annual standard to 12.0 µg/m³ in order to provide increased protection against health effects associated with long- and short-term exposures (78 FR 3086, January 15, 2013). EPA retained the 24-hour PM_{2.5} standard at a level of 35 µg/m³.

Within three years following the promulgation of new or revised NAAQS, Clean Air Act (CAA) Section 110(a)(1) requires states to submit State Implementation Plans (SIPs) that provide for implementation, maintenance, and enforcement of the standards. These SIPs, also called infrastructure SIPs (I-SIP), must address certain basic elements of its air quality management programs under CAA Section 110(a)(2). These elements, detailed in CAA Sections 110(a)(2)(A) through (M), include provisions for monitoring, emissions inventories, and modeling designed to ensure attainment and maintenance of the NAAQS.

On December 11, 2015 ADEQ submitted the 2012 PM_{2.5} NAAQS I-SIP to EPA to satisfy requirements for CAA Sections 110(a)(1) and 110(a)(2). The SIP fulfills most of the requirements; however, EPA indicated that CAA Section 110(a)(2)(G) was not approvable. CAA Section 110(a)(2)(G) requires states to provide for authority to address activities causing imminent and substantial endangerment to public health, including contingency plans to implement the emergency episode provisions in their SIPs, which are contained in A.A.C. R18-2-220.

Currently, A.A.C. R18-2-220 does not contain the averaging time and emergency episode concentrations for PM_{2.5}. If ADEQ does not revise A.A.C. R18-2-220 to include PM_{2.5}, EPA will take formal action to disapprove those portions of the I-SIP, which can lead to the promulgation of a federal implementation plan (FIP) by the EPA under CAA Section 110(c)(1). A FIP contains requirements that are dictated and enforced by EPA, which can include prohibition of highway funds and emission offset requirements for certain emission sources.

Section by Section Explanation of Proposed Rules:

This proposed rulemaking will amend A.A.C. R18-2-220, Air Pollution Emergency Episodes, to update the State rule to include the air pollution emergency episode levels for PM_{2.5}. This rulemaking will bring Arizona's standards into conformity with federal rules and is required under Section 110(a)(2) of the Clean Air Act (CAA).

R18-2-220(A) This section provides the requirement for procedures to be implemented by the ADEQ Director that will



prevent the occurrence of levels of pollution that would cause significant harm to the public. It provides the incorporation by reference to ADEQ’s “Procedures for Prevention of Emergency Episodes.” The change revises the date of the Procedures Manual to incorporate by reference the revised manual.

R18-2-220(B)(4) This subsection provides the summary of the emergency episode and significant harm levels (in tabular format) for the pollutants subject to this rule. The changes add PM_{2.5} to the table, which includes the averaging time as well as the concentrations for the alert, warning, emergency, and significant harm levels.

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

Not applicable

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

Not applicable

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

The following discussion addresses each of the elements required for an economic, small business and consumer impact statement (ESBCIS) under A.R.S. § 41-1055.

An identification of the rulemaking.

The rulemaking addressed by this ESBCIS amends A.A.C. R18-2-220, Air Pollution Emergency Episodes. This rulemaking will adopt language identifying the pollutant, averaging time, as well as the emergency episode and significant harm levels for fine particulate matter, as revised and adopted by EPA.

An identification of the persons who will be directly affected by, bear the costs of or directly benefit from the rulemaking.

The persons who will be directly affected by and bear the costs of this rulemaking are the governmental agencies responsible for the declaration and public and industry notification of air pollution episodes. Companies and/or activities that emit pollutants subject to A.A.C. R18-2-220 would also be affected by this rulemaking. These include (but may not be limited to): burn permits, power plants, smelters, manufacturing facilities, building construction, and highway construction.

The persons who will benefit from this rulemaking are the residents of Arizona as a result of the notifications that would occur in the event of an air quality emergency episode and receive critical information regarding actions to take in order to limit their exposure to air pollution.

A cost benefit analysis of the following:

(a) The probable costs and benefits to the implementing agency and other agencies directly affected by the implementation and enforcement of the rulemaking.

ADEQ estimates that the current number of full-time employees assigned in the Air Quality Division at ADEQ are adequate to implement and enforce the notifications, air quality monitoring, and forecasting for air pollution emergency episodes. The cost of the rule to the implementing agency will therefore be minimal.

ADEQ has jurisdiction for air quality planning, permitting, monitoring and forecasting in most areas of Arizona. Maricopa County will be revising its emergency episodes rule and will conduct rulemakings to incorporate the new standards for PM_{2.5}. The costs and benefits will be similar for Maricopa County as for ADEQ.

Pima and Pinal Counties are delegated air quality planning authorities for areas within their jurisdictions. The West Central Pinal Moderate PM_{2.5} Nonattainment Area was designated under the 2006 PM_{2.5} NAAQS but was designated as unclassifiable/attainment for the 2012 PM_{2.5} NAAQS along with the rest of the state.

Air quality monitoring in Pima and Pinal Counties shows that there have been no exceedances of the 2012 PM_{2.5} NAAQS. At this time, EPA is not requiring Pima and Pinal Counties to revise their emergency episodes rules to comply with infrastructure requirements for the 2012 PM_{2.5} NAAQS. However, EPA has recommended that the counties revise their emergency episodes rules to align with the 2012 PM_{2.5} NAAQS.

(b) The probable costs and benefits to a political subdivision of this state directly affected by the implementation and enforcement of the rulemaking.

In the event of an air pollution emergency episode, ADEQ expects overall costs to vary by the air pollution episode stage due to the level of preparation for each of the stage and the specific political subdivisions affected, which includes counties with air pollution control programs (as noted in previous section). Political subdivisions that may be affected include (but are not limited to) metropolitan planning organizations, irrigation districts, and school districts. Any costs borne by these entities would likely result from implementation of emission reduction strategies. It is unlikely that any of these entities are primary sources of any of the gaseous (i.e. sulfur dioxide, VOCs) precursors to PM_{2.5} pollution. As a result they may implement minor yet effective strategies, such as reducing vehicular traffic from their operations or through alternative modes of travel for employees. As a result, the costs borne by these entities would be minimal.

This rulemaking will provide public health protection from temporary high levels of PM_{2.5} pollution. Additionally, this rulemaking prevents the State from being susceptible to a FIP enforced by EPA under the CAA.

(c) The probable costs and benefits to businesses directly affected by the rulemaking, including any anticipated effect



on the revenues or payroll expenditures of employers who are subject to the rulemaking.

The rules being amended are necessary to comply with federal requirements under Section 110(a)(2) of the CAA. These revisions are necessary to avoid disapproval of the Infrastructure State Implementation Plan (I-SIP) for the 2012 PM_{2.5} NAAQS. Disapproval of the I-SIP will result in the issuance of a FIP by the EPA under Section 110(c)(1) of the CAA, which can include prohibition of highway funds and emission offset requirements for certain emission sources.

Pollutants currently regulated by A.A.C. R18-2-220 include carbon monoxide (CO), nitrogen dioxide (NO₂), ozone (O₃), coarse particulate matter (PM₁₀), and sulfur dioxide (SO₂). Businesses that emit these pollutants that are already subject to this rule may include (but are not limited to) coal- and oil-fired electric and steam power generating facilities, primary and secondary metals, petroleum refining, chemical processing, mineral processing, and glass processing. This rulemaking incorporates PM_{2.5} to the air pollution emergency episodes rule; subsequently, businesses that emit PM_{2.5} will be subject to the rule.

Potential costs will vary according to the level of the pollution episode and the pollutant. Any costs incurred by a business (such as reducing or prohibiting vehicular traffic, reducing production, or closing facilities) would be temporary and extend only through the duration of the episode.

A general description of the probable impact on private and public employment in businesses, agencies and political subdivisions of this state directly affected by the rulemaking.

ADEQ anticipates that employment impacts will be minor. Because the low potential for an air pollution emergency to occur, ADEQ does not expect short- or long-term employment, production, or industrial growth in Arizona to be negatively impacted by this rulemaking. No sources are expected to close from the implementation of this rulemaking. Any reductions in production would occur only during the term of the air pollution emergency episode.

A statement of the probable impact of the rulemaking on small businesses.

(a) An identification of the small businesses subject to the rulemaking.

Under A.R.S. § 41-1001(21): “Small business” means a concern, including its affiliates, which is [1] independently owned and operated, which is [2] not dominant in its field and which [3] employs fewer than one hundred full-time employees or which had gross annual receipts of less than four million dollars in its last fiscal year.

Only businesses emitting pollutants subject to this rule would be directly affected by the declaration of an air pollution emergency episode. It is unlikely that small businesses would emit enough pollutants to contribute to a PM_{2.5} emergency episode and therefore will likely not be requested to limit or cease production.

(b) The administrative and other costs required for compliance with the rulemaking.

Not applicable.

(c) A description of the methods that the agency may use to reduce the impact on small businesses.

(i) Establishing less costly compliance requirements in the rulemaking for small businesses.

Not applicable.

(ii) Establishing less costly schedules or less stringent deadlines for compliance in the rulemaking.

Not applicable.

(iii) Exempting small businesses from any or all requirements of the rulemaking.

Not applicable.

(d) The probable cost and benefit to private persons and consumers who are directly affected by the rulemaking.

Any costs that would be borne by private persons and consumers (i.e. the general public) would be potentially the result of an employer limiting production to reduce emissions or shutting down during the term of the air pollution emergency episode. Because of the extreme unlikelihood of the declaration of an air pollution episode, it is unlikely that the general public will be affected.

The general public will benefit from this rulemaking through the avoidance of or reductions in air pollution resulting from a declared air pollution emergency episode. Air quality regulations that lower concentrations of pollutants have the potential to reduce adverse health effects ranging from missed school and work days to premature mortality. Persons with compromised health (physiological, morphological, and biochemical) are more susceptible to the harmful effects of air pollutants. In the event that an air pollution episode is declared, the public will be notified and will be informed of the episode level and information will be provided actions to take that will minimize exposure to the pollutant that is subject to the episode.

A statement of the probable effect on state revenues.

Due to the low probability for an air pollution emergency episode to be declared, ADEQ does not expect any effects on state revenues.

A description of any less intrusive or less costly alternative methods of achieving the purpose of the rulemaking.

ADEQ was not able to identify any less intrusive or costly alternative methods for achieving the purpose of the rulemaking, which is compliance with the federal requirements for Sections 110(a)(1) and (2) of the CAA and federal Guidance for SIP Elements under the aforementioned CAA Sections. As a result, the amendments to A.A.C. R18-2-220 are required as a part of Arizona’s PM_{2.5} Infrastructure State Implementation Plan.



A description of any data on which a rule is based with a detailed explanation of how the data was obtained and why the data is acceptable data. An agency advocating that any data is acceptable data has the burden of proving that the data is acceptable. For the purposes of this paragraph, "acceptable data" means empirical, replicable and testable data as evidenced in supporting documentation, statistics, reports, studies or research.

Not applicable.

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

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

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

No oral or written comments were received.

12. All shall list other matters prescribed by statute applicable to the specific agency or to any specific agencies 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:

There are no matters prescribed by Arizona statute applicable specifically to ADEQ or this specific 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 rule does not inherently require a permit. Any facility subject to a permit is already covered under Title V of the Clean Air Act and ADEQ's permitting program.

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:

This rule allows Arizona to comply with CAA Sections 110(a)(1) and (2). The rule incorporates federal regulations but is not more stringent than federal law. The revisions are necessary in order for Arizona to avoid disapproval of the 2012 PM2.5 I-SIP and imposition of a FIP.

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 person submitted an analysis to ADEQ.

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

Not applicable

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 18. ENVIRONMENTAL QUALITY

CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR POLLUTION CONTROL

ARTICLE 2. AMBIENT AIR QUALITY STANDARDS; AREA DESIGNATIONS; CLASSIFICATIONS

Section

R18-2-220. ~~Air pollution~~ Pollution emergency ~~Emergency episodes~~ Episodes

ARTICLE 2. AMBIENT AIR QUALITY STANDARDS; AREA DESIGNATIONS; CLASSIFICATIONS

R18-2-220. ~~Air pollution~~ Pollution emergency ~~Emergency episodes~~ Episodes

A. Procedures shall be implemented by the Director in order to prevent the occurrence of ambient air pollutant concentrations which would cause significant harm to the health of persons, as specified in subsection (B)(4). The procedures and actions required for each stage are described in the Department's "Procedures for Prevention of Emergency Episodes," amended as of ~~October 18, 1988~~ August 2018 (and no future edition), which is incorporated herein by reference and on file with the ~~Office of the Secretary of State~~ Department.

B. No change

1. No change
2. No change
3. No change
4. Summary of emergency episode and significant harm levels:



Pollutant	Averaging Time	Alert	Warning	Emergency	Significant Harm
Carbon monoxide (mg/m ³)	1-hr	--	--	--	144
	4-hr	--	--	--	86.3
	8-hr	17	34	46	57.5
Nitrogen dioxide (µg/m ³)	1-hr	1,130	2,260	3,000	3,750
	24-hr	282	565	750	938
Ozone (ppm)	1-hr	.2	.4	.5	.6
<u>PM_{2.5} (µg/m³)</u>	<u>24-hr</u>	<u>140.5</u>	<u>210.5</u>	<u>280.5</u>	<u>350.5</u>
PM ₁₀ (µg/m ³)	24-hr	350	420	500	600
Sulfur dioxide (µg/m ³)	24-hr	800	1,600	2,100	2,620



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
GAME AND FISH COMMISSION

[R19-57]

- 1. Title and its heading: 12, Natural Resources
Chapter and its heading: 4, Game and Fish Commission
Article and its heading: 3, Taking and Handling of Wildlife
Section numbers: R12-4-303 (As part of this rulemaking, the Department may add, delete, or modify additional Sections as necessary)

2. The subject matter of the proposed rule: The Arizona Game and Fish Commission proposes to adopt rules to regulate hunting activities consistent with the guiding principles governing the Commission's duty to preserve wildlife for the beneficial use of the public.

3. A citation to all published notices relating to the proceeding: Notice of Proposed Rulemaking: 25 A.A.R. 875, April 12, 2019 (in this issue)

4. The name and address of agency personnel with whom persons may communicate regarding the rule: Name: Celeste Cook, Rules and Policy Manager
Address: Arizona Game and Fish Department
5000 W. Carefree Highway
Phoenix, AZ 85086
Telephone: (623) 236-7390
E-mail: CCook@azgfd.gov

Please visit the AZGFD website to track the progress of this rule; view the regulatory agenda and all previous Five-year Review Reports; and learn about any other agency rulemaking matters at https://www.azgfd.com/agency/rulemaking/.

5. The time during which the agency will accept written comments and the time and place where oral comments may be made: The Commission will accept comments Monday through Friday from 8:00 a.m. until 5:00 p.m., at the address listed under item #4 for 30 days from the date the Notice of Proposed Rulemaking is published in the Arizona Administrative Register.

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

NOTICE OF RULEMAKING DOCKET OPENING
DEPARTMENT OF PUBLIC SAFETY
SCHOOL BUSES

[R19-54]

- 1. Title and its heading: 13, Public Safety
Chapter and its heading: 13, Department of Public Safety – School Buses
Article and its heading: 1, School Bus Minimum Standards
2, Minimum Standards for School Buses Operated On Alternative Fuel
Section numbers: R13-13-101 through R13-13-112; R13-13-201 and R13-13-202
(The Department may add, delete or modify sections as necessary)

2. The subject matter of the proposed rule: The Department, working in consultation with the Arizona School Bus Advisory Council pursuant to A.R.S. §§ 28-900 and 28-3228, intends to amend Articles 1 and 2 to meet modern and future-use minimum safety standards.



rules are intended to modernize and streamline driver certification processes allowing for improved competency of drivers and certification processes, improving the ability for school districts to hire and retain drivers. Additionally, the rule amendments are intended to modernize the minimum standards for school bus design, systems, and fuels. Engineering deficiencies/improvements and enforcement standards will be addressed as well as alternative fuel systems for natural gas, propane (CNG/LPG), all electric and hybrid (electric/gas) will be addressed to allow school districts to purchase newer, safer, modern and more fuel-efficient school buses.

The Department was granted an exception to the rulemaking moratorium contained in Executive Order 2019-01 in an e-mail from Ms. Jennifer Thomsen, Policy Advisor, Public Safety and Military Affairs, Office of the Governor, dated March 11, 2019.

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

None

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

Name: Anthony Gerard, Captain
 Address: Arizona Department of Public Safety
 POB 6638 Mail Drop 1240
 Phoenix, AZ 85005-6638
 Telephone: (928) 773-3691
 E-mail: agerard@azdps.gov
 Web site: www.azdps.gov

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

The Department will accept comments during business hours at the address listed in Item 4 until the close of record. Information regarding an oral proceeding will be included in the Notice of Proposed Rulemaking.

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

To be determined.

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

[R19-68]

- 1. Title and its heading:** 20, Commerce, Financial Institutions, and Insurance
- Chapter and its heading:** 5, Industrial Commission of Arizona
- Article and its heading:** 5, Elevator Safety
- Section numbers:** R20-5-507

2. The subject matter of the proposed rule:

Pursuant to A.R.S. §§ 23-491.04(A)(2) and 23-491.06, the Industrial Commission of Arizona (the “Commission”) is required to promulgate standards and regulations necessary to carry out Title 23, Chapter 2, Article 12 (Safety Conditions for Elevators and Similar Conveyances), including adopting national consensus standards. The Commission is proposing to amend R20-5-507 (Safety Code for Elevators, Escalators, Dumbwaiters, Moving Walks, Material Lifts, and Dumbwaiters with Automatic Transfer Devices) to incorporate by reference national consensus standards contained in ASME A17.7-2007 (Performance-Based Safety Code for Elevators and Escalators).

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

Notice of Proposed Rulemaking: 25 A.A.R. 878, April 12, 2019 (*in this issue*)

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

Name: Jessie Atencio, Director
 Address: Division of Occupational Safety and Health
 Industrial Commission of Arizona
 800 W. Washington St., Suite 203
 Phoenix, AZ 85007
 Telephone: (602) 542-5795
 Fax: (602) 542-1614
 E-mail: Jessie.atencio@azdosh.gov

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

The Industrial Commission will accept comments during a public comment period that is included in the Notice of Proposed Rulemaking in this issue (see page 878). Information regarding an oral proceeding is also included in the Notice of Proposed Rulemaking in this issue.

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

To be determined.



NOTICE OF RULEMAKING DOCKET OPENING
DEPARTMENT OF INSURANCE

[R19-55]

- 1. Title and its heading: 20, Commerce, Financial Institutions, and Insurance
Chapter and its heading: 6, Department of Insurance
Article and its heading: 4, Types of Insurance Companies
Section numbers: R20-6-401
2. The subject matter of the proposed rule: On June 15, 2018, the Department relocated. Section R20-6-401 still contains the Department's prior address and the Department wishes to update the rule to include its current address.
The rule also incorporates a National Association of Insurance Commissioners' (NAIC) model regulation by reference. A.R.S. § 41-1028, which authorizes an agency to incorporate matter in its rules by reference, requires a statement of where copies of the incorporated matter is available from the agency and from the organization originally issuing the incorporated matter. A.R.S. § 41-1028(D). The Department and NAIC addresses are both outdated.
3. A citation to all published notices relating to the proceeding: None
4. The name and address of agency personnel with whom persons may communicate regarding the rule: Name: Mary E. Kosinski
Address: Department of Insurance
100 N. 15th Ave., Suite 102
Phoenix, AZ 85007-2624
Telephone: (602) 364-3100
E-mail: mkosinski@azinsurance.gov
5. The time during which the agency will accept written comments and the time and place where oral comments may be made: Due to the limited nature of the amendments being proposed, the Department has no plans to hold a hearing on the proposed rulemaking at this time. However, the Department will schedule an oral proceeding on the proposed rule if, within 30 days after the published notice, a written request for an oral proceeding is submitted to the contact person listed in paragraph 4 of this notice.
The Department will accept written comments for 30 days after the published notice at: public_comments@azinsurance.gov.
6. A timetable for agency decisions or other action on the proceeding, if known: Not applicable

NOTICE OF RULEMAKING DOCKET OPENING
DEPARTMENT OF INSURANCE

[R19-56]

- 1. Title and its heading: 20, Commerce, Financial Institutions, and Insurance
Chapter and its heading: 6, Department of Insurance
Article and its heading: 11, Medicare Supplement Insurance
Section numbers: R20-6-1101
2. The subject matter of the proposed rule: R20-6-1101 governs Medicare Supplement Insurance (sometimes referred to as "Medigap coverage"), which is insurance a person may buy to supplement Medicare coverage. Section R20-6-1101 incorporates by reference the National Association of Insurance Commissioners (NAIC) Model Regulation to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act (Model Regulation). The Model Regulation provides uniformity for multi-state insurers who market Medicare Supplement products in multiple states and also to consumers who relocate to a different state and own or seek to purchase this insurance product.
3. A citation to all published notices relating to the proceeding: None
4. The name and address of agency personnel with whom persons may communicate regarding the rule: Name: Mary E. Kosinski
Address: Department of Insurance
100 N. 15th Ave., Suite 102
Phoenix, AZ 85007-2624
Telephone: (602) 364-3100
E-mail: mkosinski@azinsurance.gov
5. The time during which the agency will accept written comments and the time and place where oral comments may be made: Due to the limited nature of the amendments being proposed, the Department has no plans to hold a hearing on the proposed rulemaking at this time. However, the Department will schedule an oral proceeding on the proposed rule if, within 30 days after the



published notice, a written request for an oral proceeding is submitted to the contact person listed in paragraph 4 of this Notice. The Department will accept written comments for 30 days after the published notice at: public_comments@azinsurance.gov.

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

The Medicare Access and CHIP Reauthorization Act of 2015 (“MACRA”) requires states to adopt the changes necessary to implement MACRA to be effective January 1, 2020, to avoid losing regulatory authority over the provisions of the MACRA amendments.



NOTICES OF PUBLIC INFORMATION

Notices of Public Information contain corrections that agencies wish to make to their notices of rulemaking; miscellaneous rulemaking information that does not fit into any other category of notice; and other types of information required by statute to be published in the Register.

Because of the variety of Notices of Public Information, the Office of the Secretary of State has not established a specific publishing format for these notices. We do however require agencies to use a numbered list of questions and answers and follow our filing requirements by presenting receipts with electronic and paper copies.

NOTICE OF PUBLIC INFORMATION
DEPARTMENT OF ENVIRONMENTAL QUALITY
SAFE DRINKING WATER

[M19-35]

- 1. Name of the Agency: Department of Environmental Quality
Title and its heading: 18, Environmental Quality
Chapter and its heading: 4, Department of Environmental Quality – Safe Drinking Water
Article and its heading: 8, Technical Assistance
Section and its heading: R18-4-803, Master Priority List

2. The public information relating to the listed statute:

Pursuant to A.R.S. § 49-358, the Arizona Department of Environmental Quality (Department) has developed a water system compliance assistance program to assist public water systems in complying with state and federal laws, rules and regulations regarding safe drinking water. As of March 25, 2019, there are 1,516 public water systems (PWS) in operation in Arizona. Of this universe of water systems, 1,449 (96%) are classified as “small water systems” serving 10,000 or fewer persons. Historically, these small-and medium-sized public water systems have accrued the vast majority of Arizona’s reported drinking water violations (e.g., contaminant exceedance violations, no certified operator, missed monitoring). The capacity development program works to ensure that public water systems possess the technical, managerial and financial capacity to operate in accordance with all the drinking water rules and regulation. Capacity development also reaches out to small public water systems needing technical assistance which is provided by the Department or through third party contractors.

3. Draft Master Priority List:

Public water systems are identified for technical assistance on the basis of the Master Priority List (MPL) which is updated annually in April. The criteria used to determine the need for assistance include the measures used in determining the technical, managerial and financial (TMF) capacity of existing PWSs. Additional criteria include the public water system’s score on the U.S. Environmental Protection Agency’s (EPA) Enforcement Targeting Tool, system classification type, population served, and violation history. Technical assistance contracts are typically awarded to prepare one of several deliverables: a TMF capacity assessment of the water system, an evaluation of compliance options for water systems with maximum contaminant level (MCL) violations or treatment system design to address an ongoing MCL violation. As funding is available, the Department will award technical assistance to those PWSs with the highest MPL rankings and who are willing to work with the Department and its technical assistance providers. The Water Infrastructure Financing Authority (WIFA) also uses the MPL to identify possible candidates for additional technical assistance and/or financial assistance (e.g., low interest loans, design grants).

Pursuant to A.A.C. R18-4-803(D), the Department is publishing this Notice of Public Information in the Arizona Administrative Register (A.A.R.) and will hold a public meeting to provide the public with an opportunity to comment on the Master Priority List. The Draft Master Priority List can be viewed from the ADEQ Calendar beginning on April 19, 2019 at http://azdeq.gov/notices

Beginning April 19, 2019, the 30-day public review and the written and oral comment period begins. After completion of the 30-day review, the public meeting and the comment period, the Department will formulate a response to submitted comments and consider modifications to the MPL in response to those comments. If no comments are received, the MPL becomes final on May 20, 2019. If comments are received and changes are made, the revised MPL will be re-published in the A.A.R., along with a summary of comments received and the Department’s response to those comments.

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

Name: Linda Taunt, Capacity Development & Technical Assistance Coordinator
Address: Department of Environmental Quality
1110 W. Washington St.
Phoenix, AZ 85007
Email: taunt.linda@azdeq.gov
Telephone: (602) 771-4416 (in Arizona: 1-800-234-5677; 771-4416)



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

An oral proceeding will be held on:

Date: Monday, May 20, 2019

Time: 9:30 a.m.

Place: Room 5100B
1110 W. Washington St.
Phoenix, AZ 85007

The Department will accept written comments on the Draft FY20 MPL until close of business on May 20, 2019.



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)(9)).

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

[M19-36]

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

SP-040-DLS-CCL: Clarification of the child care facility rules in 9 A.A.C. 5.

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

Issuance and effective date: March 28, 2019

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

The purpose of this substantive policy statement is to provide the general public "guidelines for compliance" with the child care facility rules in Arizona Administrative Code Title 9, Chapter 5. The guidelines for compliance allow the general public consistent interpretation and application of each rule clarified in this substantive policy statement.

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

This is a new substantive policy statement.

5. The name and address of the person to whom questions and comments about the substantive policy statement may be directed:

Name: Thomas Salow, Branch Chief

Address: Arizona Department of Health Services
Bureau of Child Care Licensing
150 N. 18th Ave., Suite 400
Phoenix, AZ 85007

Telephone: (602) 364-1935

Fax: (602) 364-4768

E-mail: Thomas.Salow@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 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: <https://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, Bureau of Child Care Licensing, 150 N. 18th Ave., Suite 400, Phoenix, AZ 85007 for 25¢ per page. Payment is accepted in cash or money order made payable to the Arizona Department of Health Services.



GOVERNOR EXECUTIVE ORDER

Executive Order 2019-01 is being reproduced in each issue of the *Administrative Register* as a notice to the public regarding state agencies' rulemaking activities.

This order has been reproduced in its entirety as submitted.

EXECUTIVE ORDER 2019-01**Moratorium on Rulemaking to Promote Job Creation and Customer-Service-Oriented Agencies; Protecting Consumers Against Fraudulent Activities**

[M19-04]

WHEREAS, government regulations should be as limited as possible; and

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

WHEREAS, protecting the public health, peace and safety of the residents of Arizona is a top priority of state government; and

WHEREAS, in 2015 the State of Arizona implemented a moratorium on all new regulatory rulemaking by State agencies through executive order and renewed the moratorium in 2016, 2017 and 2018; and

WHEREAS, the State of Arizona eliminated or repealed 422 needless regulations in 2018 and 676 in 2017 for a total of 1,098 needless regulations eliminated or repealed over two years; and

WHEREAS, estimates show these eliminations saved job creators more than \$31 million in operating costs in 2018 and \$48 million in 2017 for a total of over \$79 million in savings over two years; and

WHEREAS, approximately 283,300 private sector jobs have been added to Arizona since January 2015; and

WHEREAS, all government agencies of the State of Arizona should continue to promote customer-service-oriented principles for the people that it serves; and

WHEREAS, each State agency shall continue to conduct 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 while protecting the health, peace and safety of residents; and

WHEREAS, each State agency should continue to evaluate its administrative rules using any available and reliable data and performance metrics; and

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, 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 justifications 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 federal court 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 which are antiquated, redundant or otherwise no longer necessary for the operation of state government.
2. A State agency subject to this Order shall not publicize any directives, policy statements, documents or forms on its website unless such are explicitly authorized by Arizona Revised Statutes or Arizona Administrative Code.
3. A State agency subject to this Order and which issues occupational or professional licenses shall review the agency's rules and practices related to receiving and acting on substantive complaints about unlicensed individuals who are allegedly holding them-



selves out as licensed professionals for financial gain and are knowingly or recklessly providing or attempting to provide regulated services which the State agency director believes could cause immediate and/or significant harm to either the financial or physical health of unknowing consumers within the state. Agencies shall identify and execute on opportunities to improve its complaint intake process, documentation, tracking, enforcement actions and coordination with proper law enforcement channels to ensure those allegedly trying to defraud unsuspecting consumers and putting them at risk for immediate and/or significant harm to their financial or physical health are stopped and effectively diverted by the State agency to the proper law-enforcement agency for review. A written plan on the agency’s process shall be submitted to the Governor’s Office no later than May 31, 2019.

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 section 41-1001, Arizona Revised Statutes.

IN WITNESS THEREOF, 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 ninth day of January in the Year Two Thousand and Nineteen and of the Independence of the United States of America the Two Hundred and Forty-Third.

ATTEST:
Katie Hobbs
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

XN = Exempt new Section
 XM = Exempt amended Section
 XR = Exempt repealed Section
 X# = Exempt renumbered Section

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

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RULES EFFECTIVE DATES CALENDAR

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

January		February		March		April		May		June	
Date Filed	Effective Date										
1/1	3/2	2/1	4/2	3/1	4/30	4/1	5/31	5/1	6/30	6/1	7/31
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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.

Deadline Date (paper only) Friday, 5:00 p.m.	Register Publication Date	Oral Proceeding may be scheduled on or after
November 9, 2018	November 30, 2018	December 31, 2018
November 16, 2018	December 7, 2018	January 7, 2019
November 23, 2018	December 14, 2018	January 14, 2019
November 30, 2018	December 21, 2018	January 22, 2019
December 7, 2018	December 28, 2018	January 28, 2019
December 14, 2018	January 4, 2019	February 4, 2019
December 21, 2018	January 11, 2019	February 11, 2019
December 28, 2018	January 18, 2019	February 19, 2019
January 4, 2019	January 25, 2019	February 25, 2019
January 11, 2019	February 1, 2019	March 4, 2019
January 18, 2019	February 8, 2019	March 11, 2019
January 25, 2019	February 15, 2019	March 18, 2019
February 1, 2019	February 22, 2019	March 25, 2019
February 8, 2019	March 1, 2019	April 1, 2019
February 15, 2019	March 8, 2019	April 8, 2019
February 22, 2019	March 15, 2019	April 15, 2019
March 1, 2019	March 22, 2019	April 22, 2019
March 8, 2019	March 29, 2019	April 29, 2019
March 15, 2019	April 5, 2019	May 6, 2019
March 22, 2019	April 12, 2019	May 13, 2019
March 29, 2019	April 19, 2019	May 20, 2019
April 5, 2019	April 26, 2019	May 28, 2019
April 12, 2019	May 3, 2019	June 3, 2019
April 19, 2019	May 10, 2019	June 10, 2019
April 26, 2019	May 17, 2019	June 17, 2019
May 3, 2019	May 24, 2019	June 24, 2019
May 10, 2019	May 31, 2019	July 1, 2019
May 17, 2019	June 7, 2019	July 8, 2019
May 24, 2019	June 14, 2019	July 15, 2019
May 31, 2019	June 21, 2019	July 22, 2019



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 <http://grrc.az.gov>.

GOVERNOR’S REGULATORY REVIEW COUNCIL DEADLINES FOR 2019

[M19-05]

DEADLINE FOR PLACEMENT ON AGENDA*	FINAL MATERIALS SUBMITTED TO COUNCIL	DATE OF COUNCIL STUDY SESSION	DATE OF COUNCIL MEETING
<i>Tuesday</i> January 22, 2019	<i>Tuesday</i> February 19, 2019	<i>Tuesday</i> February 26, 2019	<i>Tuesday</i> March 5, 2019
<i>Tuesday</i> February 19, 2019	<i>Tuesday</i> March 19, 2019	<i>Tuesday</i> March 26, 2019	<i>Tuesday</i> April 2, 2019
<i>Tuesday</i> March 19, 2019	<i>Tuesday</i> April 23, 2019	<i>Tuesday</i> April 30, 2019	<i>Tuesday</i> May 7, 2019
<i>Tuesday</i> April 23, 2019	<i>Tuesday</i> May 21, 2019	Wednesday May 29, 2019	<i>Tuesday</i> June 4, 2019
<i>Tuesday</i> May 21, 2019	<i>Tuesday</i> June 18, 2019	<i>Tuesday</i> June 25, 2019	<i>Tuesday</i> July 2, 2019
<i>Tuesday</i> June 18, 2019	<i>Tuesday</i> July 23, 2019	<i>Tuesday</i> July 30, 2019	<i>Tuesday</i> August 6, 2019
<i>Tuesday</i> July 23, 2019	<i>Tuesday</i> August 20, 2019	<i>Tuesday</i> August 27, 2019	Wednesday September 4, 2019
<i>Tuesday</i> August 20, 2019	<i>Tuesday</i> September 17, 2019	<i>Tuesday</i> September 24, 2019	<i>Tuesday</i> October 1, 2019
<i>Tuesday</i> September 17, 2019	<i>Tuesday</i> October 22, 2019	<i>Tuesday</i> October 29, 2019	<i>Tuesday</i> November 5, 2019
<i>Tuesday</i> October 22, 2019	<i>Tuesday</i> November 19, 2019	<i>Tuesday</i> November 26, 2019	<i>Tuesday</i> December 3, 2019
<i>Tuesday</i> November 19, 2019	<i>Tuesday</i> December 24, 2019	<i>Tuesday</i> January 7, 2020	<i>Tuesday</i> January 14, 2020
<i>Tuesday</i> December 24, 2019	<i>Tuesday</i> January 21, 2020	<i>Tuesday</i> January 28, 2020	<i>Tuesday</i> February 4, 2020

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