



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Rules can be: made (all new text); amended (rules on file, changing text); repealed (removing text); or renumbered (moving rules to a different Section number).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 New rules in this publication (whether proposed or made) are denoted with underlining; repealed text is stricken.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

Vol. 25

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

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

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

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# Participate in the Process

## Look for the Agency Notice

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

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

## Attend a public hearing/meeting

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

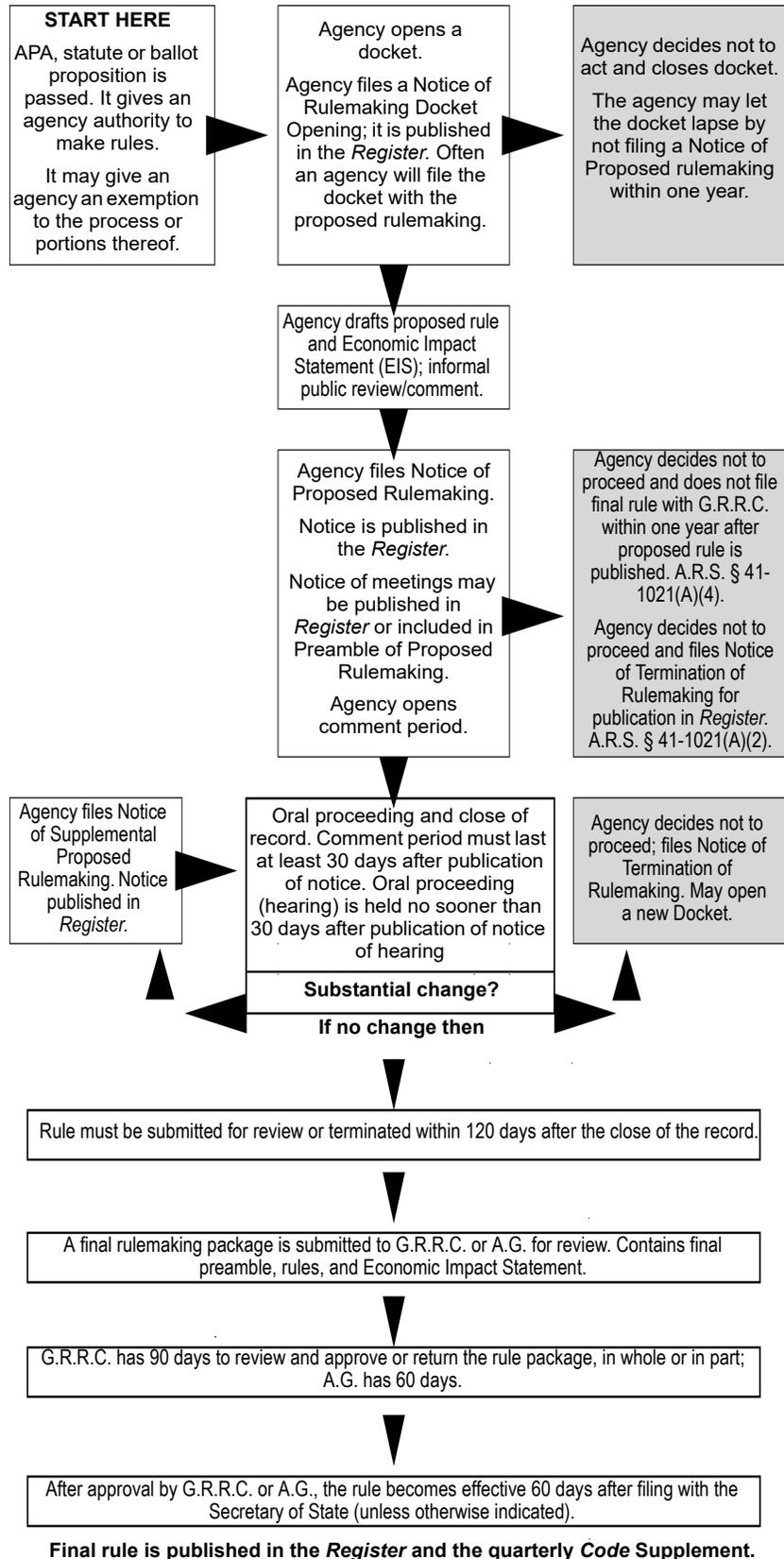
An agency may not have a public meeting scheduled on the Notice of Proposed Rulemaking. If not, you may request that the agency schedule a proceeding. This request must be put in writing within 30 days after the published Notice of Proposed Rulemaking.

## Write the agency

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

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

# Arizona Regular Rulemaking Process



## Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## Acronyms

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

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

APA – *Administrative Procedure Act*

A.R.S. – *Arizona Revised Statutes*

CFR – *Code of Federal Regulations*

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

FR – *Federal Register*

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

U.S.C. – *United States Code*

## About Preambles

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

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

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



**NOTICES OF FINAL RULEMAKING**

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

The final published notice includes a preamble and

text of the rules as filed by the agency. Economic Impact Statements are not published.

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

**NOTICE OF FINAL RULEMAKING  
TITLE 9. HEALTH SERVICES  
CHAPTER 13. DEPARTMENT OF HEALTH SERVICES  
HEALTH PROGRAMS SERVICES**

[R19-134]

**PREAMBLE**

<b><u>1. Article, Part, or Section Affected (as applicable)</u></b>	<b><u>Rulemaking Action</u></b>
R9-13-101	Amend
R9-13-102	Amend
Table 13.1	New Section
R9-13-103	Amend
R9-13-104	Amend
R9-13-105	Amend
R9-13-106	New Section
R9-13-107	Repeal
R9-13-107	New Section
R9-13-108	Repeal
R9-13-108	New Section
R9-13-109	Repeal
R9-13-109	New Section
R9-13-110	New Section
R9-13-111	New Section
R9-13-112	New Section
R9-13-113	New Section
R9-13-114	New Section
R9-13-115	New Section

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

Authorizing statutes: A.R.S. §§ 36-136(A)(7) and 36-136(F)  
 Implementing statutes: A.R.S. §§ 36-899.01 through 36-899.04

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

July 2, 2019

The Arizona Department of Health Services (Department) requests an immediate effective date for the new rules under A.R.S. § 41-1032(A)(4) and (5). By prescribing measures necessary to ensure that Arizona students receive hearing screening in 9 A.A.C. 13, Article 1, the rules are less burdensome than current rules; provide greater benefits to students, parents, schools, hearing screening trainers and screeners, and the Department; and have no public impact on public health and safety and do not affect public involvement or public participation process.

**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 rule:**

Notice of Rulemaking Docket Opening: 23 A.A.R. 3061, October 27, 2017  
 Notice of Rulemaking Docket Opening: 24 A.A.R. 3057, October 26, 2018  
 Notice of Proposed Rulemaking: 25 A.A.R. 697, March 22, 2019

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

Name: Patricia Tarango, Bureau Chief  
 Address: Arizona Department of Health Services  
 Division of Public Health Services, Public Health Prevention



Bureau of Women’s and Children’s Health  
150 N. 18th Ave., Suite 320  
Phoenix, AZ 85007-3248

Telephone: (602) 542-1436  
Fax: (602) 364-1496  
E-mail: Patricia.Tarango@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. An agency’s justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**

Arizona Revised Statutes (A.R.S.) § 36-899.01 requires a program of hearing evaluation services to be established by the Arizona Department of Health Services (Department) and hearing evaluation services administered to children attending school. The Department in Arizona Administrative Code (A.A.C.) Title 9, Chapter 13, Article 1 established rules for the hearing screening program and school children hearing screenings to detection hearing loss. In the 2017 Hearing Screening Five-year-review Report (Report), the Department reported receiving written criticisms, identified changes that would improve the rules; and in the purposed course of action, planned to amend the rules in Article 1. To implement the planned purposed course of actions, the Department requested an exception to the rulemaking moratorium established by Executive Order 2017-02. On July 18, 2017, the Governor approved the Department’s request for exception to the rulemaking moratorium to amend the hearing screening rules. The Department has amended 9 A.A.C. 13, Article 1 rules through regular rulemaking and anticipates submitting a Notice of Final Rulemaking to the Governor’s Regulatory Review Council by July 2019. The changes to the rules include reducing the regulatory burden by simplifying requirements, removing obsolete requirements; updating standards for hearing screening and equipment to make consistent with national standards and best practices; and clarifying screener qualifications and frequency of hearing screening for students to ensure that Arizona students are not at risk. The new rules will also conform to rulemaking format and style requirements of the Governor’s Regulatory Review council and the Office of the Secretary of State.

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

The Department did not review or rely on any study for this rulemaking.

**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 Department has identified persons directly affected by the rules to be the Department; schools; students and parents of students; early childhood education centers, individuals who wish to be a hearing screening screener and screeners; individuals who wish to be a hearing screening trainer and trainers; specialists; and the public. Annual cost and benefit changes are designated as minimal when \$1,000 or less, moderate when between \$1,000 and \$10,000, and substantial when \$10,000 or more in additional costs or revenues. Costs are listed as significant when meaningful or important, but not readily subject to quantification. No new FTEs will be required due to this rulemaking. In this rulemaking, the Department changed the rules in R9-13-101 through R9-13-108 to add new definitions; update outdated screening requirements, screener qualifications, terms and definitions; make hearing screening criteria and requirements consistent with current national standards and best practices; and simplify hearing screening population, notifications, records and reporting, and equipment standards.

Additionally, and as indicated in the 2017 Report, the Department’s cooperative agreement with the University of Arizona (UofA) terminated on December 31, 2015. Through the cooperative agreement, the UofA provided hearing screening training and certification to individuals interested in becoming a hearing screening trainer or master trainer. The UofA also provided renewal hearing screening courses to certified hearing screening trainers. With the UofA no longer providing hearing screening trainers, the Department established six new Sections that include standards and regulations for trainer eligibility; instruction, examination, observation and certificate of completion for individuals who wish to be a hearing screening trainer; and renewal requirements, including continuing education, for trainers who wish to renew their certificate of completion.

Updating the rules requires Department’s resources to amend current rules in R9-13-101 through R9-13-108 and to draft new rules in Sections R9-13-110 through R9-13-115. The Department expects to incur a moderate cost to draft and promulgate the new rules, but believes the benefit of having new rules over time will exceed any cost incurred. The Department also expects to incur minimal-to-moderate costs to update the database to include collecting information about the type of audiological equipment used to conduct a hearing screening; and costs are also expected for administrative support used to update and maintain the hearing screening website, forms, and other related resources and documents. The Department estimates it may receive a significant benefit for schools, screeners, and trainers being able to access updated hearing screenings information through Department’s electronic sources. The Department anticipates that it may incur a significant cost for Department personnel and resources used to provide



training to individuals who wish to become a hearing-screening trainer or who wish to renew an existing trainer certificate of completion. Lastly, the Department believes it will receive a significant benefit for having rules that are more effective and no longer having obsolete requirements and antiquated language and definitions.

Current rules require a school administrator to ensure that a school provides hearing screening for students enrolled in the school, as well as specify how, when, and by whom hearing screening is required to be performed. In the new rules, the Department updated and clarified many requirements in R9-13-101 through R9-13-108. The Department clarified the hearing screening population and added a requirement for students who repeat a grade to receive a hearing screening to ensure that students who repeat a grade do not have a hearing loss. The Department estimates adding a requirement to screen students who repeat a grade may cause a school to incur a minimal cost for providing additional screenings. However, schools should receive a significant benefit for identifying students who were not previously identified and who are provided early intervention services; reasoning that students whose hearing need are met will be better students and less likely to fall behind.

In R9-13-104, the new rules include changing the word “days” to “school days;” adding a requirement for administrators to ensure students who do not receive an initial hearing screening, when expected, are re-scheduled for an initial hearing screening; and requirements for students that did not pass the initial hearing screening were changed to clarify when the second hearing screening should occur and what audiological equipment should be used. The Department anticipates that having to re-schedule students who did not receive an initial hearing screening could cause school to incur a cost; the cost is expected to be at most minimal, since the number of students re-scheduled is small. The Department believes the change to use “school days” rather than “days” will provide schools with a significant benefit for having more time to provide hearing screenings. The Department estimates that “30 school days” is equivalent to “62 days.”

Also, changes to rules in R9-13-105 clarify school notifications provided to parent and removes requirements for schools to provide parents a referral for a student who does not pass a hearing screening. The Department anticipates that these changes may provide a minimal benefit to a school. The new rules also provide flexibility to a school as to how a notification occurs by defining “notification” to mean a method used to inform or announce information on paper, electronic, photographic, or other permanent form. The Department believes many schools provide notification of hearing screenings to parent using all available resources. The Department anticipates that adding this requirement may cause schools to receive a significant benefit for not having to provide notifications to parent using a source that would otherwise cause schools to incur additional costs to provide. Overall, the Department believes removing obsolete requirements, adding new requirements, and updating antiquated language improves the effective of the hearing screening rules and provides significant benefits to all schools that are providing hearing screenings to students.

To amended screener qualification rules, the Department added requirements specifying individuals who may become a screener (individuals); simplified classroom instruction and reduce overall time period to complete screener training; and added a requirement for individuals to demonstrate competency using audiological equipment. The new rules also changed the renewal time period from five years to four years, simplified renewal requirements for screeners who wish to renew screener certificate of completion (screeners) and added continuing education (CEs) units to allow screeners to complete two hours of training on-line rather than in a classroom. In new R9-13-103, requirements for a screener to determine whether a student is physically or behaviorally limited in the ability to respond to perceived sounds, and if verified, immediately report to an administrator what the screener observed that prevented the screener from performing a hearing screening on a student were added. The Department believes individuals and screeners will not incur additional costs due to the rules. The Department expects that if additional costs do occur for individuals and screeners, the additional cost will be related to trainers increasing fees for providing hearing screening trainings. The Department expects individuals and screeners will receive a significant benefit for having rules that simplify the initial and renewal process and no longer contain obsolete requirements and antiquated language. The new rules are more effective, clearer, and understandable.

The Department added six new Sections containing requirements for training individuals who wish to be a trainer (individuals) and trainers who wish to renew trainer certificate of completion (trainers). The new rules include requirements for trainer eligibility; request for certificate; trainer instruction, examination, and observation; renewal of certificate and continuing education; and request to change a trainer’s personal information. The Department expects that the new rules regarding initial and renewal requirements for obtaining a trainer certificate of completion may cause individuals and trainers to incur a minimal cost for time spent completing the trainings. However, since the new rules do not require individuals to pay for training, the Department believes individuals completing training and obtaining a trainer certificate of completion will receive a significant benefit. Additionally, once a trainer, a trainer will receive a significant benefit for monies collected for provide training to individuals who wish to be a screener. The Department believes the same is true for trainers, who assist and provide training to screeners renewing a screener certificate of completion. The Department anticipates that individuals and trainers will receive a significant benefit for having rules that are consistent with current national standards and best practices and are effective, clear, and understandable.

The Department does not anticipate the rules will be burdensome for specialist. The Department estimates that overall specialist will receive a minimal-to-moderate benefit from school administrators providing notifications to parents that their student to receives an audiological evaluation performed by a specialist. For Arizona’s students and parents, the new rules clarify and update criteria for hearing screenings, qualifications of screeners, equipment standards, and notification of parents that may provide a significant benefit by improving the detection of hearing loss and providing early intervention services sooner. The new requirements in R9-13-105 clarify that parents’ are notified of hearing screening results, rather than receiving a referral; and if a student does not receive a hearing screening due to existing physical or behavioral limit in the student’s ability to adequately respond to hearing screening, the student’s parents are to be informed immediately to ensure the student does not suffer from prolonged deterioration related to the physical or behavioral limit identified by the screener. The Department anticipates that the changes will provide a significant benefit to students and parents of students. The Department has determined that the benefits related to hearing screenings for students identified in the new rules outweighs any potential costs associated with this rulemaking.



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

The Department did not make any changes between the proposed rulemaking and the final rulemaking.

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

During the formal 30-day public comment period, the Department received questions and comments from District Audiologist, Tempe Elementary School District #3. In summary, the commenter (1) asked when the rules would become effective; (2) asked for clarification regarding requirement in R9-13-115(C) that requires a screener who is trained in both pure tone audiometry and OAE to renew current certificate of completion within 30 days prior to the expiration date of the certificate; and (3) asked whether the Hearing Screening Program will provide a revised curriculum for trainers to use. The Department's response to (1) explained the final rulemaking approval process and provided the commenter with an expected effective date of July 3, 2019. The Department's response to (2) clarified that the requirement in R9-13-115(C) only applies to screeners who have a certificate of completion that lists completion of "both" pure tone screening and OAE screening on that same certificate. The Department's response to (3) affirmed that the Hearing Screening Program will provide a revised curriculum for trainers to use.

**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:**

There are no other matters prescribed by statutes applicable specifically to the Department 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 certificate of completion issued to individuals is a general permit consistent with A.R.S. § 41-1037. A certificate of completion is issued to individuals to conduct training/services that are substantially similar in nature and is not limited to providing the training/services in any one location.

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

Not applicable

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

No business competitiveness analysis was received by the Department.

**13. Incorporated by reference and their location in the rules:**

Not applicable

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

The rule was not previously made as an emergency rule.

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

**TITLE 9. HEALTH SERVICES  
CHAPTER 13. DEPARTMENT OF HEALTH SERVICES  
HEALTH PROGRAMS SERVICES**

**ARTICLE 1. HEARING SCREENING**

Section	
R9-13-101.	Definitions
R9-13-102.	Hearing Screening Population
Table 13.1	<u>Hearing Screening Population (students)</u>
R9-13-103.	Hearing Screening Requirements
R9-13-104.	<del>Criteria for Passing Hearing Screening; Requirements for Performing a Second Hearing Screening</del>
R9-13-105.	<u>Referral; Notification; Follow-up</u>
R9-13-106.	<u>Equipment Standards</u>
R9-13-107.	<del>Screener Qualifications</del> <u>Records and Reporting Requirements</u>
R9-13-108.	<del>Equipment Standards</del> <u>Screener Qualifications</u>
R9-13-109.	<del>Records and Reporting Requirements</del> <u>Trainer Eligibility</u>
R9-13-110.	<u>Trainer Certificate of Completion Request</u>
R9-13-111.	<u>Trainer Instruction, Examination, and Observation</u>
R9-13-112.	<u>Trainer Certificate of Completion Renewal</u>
R9-13-113.	<u>Trainer Continuing Education</u>
R9-13-114.	<u>Requesting a Change</u>
R9-13-115.	<u>Requirement for Screener or Trainer Certificate of Completion Issued Before Article Effective Date</u>



## ARTICLE 1. HEARING SCREENING

## R9-13-101. Definitions

In this Article, unless the context otherwise requires:

1. “Assistive listening device” has the meaning in A.R.S. § 36-1901.
2. “Audiologist” means an individual licensed under A.R.S. Title 36, Chapter 17.
3. “Audiometer” means an electronic device that generates signals used to measure hearing.
4. “Calibration” means a determination of the accuracy of an instrument by measurement of a variation from a standard.
5. “Cochlear implant” means a surgically inserted device that electrically stimulates the hearing nerve in the inner ear.
6. “dB” means decibel.
7. “dB HL” means decibel hearing level.
8. “Deaf” has the meaning in A.R.S. § 36-1941.
9. “Department” means the Arizona Department of Health Services.
10. “Documentation” means signed and dated information in written, photographic, electronic, or other permanent form.
11. “Effusion” means the escape of fluid from a blood or lymphatic vessel into tissue or a cavity.
12. “Frequency” means the number of cycles per second of a sound wave.
13. “Hard of hearing” has the meaning in A.R.S. § 36-1941.
14. “Hearing aid” has the meaning in A.R.S. § 36-1901.
15. “Hearing screening” means a test of a student’s ability to hear certain frequencies at a consistent loudness performed in a school by an individual who meets the requirements in R9-13-107.
16. “Hz” means Hertz, a unit of frequency equal to one cycle per second.
17. “Immittance” means the ease of transmission of sound through the middle ear.
18. “Inner ear” means the semicircular canals, auditory nerve, and cochlea.
19. “Intensity” means the strength of a sound wave striking the eardrum resulting in the perception of loudness as expressed in decibels or decibels hearing level.
20. “Kindergarten” means the grade level immediately preceding first grade.
21. “Middle ear” means the eardrum, malleus, incus, stapes, and eustachian tube.
22. “mm H<sub>2</sub>O” means millimeters of water.
23. “Noise floor” means sounds present in the auditory canal from either the environment or bodily functions such as breathing and blood flow.
24. “Otitis media” means inflammation of the middle ear.
25. “Otoacoustic emissions” means the sounds generated from the inner ear.
26. “Outer ear” means the pinna, lobe, and auditory canal.
27. “Parent” has the meaning in A.R.S. § 15-101.
28. “Physician” means an individual licensed under A.R.S. Title 32, Chapter 13 or 17.
29. “Preschool” means the instruction preceding kindergarten provided to individuals three to five years old through a:
  - a. School as defined in A.R.S. § 15-101,
  - b. Accommodation school as defined in A.R.S. § 15-101,
  - c. Charter school as defined in A.R.S. § 15-101, or
  - d. Private school as defined in A.R.S. § 15-101.
30. “Primary care practitioner” means an individual licensed as a registered nurse practitioner under A.R.S. Title 32, Chapter 15 or a physician assistant under A.R.S. 32, Chapter 25.
31. “Pure tone” means a single frequency sound.
32. “Reproducibility” means the correlation of two responses measured simultaneously and reported by percentage.
33. “School” means:
  - a. School as defined in A.R.S. § 15-101;
  - b. Preschool;
  - c. Kindergarten;
  - d. Accommodation school as defined in A.R.S. § 15-101;
  - e. Charter school as defined in A.R.S. § 15-101, or
  - f. Private school as defined in A.R.S. § 15-101
34. “School administrator” means an individual or the individual’s designee assigned to act on behalf of a school by the body organized for the government and the management of the school.



- 35. “School year” means the period between July 1 and the following June 30.
- 36. “Screener” means an individual qualified to perform a hearing screening in a school according to R9-13-107.
- 37. “Special education” has the meaning in A.R.S. § 15-761.
- 38. “Speech language pathologist” means an individual licensed under A.R.S. Title 36, Chapter 17.
- 39. “Student” means an individual enrolled in a school.
- 40. “Supervision” has the meaning in A.R.S. § 36-401.
- 41. “Tympanogram” means a chart of the indirect measurements of the ease of movement of the parts of the middle ear as air pressure in the auditory canal changes.
- 42. “Tympanometer” means a device that indirectly measures the ease of movement of the parts of the middle ear as air pressure in the auditory canal changes.
- 43. “Tympanometry” means the indirect measurement of the ease of movement of the parts of the middle ear as air pressure in the auditory canal changes.
- 1. “Accredited” means that an educational institution is recognized by the U.S. Department of Education as providing standards necessary to meet acceptable levels of quality for its graduates to gain admission to other reputable institutions of higher learning or to achieve credentials for professional practice.
- 2. “Administrator” means the principal or person having general daily control and oversight of a school or that person’s designee.
- 3. “Assistive listening device” has the same meaning as “assistive listening device or system” in A.R.S. § 36-1901.
- 4. “Audiological equipment” means an instrument used to help determine the presence, type, or degree of hearing loss, such as:
  - a. A pure tone audiometer.
  - b. A tympanometer, or
  - c. An otoacoustic emissions device.
- 5. “Audiological evaluation” means:
  - a. Examination of an individual’s ears;
  - b. Assessment of the functioning of the individual’s middle ear;
  - c. Testing of the individual’s ability to perceive sounds using audiological equipment; and
  - d. Analysis by a specialist of the results obtained from the activities described in subsections (a) through (c) to determine if the individual has a hearing loss and, if so, the type and degree of the individual hearing loss.
- 6. “Audiologist” means an individual licensed under A.R.S. Title 36, Chapter 17.
- 7. “Audiometer” means an electronic device that administers sounds of varying pitches and intensities to assess an individual’s ability to hear the sounds.
- 8. “Auditory canal” means the tubular passage between the cartilaginous portion of the ear that projects from an individual’s head and the outer surface of the ear drum.
- 9. “Auditory nerve” means the filament of neurological tissue that:
  - a. Connects the cochlea and the brain, and
  - b. Transmits impulses related to hearing.
- 10. “Calendar day” means each day, that:
  - a. Is not the day of the act, event, or default from which a designated period of time begins to run; and
  - b. Includes the last day of the period unless it is a Saturday, Sunday, statewide furlough day, or legal holiday, in which case the period runs until the end of the next day that is not a Saturday, Sunday, statewide furlough day, or legal holiday.
- 11. “Calibrate” means to measure the response of an instrument against a standard and adjust the instrument until the response falls within specified values according to the equipment’s manufacturer specifications and by an authorized manufacturer’s dealer, if recommended by the manufacturer.
- 12. “Certificate of completion” means a document issued to an individual who has completed the requirements in:
  - a. R9-13-108 to perform hearing screening for students according to this Article; or
  - b. R9-13-111 or R9-13-112 to provide training to individuals who perform hearing screenings.
- 13. “Cochlea” means a coiled tube in the inner ear that converts sounds into neural messages.
- 14. “Cochlear implant” means a device that is surgically inserted into the cochlea to electrically stimulate the auditory nerve.
- 15. “Continuing education” means a course that provides instruction and training that is designed to develop or improve a trainer or screener’s professional competence.
- 16. “Continuing education unit” means 50 to 60 minutes of continuous course work.
- 17. “Course” means a workshop, seminar, lecture, conference, or other learning program activities approved by the Department.
- 18. “daPa” means dekaPascal, a standard measure of air pressure.
- 19. “dB HL” means decibel hearing level, a measurement used to compare the intensity at which an individual hears sound at a particular frequency to a standard.



20. “dB SPL” means sound pressure level measured in units of decibels.
21. “Deaf” has the same meaning as in A.R.S. § 36-1941.
22. “Diagnosis” means a determination of whether a student is deaf or hard of hearing that is:
  - a. Made by specialist; and
  - b. Based on an audiological evaluation of the student.
23. “Documentation” means a method used to report information on paper, electronic, photographic, or other permanent form.
24. “Eardrum” means the tympanic membrane in the ear that vibrates in response to sound.
25. “Earphone” means the part of an audiometer that is worn over an individual’s ear.
26. “Electroacoustic analysis” means the evaluation by an audiologist of the functioning of a hearing aid or an assistive listening device using specialized electronic equipment.
27. “Eustachian tube” means a passage in an individual’s head that:
  - a. Connects the middle ear and the throat, and
  - b. Equalizes pressure on both sides of the eardrum.
28. “Follow-up” means an action that serves to verify the effectiveness of a previous hearing screening that resulted in treatment.
29. “Frequency” means the number of cycles per second of a sound wave, expressed in Hz and corresponding to the pitch of sound.
30. “Hard of hearing” has the same meaning as in A.R.S. § 36-1941.
31. “Hearing aid” has the same meaning as in A.R.S. § 36-1901.
32. “Hearing loss” means the difference, expressed in decibels, between the hearing threshold of an individual and a standard reference hearing threshold.
33. “Hearing screening” means:
  - a. The same as “hearing screening evaluation” in A.R.S. § 36-899, and
  - b. Is performed by an individual who meets the requirements specified in R9-13-108 for the purpose of identifying students who may need further evaluation; or
  - c. An audiological evaluation provided by a specialist.
34. “Hearing screening population” means the students who are expected to have a hearing screening during a school year.
35. “Hearing threshold” means the faintest sound an individual hears at each frequency at which the individual is tested.
36. “Hz” means Hertz, a unit of frequency equal to one cycle per second.
37. “Immittance” means the mobility of the parts of the middle ear during the transmission of sound vibrations through the middle ear.
38. “Immediate family member” means an individual related by birth, marriage, or adoption.
39. “Inner ear” means the part of the ear, including the semicircular canals, cochlea, and auditory nerve, that converts sound into neural messages that are sent through the auditory nerve to the brain.
40. “Intensity” means the strength of a sound wave, resulting in the perception of sound volume as expressed in decibels or decibels hearing level dB HL.
41. “KHz” means a unit of frequency equal to one thousand cycles per second or one thousand hertz.
42. “Middle ear” means the part of the ear that conducts sound to the inner ear, consisting of:
  - a. The eardrum;
  - b. The three small bones called the malleus, incus, and stapes; and
  - c. The space containing the eardrum and the three small bones.
43. “ml” means a volume measurement unit.
44. “mmho” or “millimho” means a unit of electric conductance.
45. “Notification” means a method used to inform or announce information on paper, electronic, photographic, or other permanent form.
46. “Other amplification device” means a hearing product used to amplify sounds, but may not address other components of hearing loss, such as distortion.
47. “Otitis media” means inflammation of the middle ear.
48. “Otoacoustic emissions device” or “OAE device” means an instrument used to determine the status of an individual’s cochlear function by:
  - a. Presenting sounds into the auditory canal with a sound generator, and
  - b. Detecting, with one or more microphones, low-intensity echoes in the auditory canal that are produced by normally functioning cochlea in response to sounds.
49. “Outer ear” means the part of the ear that projects from an individual’s head and the auditory canal.
50. “Parent” means a:



- a. Natural or adoptive mother or father.
- b. Legal guardian appointed by a court of competent jurisdiction, or
- c. Custodian as defined in A.R.S. § 8-201.
- 51. “Pass” means a recordable response detected by a hearing screener or audiological equipment consistent with established criteria for hearing screening requirements.
- 52. “Person” has the meaning in A.R.S. § 41-1001.
- 53. “Preschool” means the instruction preceding kindergarten provided to individuals three to five year old through a school.
- 54. “Probe” means the part of a tympanometer or an OAE that is inserted into an individual’s auditory canal during a hearing screening.
- 55. “Pure tone hearing screening” means a type of hearing screening using single frequency sounds that is performed using a pure tone audiometer or a device that includes the functions of both an audiometer and a tympanometer.
- 56. “School” means:
  - a. A school as defined in A.R.S. § 15-101.
  - b. An accommodation school as defined in A.R.S. § 15-101.
  - c. A charter school as defined in A.R.S. § 15-101, or
  - d. A private school as defined in A.R.S. § 15-101.
- 57. “School day” means any day in which students attend an educational institution for instructional purposes.
- 58. “School year” means the period from July 1 through June 30.
- 59. “Screener” means an individual qualified to perform a hearing screening specified in R9-13-108.
- 60. “Semicircular canal” means the loop-shaped tubular parts of the inner ear that contain portions of the sensory organs of balance.
- 61. “Sound wave” means the repeating cycles of high pressure and low pressure that are made by a vibrating object.
- 62. “Special education” has the same meaning as in A.R.S. § 15-761.
- 63. “Specialist” means an audiologist or a doctor of medicine licensed according to A.R.S. Title 32, Chapters 13 or 17 who specializes in the ear, nose, and throat.
- 64. “Student” means an individual enrolled in a school.
- 65. “Supervision” means a screener is in the room observing and providing direction while an individual provides hearing screening to students specified in R9-13-108(M).
- 66. “Trainer” means an individual, who:
  - a. Has a current certificate of completion, and
  - b. Provides classroom instruction and assessment of competency in using audiological equipment specified in R9-13-108.
- 67. “Tympanogram” means a graphic display of the mobility of the middle ear in response to an acoustic stimulus as a function of air pressure in the auditory canal.
- 68. “Tympanometer” means a device used to determine the status of an individual’s middle ear by:
  - a. Presenting sound into the auditory canal with a sound generator;
  - b. Varying the air pressures in the auditory canal via an air pump to control the movement of the tympanic membrane; and
  - c. Detecting, with a microphone, variations in sound pressure level as acoustic energy passes into the individual’s middle ear.

**R9-13-102. Hearing Screening Population**

- A:** A school administrator shall ensure that the following students have a hearing screening each school year:
  - 1. A student enrolled in preschool, kindergarten, or grade 1, 2, 6, or 9;
  - 2. A student enrolled in grade 3, 4, or 5, unless there is written documentation that the student had a hearing screening in or after grade 2;
  - 3. A student enrolled in grade 7 or 8, unless there is written documentation that the student had a hearing screening in or after grade 6;
  - 4. A student enrolled in grade 10, 11, or 12 unless there is written documentation that the student had a hearing screening in or after grade 9;
  - 5. A student receiving special education; and
  - 6. A student who failed a second hearing screening in the prior school year.
- B:** A school administrator shall ensure that a student has a hearing screening at the request of the student, the student’s parent, a school teacher, a school nurse, a school psychologist, an audiologist, a physician, a primary care practitioner, a speech language pathologist, or Department staff.
- C:** A hearing screening is not required if a:
  - 1. Student is age 16 years or over;
  - 2. Student’s parent objects in writing to the screening as allowed under A.R.S. § 36-899.04;
  - 3. Written diagnosis or evaluation from an audiologist states that a student is deaf or hard of hearing; or



4. Student has a hearing aid, an assistive listening device, or a cochlear implant.
- D.** In addition to meeting the requirements in subsections (A) and (B), a school administrator shall ensure that a student who meets the criteria specified in State Board of Education rule R7-2-401 has a hearing screening required under R7-2-401.
- A.** An administrator shall ensure each student included in a school's hearing screening population receives a hearing screening.
- B.** An administrator may exclude from a school's hearing screening population:
  1. A student who is 16 years of age or older;
  2. A student for whom the school has documentation from a specialist that:
    - a. States that the student received an audiological evaluation from a specialist;
    - b. Is dated within 12 months before the date the student would receive a hearing screening; or
    - c. Includes a time period during or after the current school year when the student is scheduled to receive another audiological evaluation from the audiologist or specialist; and
    - d. Contains the following information:
      - i. The student's name;
      - ii. The date the student's audiological evaluation was performed;
      - iii. The type of audiological equipment used;
      - iv. Whether the student has been diagnosed as being deaf or hard of hearing and, if so, the type and degree of hearing loss; and
      - v. The name of the specialist who performed the audiological evaluation; and
  3. A student who is deaf or hard of hearing.
- C.** An administrator shall exclude from a school's hearing screening population a student for whom the administrator has documentation, from a student's parent objecting to the student receiving a hearing screening, specified in A.R.S. § 36-899.04, that contains:
  1. The student's name;
  2. A statement objecting to the student receiving a hearing screening, including:
    - a. The school year the student should not receive the hearing screening, or
    - b. Instruction the student is not to receive a hearing screening until the parent notifies the administrator that the student may receive a hearing screening; and
  3. The parent's name, signature, and date signed.

*Table 13.1 (Hearing Screening Population) starts top of next page.*



**Table 13.1 Hearing Screening Population (students)**

<b>A. Students Included in Hearing Screening Population</b>	
<u>1. All grades, including preschool and kindergarten</u>	<p>Every student:</p> <ul style="list-style-type: none"> <li>a. <u>Who is enrolled in special education, as required by A.R.S. Title 15, Chapter 7, Article 4 and A.A.C. R7-2-401;</u></li> <li>b. <u>Who did not pass a hearing re-screening given to the student during the previous school year;</u></li> <li>c. <u>For whom the school does not have any documentation that the student has previously had a hearing screening;</u></li> <li>d. <u>Who is repeating a grade; and</u></li> <li>e. <u>For whom one of the following requests a hearing screening:</u> <ul style="list-style-type: none"> <li>i. <u>The student;</u></li> <li>ii. <u>The student's parent;</u></li> <li>iii. <u>A teacher;</u></li> <li>iv. <u>A school nurse;</u></li> <li>v. <u>A school psychologist, licensed according to A.R.S. Title 32, Chapter 19.1;</u></li> <li>vi. <u>An audiologist, licensed according to A.R.S. § 36-1901;</u></li> <li>vii. <u>A specialist;</u></li> <li>viii. <u>A speech-language pathologist, licensed according to A.R.S. § 36-1901;</u></li> <li>ix. <u>A medical physician, licensed according to A.R.S. Title 32, Chapter 13;</u></li> <li>x. <u>An osteopathic physician licensed according to A.R.S. Title 32, Chapter 17; and</u></li> <li>xi. <u>The Department.</u></li> </ul> </li> </ul>
<u>2. Preschool</u>	<u>Every enrolled student</u>
<u>3. Kindergarten</u>	<u>Every enrolled student</u>
<u>4. Grade 1</u>	<u>Every enrolled student</u>
<u>5. Grade 2</u>	<p><u>Every enrolled student for whom the school does not have:</u></p> <ul style="list-style-type: none"> <li>a. <u>Documentation that the student received and passed a hearing screening in or after grade 1, or</u></li> <li>b. <u>Documentation that meets the requirements in subsection (B).</u></li> </ul>
<u>6. Grade 3</u>	<u>Every enrolled student</u>
<u>7. Grade 4</u>	<p><u>Every enrolled student for whom the school does not have:</u></p> <ul style="list-style-type: none"> <li>a. <u>Documentation that the student received and passed a hearing screening in or after grade 3, or</u></li> <li>b. <u>Documentation that meets the requirements in subsection (B).</u></li> </ul>
<u>8. Grade 5</u>	<u>Every enrolled student</u>
<u>9. Grade 6</u>	<p><u>Every enrolled student for whom the school does not have:</u></p> <ul style="list-style-type: none"> <li>a. <u>Documentation that the student received and passed a hearing screening in or after grade 5, or</u></li> <li>b. <u>Documentation that meets the requirements in subsection (B).</u></li> </ul>
<u>10. Grade 7</u>	<u>Every enrolled student</u>
<u>11. Grade 8</u>	<p><u>Every enrolled student for whom the school does not have:</u></p> <ul style="list-style-type: none"> <li>a. <u>Documentation that the student received and passed a hearing screening in or after grade 7, or</u></li> <li>b. <u>Documentation that meets the requirements in subsection (B).</u></li> </ul>
<u>12. Grade 9</u>	<u>Every enrolled student</u>
<u>13. Grades 10, 11, and 12</u>	<p><u>Every enrolled student for whom the school does not have:</u></p> <ul style="list-style-type: none"> <li>a. <u>Documentation that the student received and passed a hearing screening in or after grade 9, or</u></li> <li>b. <u>Documentation that meets the requirements in subsection (B).</u></li> </ul>
<b>B. Students Not Included in Hearing Screening Population</b>	



1. A student who is at least 16 years of age and has requested not to receive a hearing screening according to A.R.S. § 36-899.01.
2. A student enrolled in a child care facility regulated pursuant to A.R.S. Title 36, Chapter 7.1, Child Care Programs.

### R9-13-103. Hearing Screening Requirements

- A.** Before performing a hearing screening, a screener shall visually inspect a student's outer ears for:
1. Fluid or drainage,
  2. Blood,
  3. An open sore, or
  4. A foreign object.
- B.** If a screener inspects a student's outer ears and finds any of the conditions in subsection (A), the screener shall not perform a hearing screening.
- C.** A screener shall perform a hearing screening in each ear using one of the following hearing screening methods:
1. Four frequency, pure tone hearing screening that screens at each of the following frequencies and intensities:
    - a. 500 Hz at 25 dB HL,
    - b. 1000 Hz at 20 dB HL,
    - c. 2000 Hz at 20 dB HL, and
    - d. 4000 Hz at 20 dB HL;
  2. Three frequency, pure tone hearing screening with tympanometry that:
    - a. Includes a tympanogram that is generated automatically or is plotted at a minimum of the following three points:
      - i. +100 mm H<sub>2</sub>O,
      - ii. Point of maximum immittance, and
      - iii. -200 mm H<sub>2</sub>O; and
    - b. Screens at each of the following frequencies at 20 dB HL:
      - i. 1000 Hz,
      - ii. 2000 Hz, and
      - iii. 4000 Hz; or
  3. Otoacoustic emissions hearing screening using otoacoustic emissions equipment that generates a pass or no pass result:
    - a. Using a minimum of three frequencies,
    - b. At no less than 3 dB above the noise floor, and
    - c. With reproducibility greater than 50%.
- A.** Before permitting a screener to provide a hearing screening, an administrator shall ensure that the screener:
1. Is an audiologist; or
  2. Has a certificate of completion, specified in R9-13-108(F) or (I).
- B.** If an individual is not a screener and requires supervision, an administrator shall ensure that the individual provides hearings specified in R9-13-108(M).
- C.** Before performing a hearing screening on a student, a screener shall:
1. Verify that the student is on a list of students in the school's hearing screening population provided by the administrator; and
  2. Conduct a non-otoscopic inspection of the student's outer ears for anything that would contra-indicate continuation of the hearing screening, such as:
    - a. Blood or other bodily fluid in or draining from the auditory canal,
    - b. Earwax that may be occluding,
    - c. An open sore, or
    - d. A foreign object.
- D.** If a screener observes a condition specified in subsection (C)(2) when inspecting a student's outer ears, the screener shall:
1. Not perform a hearing screening on the student, and
  2. Report the student's condition to the administrator immediately.
- E.** If a screener does not observe a condition specified in subsection (C)(2) when inspecting a student's outer ears, the screener shall:
1. Determine the developmental and age appropriate audiological equipment to be used when:
    - a. The student is unable to understand the screener's instructions;
    - b. The student has been designated as a child with a disability, as defined in A.R.S. § 15-761; or
    - c. The student is physically or behaviorally limited in the ability to respond to perceived sounds;
  2. Use one of the hearing screening methods specified in subsection (G);
  3. Perform a hearing screening on each of the student's ears; and
  4. Comply with the requirements specified in R9-13-104(A).
- F.** If a screener determines that a student in subsection (E)(1) is not able to complete the hearing screening, the screener shall:
1. Not perform a hearing screening on the student, and
  2. Report the student's condition to the administrator within 10 school days.
- G.** When performing a hearing screening on a student, a screener shall comply with one of the following passing criteria, if using:
1. A pure tone audiometer to perform a three-frequency, pure tone hearing screening on each of the student's ears with response recorded at each of the following frequencies and intensities:
    - a. 1000 Hz at 20 dB HL,
    - b. 2000 Hz at 20 dB HL, and
    - c. 4000 Hz at 20 dB HL;
  2. A combination of a tympanometer and a pure tone audiometer to:
    - a. Produce a tympanogram showing the following results:



- i. Peak acoustic immittance in mmho, ml, or compliance for a 226 Hz probe tone; or
- ii. Tympanometric width in daPa; and
- b. Obtain the results of a three-frequency, pure tone hearing screening on each of the student's ears with response recorded at each of the following frequencies and intensities:
  - i. 1000 Hz at 20 dB HL,
  - ii. 2000 Hz at 20 dB HL, and
  - iii. 4000 Hz at 20 dB HL; or
- 3. An OAE device to:
  - a. Measure responses of the cochlea to no less than three test frequencies; and
  - b. Device display screen indicates pass.

**R9-13-104. Criteria for Passing a Hearing Screening; ~~Requirements for Performing a Second Hearing Screening~~**

- ~~A. A student passes a hearing screening if:~~
  - 1. ~~During a four frequency, pure tone hearing screening, the student responds in each ear to each frequency at each intensity listed in R9-13-103(C)(1)(a) through (C)(1)(d);~~
  - 2. ~~During a three frequency, pure tone hearing screening with tympanometry, the student:~~
    - a. ~~Responds in each ear to each frequency as described in R9-13-103(C)(2)(b); and~~
    - b. ~~Reaches a point of maximum immittance in each ear within the range of +100mm H2O to -200mm H2O; or~~
    - 3. ~~During an otoacoustic emissions hearing screening, the student receives a pass result in each ear according to R9-13-103(C)(3).~~
- ~~B. If a student does not pass a hearing screening according to subsection (A), a screener shall perform a second hearing screening on the student no earlier than 30 days and no later than 45 days from the date of the first hearing screening. The screener shall perform the second hearing screening using the same method as the first hearing screening.~~
- ~~A. A screener shall consider a student to have passed a developmentally and age appropriate hearing screening if one of the following applies:~~
  - 1. ~~During a three-frequency, pure tone hearing screening, performed according to R9-13-103(G)(1), the student responds to each frequency and intensity specified in R9-13-103(G)(1)(a) through (c) for each ear on which a hearing screening is performed;~~
  - 2. ~~During a hearing screening using both a tympanometer and pure tone audiometer, performed according to R9-13-103(G)(2):~~
    - a. ~~The tympanogram for each of the student's ears shows:~~
      - i. ~~The height of the peak acoustic immittance is > 0.3 mmho, ml, or compliance; or~~
      - ii. ~~The tympanometric width is < 250 daPa; and~~
    - b. ~~The student responds to each frequency specified in R9-13-103(G)(2)(b)(i) through (iii) for each ear on which a hearing screening is performed; or~~
  - 3. ~~During a hearing screening using an OAE device, performed according to R9-13-103(G)(3), the OAE device indicates results that the student has passed the hearing screening for each ear.~~
- ~~B. For a student in a school's hearing screening population who does not receive an initial hearing screening specified in Table 13.1, an administrator shall ensure that the student receives the initial hearing screening not more than 45 school days after the date the student was expected to receive the initial hearing screening.~~
- ~~C. For a student in a school's hearing screening population who does not pass an initial hearing screening according to subsection (A), an administrator shall ensure that:~~
  - 1. ~~The student shall receive a second hearing screening no earlier than 10 school days and no later than 30 school days after the date of the hearing screening specified in R9-13-103;~~
  - 2. ~~If the hearing screening specified in R9-13-103(G)(2) was performed using both a tympanometer and pure tone audiometer, the second hearing screening for the student is performed using both a tympanometer and pure tone audiometer; and~~
  - 3. ~~If the hearing screening specified in R9-13-103(G)(3) was performed using an otoacoustic emissions device, the second hearing screening for the student is performed using an otoacoustic emissions device.~~
- ~~D. If a student does not pass the second hearing screening in subsection (C)(1) and (2), an administrator shall provide notification to the student's parent specified in R9-13-105.~~

**R9-13-105. Referral; Notification; Follow-up**

- ~~A. If a school administrator finds that a student does not require a hearing screening under R9-13-102(C)(3) or (C)(4), the school administrator shall provide to the student's parent, within 10 days from the date the finding is made, a referral to have the student's current hearing status evaluated by an audiologist, including an electroacoustic analysis of any hearing aid or assistive listening device, unless there is documentation from an audiologist specifying a different evaluation schedule.~~
- ~~B. If a screener finds any of the conditions listed in R9-13-103(A) and a student does not have a hearing screening:~~
  - 1. ~~A school administrator shall provide to the student's parent, within 10 days from the date the condition is found, a referral to have the student's outer ears evaluated by a physician or primary care practitioner; and~~
  - 2. ~~A screener shall perform the hearing screening on the student no earlier than 30 days and no later than 45 days from the date the screener finds the condition.~~
- ~~C. If a student does not pass a second hearing screening or does not complete a second hearing screening within the time period required under R9-13-104(B), a school administrator shall provide to the student's parent, within 10 days from the date of the second hearing screening or from the date the period for completing a second hearing screening ends, a referral to have the student's current hearing status evaluated by one of the following:~~
  - 1. ~~An audiologist, a physician, or a primary care practitioner if the screener used only the four frequency, pure tone hearing screening method;~~
  - 2. ~~A physician or primary care practitioner if the student did not pass the tympanometry portion, but passed the three frequency, pure tone portion of the hearing screening;~~



3. An audiologist if the student did not pass the three frequency, pure tone portion, but passed the tympanometry portion of the hearing screening; or
  4. An audiologist, a physician, or a primary care practitioner if the screener used the otoacoustic emissions hearing screening method.
- D.** A referral identified in subsection (C) is not required if a school provided audiologist:
1. Assesses a student's hearing status and the condition of the middle ear at the conclusion of a hearing screening; and
  2. Within 10 days from date of the assessment, provides the student's parent with a written diagnosis and recommendation for treatment, if applicable.
- E.** A referral required under subsections (A), (B), or (C), shall include a form requesting the following:
1. The name, address, and telephone number of the student evaluated;
  2. The date of evaluation;
  3. An assessment of the condition of the outer ear, if applicable;
  4. An assessment of hearing status and the condition of the middle ear, if applicable;
  5. A diagnosis and recommendation for treatment, if applicable;
  6. The signature and title of the individual evaluating the student and completing the form; and
  7. A request that the individual completing the form or the student's parent return the completed form to the school.
- F.** Under State Board of Education rule R7-2-401, a school administrator shall ensure that a student referred under subsections (A) or (C) is evaluated.
- G.** If a school receives notice of a diagnosis that a student is deaf or hard of hearing from an audiologist, the school administrator shall notify, within 10 days from the date the notice of diagnosis is received, each of the student's teachers and the person responsible for the school's special education services of the diagnosis.
- A.** An administrator shall provide a notification to parents of students identified in Table 13.1 that includes:
1. The information for hearing screening to be conducted during the school year, and
  2. A reference to A.R.S. § 36-899.04 and information about the parent's right to object to their student receiving a hearing screening by submitting the document specified in R9-13-102(C) to the administrator.
- B.** If an administrator excludes a student from a hearing screening specified in R9-13-102(B)(3), the administrator shall provide a notification to the student's parent that:
1. Informs the parent, whose student wears a device listed in subsection (3)(a) through (c), that the student shall not receive a hearing screening;
  2. Recommends the parent schedule an audiological evaluation for the student with a specialist;
  3. Requests the parent in subsection (2) provide the administrator a copy of a specialist's audiological report dated within the past 12 months for the student's:
    - a. Hearing aid;
    - b. Assistive listening device, or
    - c. Other amplification device;
  4. Informs a parent, who chooses for their student to not wear a device listed in subsection (3)(a) through (c), that the student shall receive a hearing screening unless the administrator receives documentation specified in R9-13-102(C) stating that the parent does not want their student to have a hearing screening; and
  5. Informs a parent that a student may receive a hearing screening if an administrator does not have:
    - a. Documentation of an audiological report in subsection (3), or
    - b. Documentation specified in R9-13-102(C) stating that the parent does not want their student to have a hearing screening.
- C.** Except for a student in subsection (2)(a), within 10 school days after an initial hearing screening in subsection (A) has been completed, an administrator shall provide notification to a student's parent that includes:
1. The student's name; and
  2. The reason why the student did not receive a hearing screening due to:
    - a. A visual condition of the outer ear specified in R9-13-103(C)(2), or
    - b. A behavioral condition specified in R9-13-103(E)(1).
- D.** Except for a student's second hearing screening in subsection (3)(b), within 10 school days after a student receives a second hearing screening specified in R9-13-104(C), an administrator shall provide notification to a student's parent that includes:
1. The student's name;
  2. The type of hearing screening the student received, if received; and
  3. The hearing screening results whether the student:
    - a. Did not pass; or
    - b. Was not screened due to:
      - i. A visual condition of the outer ear specified in R9-13-103(C)(2), or
      - ii. A behavioral condition specified in R9-13-103(E)(1).
- E.** If a student in subsections (C) or (D) has an audiological evaluation on file at the school that is dated within the past 12 months, the student will not receive a hearing screening.
- F.** If a student did not receive a hearing screening due to a reason identified in subsections (C)(2)(a), (D)(3)(a), or (D)(3)(b)(i), an administrator shall provide an immediate notification to the student's parent that includes:
1. The student's name;
  2. The reason for the immediate notification;
  3. A request that the parent contact a specialist to:
    - a. Examine the student's ears;
    - b. Perform an audiological evaluation; and
    - c. If the student uses any of the following, perform an:



- i. Electroacoustic analysis of a hearing aid, an assistive listening device, or other amplification device; or
- ii. Evaluation of a cochlear implant; and
- 4. A request that the parent provide to the administrator documentation received from the specialist who examined the student that includes:
  - a. The student's name;
  - b. The name of the specialist;
  - c. The date the specialist performed the services;
  - d. The type of services provided; and
  - e. If applicable:
    - i. The results of the examination of the student's ears,
    - ii. The results of the student's audiological evaluation, including diagnosis,
    - iii. Whether there is hearing loss, including the type and degree of hearing loss,
    - iv. The type of audiological equipment used to perform the audiological evaluation; and
    - v. A recommendation for treatment.

- G. Forty-five calendar days after sending a notification specified in subsection (F)(4), an administrator shall provide a follow-up notification to the student's parent to verify whether the student received an audiological evaluation and if evaluated, provide diagnosis.
- H. Within 10 school days after an administrator receives documentation from a specialist of a diagnosis that a student is deaf or hard of hearing, the administrator shall provide notification of the diagnosis, consistent with the privacy requirements in applicable law, to:
  - 1. Each of the student's teachers,
  - 2. Other school personnel who interacts with the student, and
  - 3. The persons responsible for determining the student's eligibility for special education services under A.A.C. R7-2-401.

**R9-13-106. ~~Repealed~~ Equipment Standards**

- A. An administrator shall ensure that audiological equipment used for hearing screenings is recommended by the American Academy of Audiology.
- B. An administrator shall ensure that:
  - 1. A pure tone audiometer is calibrated:
    - a. Not more than 12 months before the hearing screening is planned to occur, and
    - b. According to ANSI/ASA S3.6-2010 American National Standards Institution/Acoustical Society of America, Specification for Audiometers, incorporated by reference, on file with the Department, including no future editions or amendments, and available from the American National Standards Institution at <https://webstore.ansi.org>.
  - 2. A tympanometer is calibrated:
    - a. Not more than 12 months before the hearing screening is planned to occur; and
    - b. According to ANSI/ASA S3.39-1987 (R2012) American National Standards Institution/Acoustical Society of America, American National Standard Specifications for Instruments to Measure Aural Acoustic Impedance and Admittance (Aural Acoustic Immittance), incorporated by reference, on file with the Department, including no future editions or amendments, and available from the American National Standards Institution at <https://webstore.ansi.org>.
  - 3. An OAE is calibrated:
    - a. Not more than 12 months before the hearing screening is planned to occur; and
    - b. According to the specifications of the otoacoustic emissions device's manufacturer, including:
      - i. Distortion product emission,
      - ii. No less than three test frequencies between 1 and 5 kHz,
      - iii. An f2/f1 ratio of 1.22,
      - iv. A L1/L2 levels of 65/55 dB SPL, and
      - v. A pass and fail criterion based on an emission-to-noise ratio.
- C. A screener shall ensure that:
  - 1. A pure tone audiometer:
    - a. Is inspected within one school day before the hearing screening is planned to occur; and
    - b. During the inspection in subsection (1)(a):
      - i. Had a power source and power indicator that were working,
      - ii. Had earphones that were free of noise or distortion that could interfere with a hearing screening,
      - iii. Had earphone cords that were connected securely to the pure tone audiometer and had no breaks, and
      - iv. Generated a signal at each frequency and intensity specified in R9-13-103(G)(1) that did not cross from one earphone to the other.
  - 2. A tympanometer:
    - a. Is inspected within one school day before the hearing screening is planned to occur; and
    - b. During the inspection in subsection (2)(a):
      - i. Had no obstruction in the tympanometer's probe, and
      - ii. Generated a signal.
  - 3. An OAE:
    - a. Is inspected within one school day before the hearing screening is planned to occur; and
    - b. During the inspection in subsection (3)(a):
      - i. Had no obstruction in the OAE's probe microphone, and
      - ii. Generated a signal.

**R9-13-107. ~~Screener Qualifications~~ Records and Reporting Requirements**

- ~~A. An audiologist may perform a hearing screening.~~



- B.** An individual who is not an audiologist may perform a hearing screening only if the individual passes a hearing screener course that:
1. Includes 90 minutes of classroom instruction in the introduction to hearing covering:
    - a. Development of speech and language;
    - b. Anatomy and physiology of the ear;
    - c. Signs and prevention of hearing loss in children; and
    - d. A.R.S. Title 36, Chapter 7.2 and 9 A.A.C. 13, Article 1;
  2. Includes 120 minutes of classroom instruction in hearing screening covering:
    - a. Auditory development;
    - b. Early identification of hearing loss;
    - c. Principles of hearing screening;
    - d. Selection of hearing screening methods, and
    - e. Components of setting up a hearing screening program;
  3. Includes 75 minutes of classroom instruction in referral and reporting covering:
    - a. Results of a hearing screening;
    - b. Responses to a hearing screening outcome;
    - c. Procedures for recording and tracking;
    - d. Communication with parents;
    - e. Role of community resources; and
    - f. Reporting hearing screening results;
  4. For an individual who will perform a hearing screening using three frequency or four frequency, pure tone hearing screening, includes 120 minutes of classroom instruction covering:
    - a. Selecting and setting up a hearing screening site;
    - b. Performing a pure tone hearing screening, and
    - c. Identifying children who need referral and evaluation;
  5. For an individual who will perform a hearing screening using tympanometry with three frequency, pure tone hearing screening, includes 60 minutes of classroom instruction covering:
    - a. The anatomy and functions of the middle ear;
    - b. What tympanometry measures and identifies;
    - c. Using a tympanometer;
    - d. Performing a tympanometry hearing screening, and
    - e. Identifying children who need referral and evaluation;
  6. For an individual who will perform a hearing screening using otoacoustic emissions hearing screening, includes 60 minutes of classroom instruction covering:
    - a. What otoacoustic emissions identify and measure;
    - b. Using otoacoustic emissions equipment;
    - c. Performing an otoacoustic emissions hearing screening, and
    - d. Identifying children who need referral and evaluation;
  7. Requires an individual to pass the course by scoring 80% or more on an examination that tests what the individual has learned;
  8. Is taught by an individual who:
    - a. Is an audiologist, or
    - b. Meets the screener qualifications in subsection (B) or (C) and has performed at least 50 hearing screenings within 24 months before teaching a hearing screener course; and
  9. Provides an individual who passes the course with a certificate of completion that includes:
    - a. The individual's name;
    - b. Whether the following were completed:
      - i. Introduction to hearing;
      - ii. Hearing screening;
      - iii. Referral and reporting;
      - iv. Pure tone hearing screening;
      - v. Tympanometry hearing screening, and
      - vi. Otoacoustic emissions hearing screening;
    - c. An attestation that the course meets the requirements in subsection (B) or (C); and
    - d. The name and signature of the individual who taught the course.
- C.** Every five years after completing a hearing screener course described in subsection (B), a screener who is not an audiologist shall pass a hearing screener course that:
1. Includes 195 minutes of classroom instruction covering the material required under subsections (B)(1), (B)(2), and (B)(3);
  2. For an individual who will perform a hearing screening using three frequency or four frequency, pure tone hearing screening, includes 60 minutes of classroom instruction covering the material required under subsection (B)(4);
  3. For an individual who will perform a hearing screening using tympanometry with three frequency, pure tone hearing screening, includes 30 minutes of classroom instruction covering the material required under subsection (B)(5);
  4. For an individual who will perform a hearing screening using otoacoustic emissions hearing screening, includes 30 minutes of classroom instruction covering the material required under subsection (B)(6); and
  5. Meets the requirements in subsections (B)(7), (B)(8), and (B)(9).
- D.** Before performing a hearing screening, an individual who passes a hearing screener course described in subsection (B) or (C) shall give a copy of the certificate of completion described in subsection (B)(9) to the school.



**E.** An individual who does not meet the screener qualifications in subsection (A), (B), or (C) may perform a four frequency, pure tone hearing screening, other than a second hearing screening required under R9-25-104(B), only under the supervision of an individual who meets the screener qualifications in subsection (A), (B), or (C).

**A.** An administrator shall obtain from a screener:

- 1. The screener's license number, if the screener is an audiologist; or
- 2. A copy of the screener's certificate of completion dated within four years before the date the hearing screening is planned to occur.

**B.** A student's record shall include:

- 1. The dates and results of each hearing screening performed on the student;
- 2. An objection to a hearing screening made by the student's parent specified in R9-13-102(C);
- 3. A request for a hearing screening made by an individual listed in Table 13.1;
- 4. A written diagnosis received by an administrator from a specialist specified in R9-13-105(H) that a student is deaf or hard of hearing;
- 5. If an administrator received a written diagnosis in subsection (4), the name of each individual specified in R9-13-105(H) that received notification of the student's diagnosis and the date notified; and
- 6. If an administrator notified a student's parent according to R9-13-105:
  - a. A copy of the notification; or
  - b. Documentation that contains:
    - i. The reason for the notification,
    - ii. The date of notification, and
    - iii. Whether the administrator recommended that the student have an audiological evaluation completed by a specialist.

**C.** Between April 1 and June 30 of each school year, an administrator shall submit to the Department in a Department-provided format:

- 1. The school:
  - a. Name,
  - b. Address, and
  - c. Telephone number;
- 2. The name of the school district, if applicable; and
- 3. For hearing screenings conducted at the school during the school year:
  - a. The name of each screener who performed hearing screenings;
  - b. The screener's audiological license number, if applicable;
  - c. A copy of the screener's certificate of completion specified in R9-13-108(F) or R9-13-108(I)(3), if applicable;
  - d. The type of audiological equipment used to conduct the hearing screenings;
  - e. The date the audiological equipment was calibrated;
  - f. The name and title of the individual submitting the information;
  - g. The date the information is submitted;
  - h. Whether the hearing screenings for students identified in Table 13.1 were conducted within the first 45 calendar days of the school year;
  - i. The number of students grouped by:
    - i. The grades listed in Table 13.1, and
    - ii. Enrollment in special education;
  - j. The number of students who:
    - i. Were enrolled at the start of the school year at the time of prior to the first hearing screening provided to students,
    - ii. Were excluded from the school's hearing screening population as specified in R9-13-102(B) and Table 13.1,
    - iii. Received an initial hearing screening,
    - iv. Did not pass an initial hearing screening,
    - v. Received a second hearing screening,
    - vi. Did not pass a second hearing screening, and
    - vii. Were first identified as deaf or hard of hearing; and
  - k. The number of students for whom:
    - i. An administrator provided notification to a student's parent, as specified in R9-13-105; and
    - ii. An administrator received documentation during the school year from a student's specialist related to an examination, audiological evaluation, electroacoustic analysis, or evaluation of the student's cochlear implant.

**D.** An administrator shall retain the information in:

- 1. Subsection (A) for at least three years after the date that the hearing screening occurred.
- 2. Subsection (B) for three school years after fiscal year of last attendance, according to Arizona State Library, Archives and Public Records, General Records Retention Schedule for All Arizona School Districts and Charter Schools Student Records.

**R9-13-108. Equipment Standards Screener Qualifications**

**A.** A school administrator shall ensure that a pure tone audiometer used to perform a three frequency or four frequency, pure tone hearing screening is:

- 1. Calibrated every 12 months according to the American National Standard Specification for Audiometers, S3.6-1996, Standards Secretariat, c/o Acoustical Society of America, 120 Wall Street, 32nd Floor, New York, New York 10005-3993, January 12, 1996, incorporated by reference in R9-16-209(B)(1); and
- 2. Inspected within 24 hours before use to ensure that:
  - a. The calibration complies with subsection (A)(1);
  - b. The power source and power indicator are working;
  - c. The earphone cords are securely connected and have no breaks;



- d. Each frequency and intensity required under R9-13-103(C)(1) is present;
  - e. A signal does not cross from one earphone to the other; and
  - f. Each earphone is free of noise or distortion that could interfere with a hearing screening.
- B.** A school administrator shall ensure that a tympanometer used to perform the tympanometry portion of a hearing screening:
- 1. Is calibrated every 12 months according to the American National Standard Specifications for Instruments to Measure Aural Acoustic Impedance and Admittance, S3.39-1987, Standards Secretariat, Acoustical Society of America, 335 East 45th Street, New York, New York 10017-3483, October 5, 1987, not including any later amendments or editions, incorporated by reference and on file with the Department and the Office of the Secretary of State; and
  - 2. Is inspected within 24 hours before use to ensure that the calibration complies with subsection (B)(1).
- C.** A school administrator shall ensure that otoacoustic emissions equipment used to perform an otoacoustic emissions hearing screening is:
- 1. Calibrated every 12 months according to manufacturer's specifications; and
  - 2. Inspected within 24 hours before use to ensure that:
    - a. The calibration complies with manufacturer's specifications;
    - b. No obstruction is in the probe microphone; and
    - e. The test signal is present.
- A.** An individual may be a screener:
- 1. If the individual is an audiologist, or
  - 2. If the individual:
    - a. Is at least 18 years of age;
    - b. Has a high school diploma or a general equivalency diploma;
    - c. Has the ability to recognize a student's response to hearing a range of tones at different pitches and volumes; and
    - d. Has a current certificate of completion specified in subsection (F).
- B.** For an individual, who is not an audiologist, to become a screener, the individual shall complete classroom instruction for pure tone audiometry provided by a trainer:
- 1. Introduction to hearing screening for children, including the:
    - a. Development of speech and language;
    - b. Anatomy and physiology of the ear;
    - c. Signs of hearing loss in children;
    - d. Prevention of hearing loss in children;
    - e. Otitis media; and
    - f. Infection control;
  - 2. Essentials for hearing screening children, including:
    - a. Auditory development;
    - b. Rationale for early identification of hearing loss;
    - c. When, how, and on whom hearing screening is performed; and
    - d. How to set up a hearing screening, including the selection of a method to use for hearing screening and a location to conduct hearing screening;
  - 3. Hearing screening protocols, including:
    - a. Possible results of hearing screening;
    - b. Screener requirements specified in this Article;
    - c. Procedures for tracking students expected to receive hearing screening and recording hearing screening results;
    - d. Notification of and communication with the parents of students;
    - e. The information that a parent of a student who does not pass a hearing screening is requested to obtain from the student's specialist and provide to the student's school;
    - f. When and to whom a student's hearing loss is required to be reported;
    - g. Procedures for reporting hearing screening results to the Department;
    - h. What resources are available to the parent of a student who does not pass hearing screening; and
    - i. Requirements in A.R.S. Title 36, Chapter 7.2 and requirements in this Article in addition to screener requirements; and
  - 4. Audiological equipment, including:
    - a. A pure tone audiometer:
      - i. How a pure tone audiometer works;
      - ii. Checking the pure tone audiometer and earphones before performing hearing screening;
      - iii. Earphone placement;
      - iv. Performing hearing screening using a pure tone audiometer;
      - v. Identifying students who need a second hearing screening; and
      - vi. Identifying students for whom notification of a parent is required; and
    - b. An otoacoustic emission device:
      - i. How an otoacoustic emission device works;
      - ii. Why and when it is appropriate to use an otoacoustic emissions device is used during hearing screening;
      - iii. Performing a hearing screening using an otoacoustic emissions device with a remote probe;
      - iv. Identifying students who need a second hearing screening; and
      - v. Identifying students for whom notification of a parent is required.
- C.** An individual who has completed the hearing screening instruction in subsection (B) may request training in the use of a tympanometer by completing the following classroom instruction provided by a trainer:
- 1. How a tympanometer works;



- 2. Why and when it is appropriate to use a tympanometer during hearing screening;
- 3. The anatomy and functions of the middle ear and Eustachian tube;
- 4. How to use a tympanometer;
- 5. Identifying students who need a second hearing screening; and
- 6. Identifying students for whom notification of a parent is required.
- D.** Obtain a score of at least 80% on a written examination that covers the classroom instruction specified in subsection (B) or (C).
- E.** Demonstrate competency in the use of the audiological equipment specified in subsection (B) or (C) that an individual received classroom instruction.
- F.** Obtain a certificate of completion in a Department-provided format from the trainer who provided the classroom instruction, examination, and competency assessment specified in (B) through (E), as applicable, that includes:
  - 1. The individual's name;
  - 2. The hearing screening methods specified in subsections (B) or (C) completed by the individual;
  - 3. The date the individual completed the classroom instruction in subsection (B) or (C);
  - 4. The date the individual completed the hearing screening:
    - a. Examination; and
    - b. Assessment, including the type of audiological equipment;
  - 5. The certificate of completion issue date;
  - 6. An attestation that the classroom instruction provided to the individual meets the requirements in subsection (B) or (C); and
  - 7. The trainer's printed name and date issued.
- G.** A screener's certificate of completion expires four years from the issue date indicated on the certificate of completion specified in subsection (F).
- H.** Prior to the expiration date of a certificate of completion, a screener shall complete the requirements in subsection (I) to renew the screener's certificate of completion.
- I.** A screener, who is not an audiologist, wanting to renew a certificate of completion shall:
  - 1. Complete two hearing screening continuing education units each year:
    - a. Specified by the Department according to subsection (J), and
    - b. Applicable to the type of audiological equipment that the screener uses when performing a hearing screening;
  - 2. As provided by a trainer:
    - a. Complete four hours of classroom instruction related to:
      - i. Development of speech and language,
      - ii. Essentials for hearing screening children, and
      - iii. Hearing screening protocols;
    - b. Obtain a score of at least 80% on a written examination that covers the hearing screening requirements in subsection (a); and
    - c. Demonstrate competency in the use of the audiological equipment consistent with the hearing screening training received in subsection (1) and (2);
  - 3. Obtain a certificate of completion in a Department-provided format from the trainer who provided classroom instruction, the examination, and competency assessment in subsection (2) that includes:
    - a. The screener's name;
    - b. The hearing screening methods specified in subsection (1);
    - c. The date the screener completed the methods in subsection (1);
    - d. The date the screener completed the hearing screening:
      - i. Examination; and
      - ii. Assessment, including the type of audiological equipment;
    - e. The certificate of completion issue date;
    - f. An attestation that the classroom instruction provided to the screener meets the requirements in subsections (1) and (2); and
    - g. The trainer's printed name.
- J.** By January 1 of each calendar year, the Department shall provide a list of Department-approved continuing education courses.
- K.** An individual who does not score at least 80% on a written examination in subsection (D) may retake the written examination. If an individual does not score at least 80% on the second written examination, the individual shall repeat classroom instruction in subsection (B) or (C) before taking a third written examination.
- L.** A screener, who does not score at least 80% on a written examination for renewal in subsection (I), may retake the written examination. A screener, who does not score at least 80% on the second written examination, shall repeat the classroom instruction in subsection (I)(1) and (2) before taking a third written examination.
- M.** An individual who is not a screener:
  - 1. May use a pure tone audiometer to perform an initial three-frequency, pure tone hearing screening for a student, specified in R9-13-103(G)(1), under the supervision of a screener; and
  - 2. Shall not perform a hearing screening:
    - a. For a student who did not pass an initial hearing screening,
    - b. Using a combination of a tympanometer and a pure tone audiometer according to R9-13-103(G)(2); or
    - c. Using an OAE specified in R9-13-103(G)(3).

**R9-13-109. Recordkeeping, Reporting Requirements Trainer Eligibility**

- A.** A school administrator shall retain, for Department review and inspection, a written record of:
  - 1. The date and results of a student's hearing screening for no less than three complete school years beginning on the first July 1 after the student's last date of attendance at the school, and
  - 2. All calibration dates for a piece of hearing screening equipment currently used in the school.



- B.** By June 30th of each year, a school administrator shall submit to the Department the following information for the school year ending that June 30th:
1. On a form available from the Department, the number of students by grade in each of the following categories:
    - a. Were enrolled at the time of a first hearing screening;
    - b. Did not have a first hearing screening under R9-13-102(C);
    - c. Had a first hearing screening;
    - d. Did not pass a first hearing screening;
    - e. Had a second hearing screening;
    - f. Did not pass a second hearing screening;
    - g. Were evaluated by an audiologist;
    - h. Were evaluated by a physician or a primary care practitioner;
    - i. Were first diagnosed as deaf or hard of hearing during the current school year; and
    - j. Were diagnosed as deaf or hard of hearing during a prior school year; and
  2. The name of each individual who performed a hearing screening in the school and:
    - a. The individual's license number to practice audiology; or
    - b. Evidence that the individual successfully completed a hearing screening course described in R9-13-107(B) or (C).
- A.** An individual is eligible to be a trainer if the individual meets at least one of the following:
1. Has completed at least 30 semester credits at an accredited college or university related to audiology and speech-language pathology or the equivalent credits from a college or university from outside the United States or its territories verified by a Department-approved third party evaluation service;
  2. Has completed at least two years of employment in a position directly related to and providing assistance in the practice of audiology and speech-language pathology;
  3. Is currently licensed in this state as an audiologist according to A.R.S. Title 36, Chapter 17; or
  4. Is currently a screener who has maintained a hearing screener certificate of completion for the previous five years.
- B.** In addition to subsection (A), an individual who meets the requirement in:
1. Subsection (1) or (2), has completed at least 100 hearing screenings within the previous 12 months from the date of request specified in R9-13-110(C)(9).
  2. Subsection (3), has completed at least 25 hearing screenings within the previous 12 months from the date of request specified in R9-13-110(C)(9).
  3. Subsection (4), has completed 3,000 hearing screenings within the previous five years from the date of request specified in R9-13-110(C)(9).
- C.** Prior to the expiration date of a trainer certificate of completion, a trainer is eligible to renew a certificate of completion if the trainer demonstrates the trainer provided at least two hearing screening trainings for each year during the five-year period that a certificate of completion is valid.
- D.** The practice of a trainer includes:
1. Providing classroom instruction specified in R9-13-108(B) and (C) in a classroom;
  2. Training individuals in hearing screening skills, procedures, and techniques specified in R9-13-108(B) and (C);
  3. Observing and assessing individuals and screeners in the operations of audiological equipment specified in R9-13-108(E);
  4. Administering to individuals a hearing screening examination specified in R9-13-108(D);
  5. Entering an individual's or screener's information in the Department's hearing screening database for issuance of a certificate of completion; and
  6. Providing, if available to the public, notice to the Department indicating what, where, and when classroom instruction, examination, or assessment of competency are scheduled to be provided to individuals to become a screener specified in R9-13-110(C)(8) or R9-13-112(C)(4).
- E.** A trainer who provides instruction to an individual seeking a screener certificate of completion shall:
1. Ensure that:
    - a. Eight hours of classroom instruction is provided, and
    - b. The types of classroom instruction are consistent with R9-13-108; and
  2. Establish a hearing screening record in the Department's hearing screening database for each individual seeking a certificate of completion as a screener that includes:
    - a. The individual's:
      - i. Name,
      - ii. Address,
      - iii. E-mail address, and
      - iv. Telephone number;
    - b. The date the certificate of completion expires;
    - c. The address where the classroom instructions, examination, and assessment were held;
    - d. If applicable, the name of a sponsoring organization, such as a school, school district, or other public agency; and
    - e. Documentation indicating when classroom instruction, examination, and assessment were provided.
- F.** A trainer who provides instruction to a screener who is seeking renewal of certificate of completion shall:
1. Ensure that:
    - a. A hearing screening continuing education units are completed,
    - b. Four hours of classroom instruction is provided, and
    - c. The types of classroom instruction are consistent with R9-13-108(I); and
  2. Update the screener's record in the Department's hearing screening database for each screener seeking renewal of certificate of completion that includes:



- a. The screener's:
  - i. Name.
  - ii. Address.
  - iii. E-mail address, and
  - iv. Telephone number;
- b. The date the certificate of completion expires;
- c. The address where the classroom instructions, examination, and assessment were held;
- d. If applicable, the name of a sponsoring organization, such as a school, school district, or other public agency; and
- e. Documentation indicating when classroom instruction, examination, and assessment were provided.

**G. A trainer shall:**

- 1. Comply with A.R.S. §§ 36-899 through 36-899.04, and
- 2. Comply with this Article.

**R9-13-110. ~~Repealed~~ Trainer Certificate of Completion Request**

- A. An individual may apply for a trainer certificate of completion if the individual meets the eligibility requirements specified in R9-13-109(A) and (B).**
- B. An individual applying for a trainer certificate of completion shall submit a request to the Department at least 30 days prior to November 1 of a calendar year.**
- C. An individual shall provide a request for a trainer certificate of completion to the Department in a Department-provided format that includes:**
  - 1. The individual's:
    - a. Name.
    - b. Address.
    - c. E-mail address, and
    - d. Telephone number;
  - 2. If applicable, the individual's former names;
  - 3. If the individual has completed thirty semester credits specified in R9-13-109(A)(1), the:
    - a. Name of the accredited college or university attended.
    - b. Class title for each class completed, and
    - c. Number of semester credits for each class;
  - 4. If the individual has completed two years of employment specified in R9-13-109(A)(2), the:
    - a. Employer's name.
    - b. Individual's position and description of responsibilities, and
    - c. Months and years of employment;
  - 5. If the individual is a licensed audiologist specified in R9-13-109(A)(3), the:
    - a. Audiologist's license number, and
    - b. Date of expiration;
  - 6. If the individual is a screener specified in R9-13-109(A)(4), who has maintained a hearing screener certificate of completion for the previous five years, the:
    - a. Names of the school districts where the screener provided hearing screenings, and
    - b. Screener's certification of completion date of expiration;
  - 7. Whether the individual completed the hearing screenings specified in R9-13-109(B);
  - 8. An attestation that the individual affirms:
    - a. To provide, if available to the public, notice of hearing screening instruction, examination, or assessment of competency specified in R9-13-109(D) to the Department 30 calendar days prior to providing to individuals to become a screener;
    - b. To provide information for each hearing screening training specified in R9-13-109(C); and
    - c. The information provided in the request for certificate of completion is true and accurate; and
  - 9. The individual's printed name and date of signature.
- D. Within 10 calendar days from the date the Department receives an individual's request for a trainer certificate of completion, the Department shall send a notification to the individual that:**
  - 1. The individual may register to take classroom instruction and written examination, and
  - 2. How the individual may register.
- E. If the Department determines there is a need for additional trainers prior to the November 1 submission date in subsection (B), the Department shall provide:**
  - 1. A notice to the public that trainer certificate of completion requests will be accepted.
  - 2. When an individual may submit a trainer certificate of completion request.
- F. If the Department determines not to accept any trainer certificate of completion requests in subsection (B), the Department shall provide:**
  - 1. A notice to the public that no trainer certificate of completion requests will be accepted.
  - 2. The notice 30 days prior to the November 1 submission date in subsection (B).

**R9-13-111. ~~Repealed~~ Trainer Instruction, Examination, and Observation**

- A. An individual requesting to become a trainer shall complete required classroom instruction, written examination, and observation within 160 calendar days from the date provided in the Department's notification specified in R9-13-110(D).**
- B. An individual, who has received notification from the Department specified in R9-13-110(D), shall attend classroom instruction provided by the Department or designee that includes:**
  - 1. Adult education learning strategies,



2. Sensory curriculum.
  3. Hearing screening protocols, confirm
  4. Audiological equipment, and
  5. Written examination.
- C.** An individual who completes classroom instruction and written examination specified in subsection (B) shall:
1. Pass a written examination with a score of 80% or more;
  2. Obtain written confirmation from the Department or designee that indicates the individual's competency in the use of each type of audiological equipment in subsection (B)(4);
  3. Submit to the Department, in a Department-provided format, a request to schedule hearing screening training observation that includes:
    - a. The individual's:
      - i. Name.
      - ii. Address.
      - iii. E-mail address, and
      - iv. Telephone number;
    - b. The date the individual passed the written examination in subsection (C)(1); and
    - c. The date the individual is requesting the hearing screening training observation; and
  4. Submit the request to take the hearing screening training observation 30 calendar days prior to the individual's requested schedule hearing screening training observation in subsection (3)(c).
- D.** Within 10 calendar days from the date the Department receives an individual's request to schedule a hearing screening training observation, the Department shall send a notification to the individual that:
1. The individual may register for hearing screening training observation, and
  2. How the individual may register.
- E.** An individual who completes hearing screening training observation in subsection (D) shall:
1. Pass the hearing screening training observation with a score of 80% or more; and
  2. Obtain a trainer certificate of completion from the Department or designee.
- F.** Within 10 calendar days from the date an individual passed the hearing screening training observation with a score of 80% or more, the Department shall send the individual a trainer certificate of completion.
- G.** An individual, who does not score at least 80% on a written examination in subsection (D), may take a second written examination no later than 30 calendar days after having taken the first written examination.
- H.** If an individual does not score at least 80% on the second written examination, the individual shall repeat the classroom instruction in subsection (B) before taking a third written examination.
- I.** An individual who does not pass the written examination in subsection (H) shall not be issued a certificate of completion.
- J.** An individual, who does not pass a training observation in subsection (E), may take a second training observation no later than 60 calendar days after having taken the first training observation.
- K.** If an individual does not pass the second training observation, the individual shall repeat the classroom instruction in subsection (B) and written examination in subsection (C) before taking a third training observation.
- L.** An individual who does not pass the training observation in subsection (K) shall not be issued a certificate of completion.
- M.** If an individual does not complete the hearing screening training observation within 160 calendar days in subsection (E), the individual shall reapply for a trainer certificate of completion as specified in R9-13-110.
- N.** By October 1 of each year, if the Department accepts requests specified in R9-13-110(B), the Department will provide a list of Department-approved core curriculum and applicable material related to classroom instruction in subsection (B).
- O.** An individual, who does not pass the written examination or pass the training observation may file an appeal according to A.R.S. Title 41, Chapter 6, Article 10.

**R9-13-112. ~~Renumbered~~ Trainer Certificate of Completion Renewal**

- A.** A trainer's certificate of completion expires five years from the issue date specified on the certificate of completion.
- B.** Except as specified in R9-13-113(H), a trainer shall renew the trainer's certificate of completion every five years.
- C.** At least 60 calendar days before the expiration date of a certificate of completion, a trainer shall submit to the Department a renewal request in a Department-provided format that contains:
1. The trainer's:
    - a. Name.
    - b. Address.
    - c. E-mail address, and
    - d. Telephone number;
  2. For each continuing education course specified in R9-13-113(B) and (C), the following:
    - a. The course title.
    - b. A course description.
    - c. The name of the individual providing the continuing education course.
    - d. The date the continuing education course was completed, and
    - e. The total number of continuing education hours attended;
  3. For each hearing screening training specified in R9-13-109(C), the following:
    - a. Title of the classroom instruction, examination, or assessment provided, as applicable;
    - b. Date and location of the classroom instruction, examination, or assessment provided in subsection (a); and
    - c. Number of attendees;
  4. An attestation that the trainer affirms:



- a. The continuing education courses specified in subsection (2) are applicable and consistent with the Department's approved continuing education courses;
- b. To provide, if available to the public, notice of hearing screening instruction, examination, or assessment of competency specified in R9-13-109(D) to the Department 30 calendar days prior to the trainer providing to individuals to become a screener; and
- c. The information in the request for renewal is true and accurate; and
- 5. The trainer's printed name and date of signature.
- D. Within 10 calendar days from the date a trainer submits a renewal request, the Department shall send the trainer a certificate of completion.
- E. Except as specified in R9-13-113, a trainer who does not submit a trainer renewal request according to this Section 60 calendar days prior to the expiration date of the trainer's certificate of completion, the trainer's certificate of completion expires.
- F. Except as specified in R9-13-113, a trainer who does not complete required continuing education specified in subsection (C)(2) shall apply for a trainer certificate of completion specified in R9-13-110 and R9-13-111.

**R9-13-113. ~~Renumbered~~Trainer Continuing Education**

- A. By January 1 of each calendar year, the Department shall provide a list of Department-approved continuing education courses.
- B. Each calendar year, a trainer, who is not an audiologist, shall complete 10 continuing education units approved by the Department.
- C. Every two calendar years, a trainer, who is an audiologist, shall complete 20 continuing education units approved by the Department.
- D. A trainer shall report continuing education units completed in subsection (B) and (C) as required in a trainer renewal request specified in R9-13-112(C).
- E. By November 1 of a calendar year or every two calendar years, as applicable, a trainer, who was prevented from completing the required continuing education units due to a personal illness or an immediate family member's illness during at least six continuous months of the preceding 12 months, may request to defer continuing education units by submitting to the Department:
  - 1. A notification in a Department-provided format that contains:
    - a. The trainer's:
      - i. Name,
      - ii. Address,
      - iii. E-mail address, and
      - iv. Telephone number;
    - b. A statement regarding the trainer's personal or immediate family member's illness;
    - c. The number of continuing education units the trainer is requesting to defer;
    - d. The date submitted; and
    - e. An attestation that the trainer affirms the information provided in the request to defer continuing education is true and accurate; and
  - 2. The trainer's printed name and date of signature.
- F. If a trainer completed any continuing education units during a calendar year in subsection (B) or every two calendar years in subsection (C), as applicable, report the completed continuing education units specified in R9-12-112(C)(2).
- G. A trainer who defers continuing education units shall obtain the deferred continuing education during the first 180 calendar days of the subsequent calendar year.
- H. A trainer called to active military service shall:
  - 1. Submit a written notice of renewal extension to the Department that includes:
    - a. The trainer's:
      - i. Name,
      - ii. Address,
      - iii. E-mail address, and
      - iv. Telephone number;
    - b. A statement stating the reason for the notice of renewal extension;
    - c. The trainer's signature, including date of signature; and
    - d. A copy of the trainer's deployment documentation;
  - 2. Retain trainer certificate of completion for the term of service or deployment plus 180 calendar days;
  - 3. Defer the requirement for completing the continuing education specified in R9-13-112 for the term of service or deployment plus 180 calendar days; and
  - 4. Submit a renewal request according to R9-13-112 after the term of service or deployment plus 180 calendar days.

**R9-13-114. ~~Repealed~~Requesting a Change**

A trainer requesting a change to personal information shall submit to the Department in a Department-provided format a written notice stating the information to be changed and indicating the new information within 30 calendar days after the effective date of the change.

**R9-13-115. ~~Repealed~~Requirement for Screener or Trainer Certificate of Completion Issued Before Article Effective Date**

- A. If a screener's certificate of completion expires before June 30, 2020, the screener whose certificate of completion includes pure tone audiometry or OAE and wishes to retain screener certificate of completion, shall complete training, examination, and assessment specified in R9-13-108 prior to the certificate's date of expiration.
- B. If a screener's certificate of completion expires after June 30, 2020, the screener whose certificate of completion includes pure tone audiometry or OAE and wishes to retain screener certificate of completion, shall complete training, examination, and assessment specified in R9-13-108 prior to June 30, 2020.
- C. A screener, whose certificate of completion includes both pure tone audiometry and OAE, shall renew current certificate of completion within 30 days prior to the expiration date of the certificate.





**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:**

A study was not referenced or relied upon when revising these regulations.

**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:**

The rulemaking will not diminish a previous grant of authority of a political subdivision.

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

In fiscal year 2017, AHCCCS reimbursed providers for member expenses that met the qualification of prior quarter coverage to the cost of \$21, 347,700. A large portion of those funds are received from the federal government as federal financial participation. If the rulemaking changes are made, the savings would be beneficial to the state as well as other political subdivisions that contribute to these funds.

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

There were no changes between the proposed and final rulemaking.

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

Comment From and Date rec'd.	Comment	Agency Response
<p>Ellen Sue Katz 03/15/18 On behalf of Arizona Center for Disability Law, Arizona Center for Law in the Public Interest, and the William E. Morris Institute for Justice</p>	<p>Dear Office of Administrative Legal Services: The Arizona Center for Disability Law ("ACDL"), Arizona Center for Law in the Public Interest ("Center") and William E. Morris Institute for Justice ("Institute") submit these comments to the Arizona Health Care Cost Containment System ("AHCCCS") rulemaking to eliminate prior quarter coverage as required by 42 C.F.R. § 435.915 from the state Medicaid program, the Arizona Long Term Care System ("ALTCSS") and the Medicare Cost Sharing Program. The ACDL is the protection and advocacy program in Arizona and works on issues concerning access to health care for persons with disabilities. The, Center is a public interest law firm that has a major focus on access to health care issues. The Institute is a non-profit program that advocates on behalf of low income Arizonans. As part of our work, we focus on public benefit programs, such as Medicaid.  The ACDL, Center and Institute strongly supported Arizona's decision to restore Medicaid services to the Proposition 204 adults and to expand Medicaid to all persons with incomes up to 138% of the federal poverty level, with income disregard of 5%. Arizona's restoration and expansion have been highly successful. Approximately 1.9 million persons are on AHCCCS as of January 2018. <a href="http://www.azahcccs.gov/Resources/Downloads/PopulationStatistics/2018/Jan/AHCCCS_Populations_by_Category.pdf">www.azahcccs.gov/Resources/Downloads/PopulationStatistics/2018/Jan/AHCCCS_Populations_by_Category.pdf</a>. Of this number, 313,000 are the Proposition 204 population (0-100% of federal poverty level) and 80,300 are the adult expansion (100-133% of the federal poverty level).  AHCCCS' rulemaking proposes to eliminate prior quarter coverage required by 42 U.S.C. § 1396a(a)(34) and 42 C.F.R. § 435.915. Prior quarter coverage provides applicants for medical coverage with eligibility starting the date of application and going back up to three, months as long as the person was eligible for coverage. The agency's justification for the proposed rulemaking is that it has requested a waiver of this requirement from the federal government pursuant to 42 U.S.C. § 1315(a), and on the assumption that if the waiver is granted, AHCCCS wants to implement the change without any delay.  AHCCCS' sole reason for the rulemaking is to save money. In fiscal year 2017, AHCCCS states it reimbursed medical providers \$21,347,700 for prior quarter coverage. Of this amount only 9% (\$1,983,800) came from the state funds because of the high reimbursement rate provided by the federal government.  AHCCCS proposes to repeal Prior Quarter Eligibility from the state Medicaid program in R9-22-303 and R9-22-191 O (Freedom to Work) and amend by deletion the requirement or a reference to the requirement from R9-22-202 (F)(4), R9-22-703(H), R22-1202(D)(I) and R9-22-1501(F). For the ALTCSS program, AHCCCS proposes to amend R9-28-401.0l(D)(I). Finally, for the Medicare Cost Sharing Program, AHCCCS proposes to amend R9-29-210(C)  For the reasons below, the ACDL, Center and the Institute request that the proposed rulemaking not be approved.  <b>I. Prior Quarter Coverage is an Important Part of the Medicaid, ALTCSS and Medicare Cost Sharing Programs</b>  When the Medicaid retroactive coverage guarantee was established in 1972, the Senate Finance Committee noted that the provision would "protect[] persons who are eligible for [M]edicaid but do not apply for assistance until after they have received care, either because they did not know about the [M]edicaid eligibility requirements or because the sudden nature of their illness prevented their applying." Senate Report No. 92-1230 at 209 (Discussing Section 255 of H.R. 1) (Sept. 26, 1972). This statement is</p>	<p>AHCCCS thanks Ms. Katz for her comments and her ongoing involvement with AHCCCS' member populations. AHCCCS has requested a waiver to make changes to its Title XIX program. The purpose of the waiver from prior quarter coverage, and the corresponding repeal of the prior quarter coverage rules, are to further the objectives of the Medicaid Act. Although, the approval of the prior quarter coverage waiver will result in decreased cost to the State, the request was not submitted exclusively as a cost-saving measure.  The waiver amendment is intended to promote the objectives of Title XIX by encouraging beneficiaries to obtain and maintain health coverage, even when healthy. The Administration believes this will improve continuity of care by reducing gaps in coverage when beneficiaries previously would transition often on and off Medicaid or sign up for Medicaid only when sick. Specifically, for those who are aged, blind or disabled, or who may need long-term services and supports through Medicaid, this waiver will encourage beneficiaries to apply for Medicaid when they believe they meet the criteria for eligibility to ensure primary or secondary coverage through Medicaid to receive these services when the need arises. This waiver amendment will improve the alignment between Medicaid and</p>



<p>Ellen Sue Katz (<i>cont'd</i>)</p>	<p>just as true now as it was 45 'years ago. A person in need of health care cannot be expected to make instantaneous applications for Medicaid coverage. She may be hospitalized after an accident or unforeseen medical emergency. She may also be unfamiliar with Medicaid, or unsure about' when her declining financial resources might fall within the Medicaid eligibility threshold. The three-month retroactivity window is a rational and humane response to these concerns. Retroactive eligibility is only available to persons who meet Medicaid eligibility standards for the month[s] in question. The same arguments apply to the AL TCS and Medicare Cost Sharing programs.</p> <p>Because all the affected persons are low-income and Medicaid eligible, elimination of the prior quarter coverage will simply shift the cost of care to medical facilities who with reduced funding for uncompensated care, may not be able to obtain reimbursement. With the expansion of Medicaid coverage to more persons, the Affordable Care Act ("ACA") intended to reduce the number of persons who were uninsured. Correspondingly, the ACA also reduced the Disproportionate Share Hospital Program ("DSH") that provided additional funds to hospitals for uncompensated care under Medicaid and Medicare. <i>See</i> "Q and A: Disproportionate Share Hospital Payments and the Medicaid Expansion." <a href="https://www.healthlaw.org/issues/medicaid/qadisporportionate-share-hospital-payments-and-the-medicaid-expansion">https://www.healthlaw.org/issues/medicaid/qadisporportionate-share-hospital-payments-and-the-medicaid-expansion</a>. This proposed rulemaking conflicts with that intent to provide coverage directly on behalf of the uninsured and, instead, will result in more medical facilities providing uncompensated care with no available federal funds to cover their costs.</p> <p>Finally, this proposal is very short-sighted. While in one year, the state may save \$1,983,800, it will forgo approximately 20 million dollars in federal payments that could provide medical care for persons all over the state. To spend one dollar and get nine dollars back is a great return on the use of state funds in general and in this case the funds go to provide much needed medical care for our most vulnerable Arizonans. As these numbers show, prior quarter coverage is truly a win-win situation.</p> <p><b>II. AHCCCS' Request for a Waiver under 42 U.S.C. § 1315 Must Promote the Objectives of the Medicaid Act and Test Experimental Goals</b></p> <p>AHCCCS predicates its proposed rulemaking on the waiver request it submitted to the federal government that it be allowed to not provide prior quarter coverage. A waiver request must meet very specific criteria. The Social Security Act grants the Secretary of the United States Department of Health and Human Services limited authority to waive the requirements of the Medicaid Act. The Social Security Act allows the Secretary grant a "[w]aiver of State plan requirements" in 42 U.S.C. § 1396a in the case of an "experimental, pilot, or demonstration project." 42 U.S.C. § 1315(a) ("section 1315"). The Secretary may only approve a project which is "likely to assist in promoting the objectives" of the Title XIX and may only "waive compliance with any of the requirements [of the act] ... to the extent and for the period necessary" for the state to carry out the project. <i>Id.</i> AHCCCS' waiver amendment requests would impede rather than promote the objectives of the Medicaid program by creating unnecessary barriers to enrollment and access to care.</p> <p>Legislative history confirms that Congress meant for section 1315 projects to test experimental ideas. According to Congress, section 1315 was intended to allow only for "experimental projects designed to test out new ideas and ways of dealing with the problems of public welfare recipients" that are "to be selectively approved," "designed to improve the techniques of administering assistance and related rehabilitative services," and "usually cannot be statewide in operation." S. Rep. No. 87-1589, at 19-20, <i>as reprinted in</i> 1962 U.S.C.A.N. 1943, 1961-62, 1962 WL 4692 (1962). <i>See also</i> H. R. Rep. No. 3982, pt. 2 at 307-08 (1981) ("States can apply to HHS for a waiver of existing law in order to test a unique approach to the delivery and financing of services to Medicaid beneficiaries.").</p> <p>In addition, the Secretary is bound by the Ninth Circuit's precedent for any waiver requests under 42 U.S.C. § 1315. The Ninth Circuit described section 1315's application to "experimental; pilot or demonstration" projects as follows:</p> <p>"The statute was not enacted to enable states to save money or to evade federal requirements but to 'test out new ideas and ways of dealing with the problems of public welfare recipients'. [Citation omitted]. . . . A simple benefits cut, which might save money, but has no research or experimental goal, would not satisfy this requirement." <i>Beno v. Shalala</i>, 30 F.3d 1057, 1069 (9th Cir. 1994).</p> <p>AHCCCS' waiver request must meet these requirements. As explained below, AHCCCS' waiver request fails to establish any demonstration value and instead is a cost saving proposal only.</p> <p><b>III. AHCCCS' Waiver Request Serves No Experimental Purpose, Creates Barriers to Health Care and Will Impede, Not Further, the Objectives of the Medicaid Act</b></p> <p>The only reason for the proposed rulemaking is AHCCCS' pending waiver request. The waiver request does not serve any valid experimental purpose and, moreover, represents bad policy for low-income Arizonans and working Arizonans with disabilities who need coverage. Such a limit on access to Medicaid only creates a barrier to access to care and does not promote the objectives of the Medicaid Act. Moreover, AHCCCS proposes to limit prior quarter coverage solely to save money. AHCCCS concedes this is solely a request to save money. As explained above, a proposal to save money, is not a valid reason for a Section 1315 waiver. <i>See Beno</i>, 30 F.3d at 1069.</p> <p>The waiver request has no evidentiary or experimental basis and will impede not further access to care and the objectives of the Medicaid Act. Therefore, the proposed rulemaking based on the flawed waiver request should not be approved.</p>	<p>commercial coverage to facilitate smoother beneficiary transition. Because the prior quarter coverage eligibility process is resource-intensive, repealing prior quarter coverage eligibility will allow the Agency to utilize resources more effectively and efficiently.</p> <p>The federal funds Ms. Katz is concerned will no longer be available to the Administration following this repeal, were funds exclusively available for the prior quarter coverage requirement.</p>
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<p>Jennifer A. Carusetta 03/16/18 Executive Director, Health System Alliance of Arizona</p>	<p><b>Conclusion</b> For all the above reasons, the proposed rulemaking should not be approved. Thank you for the opportunity to comment on the proposed rulemaking. If you have any questions concerning this letter, please contact Ellen Katz at (602) 252-3432 or at <a href="mailto:eskatz@qwestoffice.net">eskatz@qwestoffice.net</a> or Rose Daly-Rooney at 520-327-9547, ext. 323.</p> <p>The purpose of this letter is to provide comment on the Notice of Proposed Rule-Making: Prior Quarter Coverage.</p> <p>As stated in previous correspondence on the proposed Waiver Amendment, prior quarter coverage has proven to be a critical source of reimbursement for hospital systems, who are required to provide care to patients in emergencies, regardless of whether they have healthcare coverage or not. Despite the decreasing rate of uninsured in our communities, we still see uninsured in our emergency departments. Prior quarter coverage, which provides reimbursement for medical bills incurred during months of eligibility in the quarter prior to AHCCCS enrollment, provides a critical opportunity for hospitals to obtain reimbursement for what would otherwise be uncompensated care.</p> <p>As noted previously, behavior between the Medicaid and commercially insured populations does tend to be aligned in most instances. However, one critical difference is that we do tend to see more “churn” in coverage in the Medicaid population, who are more frequently engaged in part-time and seasonal employment, than in the commercially insured population. For this reason, coverage for individuals in the Medicaid population will be more inconsistent than it is for those in the commercial market. Prior quarter coverage provides an important “stopgap” in coverage for those Medicaid enrollees who may move in and out of employment throughout the year. The availability of prior quarter coverage assures that eligible expenses incurred during a period of employment when a person may not have access to healthcare coverage will be covered and will not become an incurred medical debt or uncompensated cost to our healthcare delivery system.</p> <p>Finally, when commenting on the Proposed Waiver Amendment, we made the request that fiscal analysis be conducted on the impact of eliminating prior quarter coverage on our hospital systems in Arizona. While we understand that an analysis was conducted on the impact of this repeal on the entire healthcare industry, this analysis was not specific to hospital systems, who as the safety net providers charged with providing emergency care for the uninsured regardless of coverage, will bear the majority of this impact. We find it concerning that this rule is being promulgated absent a full understanding of what economic impact this policy change will have on this critical network of care.</p> <p>I sincerely appreciate your consideration and am happy to answer any questions or provide additional information.</p>	<p>AHCCCS thanks Ms. Carusetta for her comments. The waiver amendment is intended to promote the objectives of Title XIX by encouraging beneficiaries to obtain and maintain health coverage, even when healthy. The Administration believes this will improve continuity of care by reducing gaps in coverage when beneficiaries previously would transition often on and off Medicaid or sign up for Medicaid only when sick. Specifically, for those who are aged, blind or disabled, or who may need long-term services and supports through Medicaid, this waiver will encourage beneficiaries to apply for Medicaid when they believe they meet the criteria for eligibility to ensure primary or secondary coverage through Medicaid to receive these services when the need arises. Those beneficiaries who obtain coverage, either through Medicaid or commercial insurance, will then have existing resources available to pay for the medical services they receive, whether emergent or non-emergent.</p>
<p>Jason Barraza 10/29/18 Senior Associate Director – Veridus LLC; On behalf of N.J. Ebtan, CEO – Palo Verde Behavioral Health, Randy Rios, CEO – Valley Hospital Mental Health and Chemical Dependency Care, and David Carahan, CEO – Quail Run Behavioral Health</p>	<p>As healthcare leaders representing three Arizona behavioral Health hospitals, we are writing to express our concern regarding AHCCCS’s request to waive prior quarter coverage of Medicaid for those patients in need of inpatient psychiatric treatment. The current proposal provides retroactive coverage back to the beginning of the month in which the application was filed. This change will create significant gaps in AHCCCS enrollees’ coverage.</p> <p>This proposal will have a unique impact on enrollees’ needing inpatient psychiatric treatment. Patients admitted to a behavioral health hospital are typically suicidal, homicidal or experiencing severe psychiatric symptoms which include hallucinations, delusions or paranoia. These patients may not have had Medicaid coverage, or they may be unaware that their coverage has lapsed.</p> <p>Our business office meets with all uninsured patients within 24 hours of admission. At that time, we assist the patient with submitting their Medicaid application. However, due to the severity of their illness there are many instances whereby patients may be uncooperative or unable to provide the necessary information. However, in several days with treatment, their symptoms typically improve to a point whereby they are able to assist us in submitting their application.</p> <p>If the proposed waiver is granted there will be patients admitted at the end of one month but unable to assist us in submitting an application until on or after the first day of the next month. This circumstance will undoubtedly leave AHCCCS enrollees uninsured for a portion of their stay for which they would be legally responsible. While I believe this was not the intended outcome, this is obviously unfair to AHCCCS enrollees as well as this hospital.</p> <p>I respectfully request that you consider an alternative waiver plan. This plan would permit clients in need of psychiatric inpatient hospitalization a retroactive period of 30 days from the date the application was filed. I believe that this change would allow your members and our hospital the necessary time to gather the information needed to submit a Medicaid application.</p>	<p>AHCCCS thanks Mr. Barraza for his comments and those of his clients. The waiver amendment is intended to promote the objectives of Title XIX by encouraging beneficiaries to obtain and maintain health coverage, even when healthy. The Administration believes this will improve continuity of care by reducing gaps in coverage when beneficiaries previously would transition often on and off Medicaid or sign up for Medicaid only when sick.</p>



<p>Jason Barraza (<i>cont'd</i>)</p>	<p>I believe that this alternative waiver plan will improve your members adherence to the objectives of the Medicaid program by (1) encouraging them to obtain and maintain health coverage, even when healthy; (2) encouraging them to apply for Medicaid without delay, to promote continuity of eligibility and enrollment for improved health status; and (3) containing Medicaid costs. I also believe that our proposal will continue to support your goal of sustainability of the Medicaid program and focus resources on providing accessible and high-quality health care while still limiting the resource-intensive process associated with prior quarter coverage eligibility.</p>	<p>While the language of the rule is the same as that in the CMS waiver request, AHCCCS is in continued conversation with these providers to determine a path forward that is best for all parties, with the health of AHCCCS Members as a priority for the Administration.</p>
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**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 have been prescribed.

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

The rule does not require a permit.

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

The rules were updated to align with CMS's requirement that AHCCCS implement prior quarter coverage eligibility rules found at 42 CFR 435.915. This regulation requires the Administration to provide Prior Quarter (PQ) eligibility. However, the Administration is submitting a new waiver amendment whereby AHCCCS would be exempted from the prior quarter coverage eligibility requirement similar to the waivers recently approved by CMS for other States and similar to the waiver previously approved for Arizona. This rulemaking will proceed only if the waiver amendment is approved by CMS.

**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 material is 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:**

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

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

**TITLE 9. HEALTH SERVICES**

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

**ARTICLE 3. GENERAL ELIGIBILITY REQUIREMENTS**

Section

R9-22-303. Prior Quarter Eligibility

**ARTICLE 3. GENERAL ELIGIBILITY REQUIREMENTS**

**R9-22-303. Prior Quarter Eligibility**

**A.** ~~Prior Quarter eligibility shall be effective no earlier than January 1, 2014. An applicant may be eligible during any of the three months prior to application if the applicant~~ Subject to CMS approval, prior quarter coverage eligibility shall be limited to applicants who meet the requirements in (B) and who also:

1. ~~Received one or more covered services described in 9 A.A.C. 22, Article 2 and Article 12, and 9 A.A.C. 28, Article 2 during the month~~ Are eligible during any of the three months prior to application; and
2. ~~Would have qualified for Medicaid at the time services were received if the person had applied regardless of whether the person is alive when the application is made.~~ Received one or more covered services described in 9 A.A.C. 22, Article 2 and Article 12, and 9 A.A.C. 28, Article 2 during the month; and
3. ~~Would have qualified for Medicaid at the time services were received if the person had applied regardless of whether the person is alive when the application is made.~~

**B.** ~~The Prior Quarter requirements do not apply to~~ Prior quarter coverage eligibility is limited to applicants who are:

1. Qualified Medicare Beneficiaries Under the age of 19, or
2. KidsCarePregnant, or
3. In the 60 day post-partum period beginning with the last day of the pregnancy.



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

[R19-136]

PREAMBLE

- 1. Article, Part, or Section Affected (as applicable) Rulemaking Action
2. Citations to the agency's statutory authority to include the authorizing statute (general) and the implementing statute (specific):
3. The effective date of the rules:
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 rule:
5. The agency's contact person who can answer questions about the rulemaking:
6. An agency's justification and reason why the rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:



administer the taxidermy registration program. The Commission proposes to adopt a rule to establish circumstances that will cause the Department to deny a taxidermy registration. Causes for denial include: the applicant fails to meet the requirements established under the new rule, the applicant provides false information during the application process, or the applicant provides false information in the register required under A.R.S. § 17-363(B). The Commission also proposes to adopt a rule to establish that an applicant who is denied a taxidermist registration may appeal the denial to the Commission as prescribed under A.R.S. Title 41, Chapter 6, Article 10.

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

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

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

Not applicable

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

The Commission's intent in proposing the amendments is to ensure compliance with recent legislative amendments, provide better customer service to persons seeking to conduct wildlife related activities in Arizona, and increase efficiency in administering the taxidermy registration.

Previously, the taxidermy license was administered under the statutory authority provided under A.R.S. § 17-363; which required any person who engages in taxidermy to obtain a license from the Department and keep a register of the names and addresses of persons who furnish raw and unmounted specimens, the taker's tag or license number, and the date and number of each species of wildlife received. On request, the taxidermist was required to provide the register information to any authorized representative of the Department and the U.S. Fish and Wildlife Services upon request. Additionally, the taxidermist was required to file quarterly reports with the Department that included the taxidermist's register information.

The rulemaking simply implements the statute to require a taxidermist to register with the Department, maintain a register for five years after the date wildlife is received; and file a copy of the register with the Department by January 31 of each year.

In addition, the Commission proposes to reduce the associated fee to \$100 (from \$150).

The Department believes the rule imposes the least burdens and costs on persons regulated by the rule.

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

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

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

The Notice of Proposed Rulemaking was published in the Arizona Administrative Register on February 8, 2019; the official public comment period began February 8, 2019 and ended on March 8, 2019. The Department also sent correspondence to all currently licensed taxidermists explaining the proposed rulemaking and soliciting comments regarding the proposed changes included in the Notice of Proposed Rulemaking and the Department's contact information for persons interested in submitting a comment. The Department did not receive any public or stakeholder comments in response to the proposed rulemaking.

**12. All agency's 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 Taxidermy Registration described in R12-4-204 falls within the definition of "general permit" as defined under A.R.S. § 41-1001(11). The rule complies with A.R.S. § 41-1037.

No other rules included in this rulemaking package 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 rule. The rule is 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.

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

Not applicable

**14. Whether the rule previously made, amended, or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-4-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:**

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

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



TITLE 12. NATURAL RESOURCES
CHAPTER 4. GAME AND FISH COMMISSION

ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS

- Section
R12-4-102. License, Permit, Stamp, and Tag Fees
R12-4-106. Special Licenses Licensing Time-frames

ARTICLE 2. LICENSES; PERMITS; STAMPS; TAGS

- Section
R12-4-204. Repealed Taxidermy Registration; Register

ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS

R12-4-102. License, Permit, Stamp, and Tag Fees

- A. A person who purchases a license, tag, stamp, or permit listed in this Section shall pay at the time of purchase all applicable fees prescribed under this Section or the fees the Director authorizes under R12-4-115.
B. A person who applies to purchase a hunt permit-tag shall submit with the application all applicable fees using acceptable forms of payment as required under R12-4-104(F) and (G).
C. As authorized under A.R.S. § 17-345, the license fees in this section include a \$3 surcharge, except Youth and High Achievement Scout licenses.

Table with 3 columns: Hunting and Fishing License Fees, Resident, Nonresident. Rows include General Fishing License, Community Fishing License, General Hunting License, etc.

Table with 3 columns: Hunt Permit-tag Fees, Resident, Nonresident. Rows include Antelope, Bear, Bighorn Sheep, Buffalo, etc.



Youth	\$10	\$10
Sandhill Crane	\$10	\$10

Nonpermit-tag and Restricted Non-permit-tag Fees	Resident	Nonresident
Antelope	\$90	\$550
Bear	\$25	\$150
Buffalo		
Adult Bulls or Any Buffalo	\$1,100	\$5,400
Adult Cows	\$650	\$3,250
Yearling	\$350	\$1,750
Cow or Yearling	\$650	\$3,250
Deer	\$45	\$300
Youth	\$25	\$25
Elk	\$135	\$650
Youth	\$50	\$50
Javelina	\$25	\$100
Youth	\$15	\$15
Mountain Lion	\$15	\$75
Turkey	\$25	\$90
Youth	\$10	\$10
Sandhill Crane	\$10	\$10

Stamps and Special Use Fees	Resident	Nonresident
Arizona Colorado River Special Use Permit Stamp. For use by California and Nevada licensees	Not available	\$3
Bobcat Seal	\$3	\$3
State Migratory Bird Stamp	\$5	\$5

Other License Fees	Resident	Nonresident
Fur Dealer's License	\$115	\$115
Guide License	\$300	\$300
License Dealer's License	\$100	\$100
License Dealer's Outlet License	\$25	\$25
Taxidermist License Registration	<del>\$150</del> \$100	<del>\$150</del> \$100
Trapping License	\$30	\$275
Youth	\$10	\$10

Administrative Fees	Resident	Nonresident
Duplicate License Fee	\$4	\$4
Application Fee	\$13	\$15

D. A person desiring a replacement of a Migratory Bird or Arizona Colorado River Special Use Permit Stamp shall repurchase the stamp.

**R12-4-106. Special Licenses Licensing Time-frames**

- A. For the purposes of this Section, the following definitions apply:
- “Administrative review time-frame” has the same meaning as prescribed under A.R.S. § 41-1072(1).
  - “License” means any permit or authorization issued by the Department and listed under subsection (H).
  - “Overall time-frame” has the same meaning as prescribed under A.R.S. § 41-1072(2).
  - “Substantive review time-frame” has the same meaning as prescribed under A.R.S. § 41-1072(3).
- B. As required under A.R.S. § 41-1072 et seq., within the overall time-frames listed in the table below, the Department shall either:
1. Grant a license to an applicant after determining the applicant meets all of the criteria required by statute and the governing rule; or
  2. Deny a license to an applicant when the Department determines the applicant does not meet all of the criteria required by statute and the governing rule.
    - a. The Department may deny a license at any point during the review process if the information provided by the applicant demonstrates the applicant is not eligible for the license as prescribed under statute or the governing rule.



- b. The Department shall issue a written denial notice when it is determined that an applicant does not meet all of the criteria for the license.
- c. The written denial notice shall provide:
  - i. The Department's justification for the denial, and
  - ii. When a hearing or appeal is authorized, an explanation of the applicant's right to a hearing or appeal.
- C. During the overall time-frame:
  - 1. The applicant and the Department may agree in writing to extend the overall time-frame.
  - 2. The substantive review time-frame shall not be extended by more than 25% of the overall time-frame.
- D. An applicant may withdraw an application at any time.
- E. The administrative review time-frame shall begin upon the Department's receipt of an application.
  - 1. During the administrative review time-frame, the Department may return to the applicant, without denial, an application that is missing any of the information required under R12-4-409 and the rule governing the specific license. The Department shall issue to the applicant a written notice that identifies all missing information and indicates the applicant has 30 days in which to return the missing information.
  - 2. The administrative review time-frame and the overall time-frame listed for the applicable license under this Section are suspended from the date on the notice until the date the Department receives the missing information.
  - 3. If an applicant fails to respond to a request for missing information within 30 days, the Department shall consider the application withdrawn.
- F. The substantive review time-frame shall begin when the Department determines an application is complete.
  - 1. During the substantive review time-frame, the Department may make one comprehensive written request for additional information. The written notice shall:
    - a. Identify the additional information, and
    - b. Indicate the applicant has 30 days in which to submit the additional information.
    - c. The Department and the applicant may mutually agree in writing to allow the agency to submit supplemental requests for additional information.
    - d. If an applicant fails to respond to a request for additional information within 30 days, the Department shall consider the application withdrawn.
  - 2. The substantive review time-frame and the overall time-frame listed for the applicable license under this Section are suspended from the date on the request until the date the Department receives the additional information.
- G. If the last day of the time-frame period falls on a Saturday, Sunday, or an official State holiday, the Department shall consider the next business day the time-frame period's last day. All periods listed are:
  - 1. Calendar days, and
  - 2. Maximum time periods.
- H. The Department may grant or deny a license in less time than specified below.

**Table 1. Time-Frames**

Name of Special License	Governing Rule	Administrative Review Time-frame	Substantive Review Time-frame	Overall Time-frame
Aquatic Wildlife Stocking Permit	R12-4-410	10 days	170 days	180 days
Authorization for Use of Drugs on Wildlife	R12-4-309	20 days	70 days	90 days
Challenged Hunter Access/Mobility Permit	R12-4-217	1 day	29 days	30 days
Crossbow Permit	R12-4-216	1 day	29 days	30 days
Disabled Veteran's License	R12-4-202	1 day	29 days	30 days
Fishing Permits	R12-4-310	10 days	20 days	30 days
Game Bird License	R12-4-414	10 days	20 days	30 days
Guide License	R12-4-208	10 days	20 days	30 days
License Dealer's License	R12-4-105	10 days	20 days	30 days
Live Bait Dealer's License	R12-4-411	10 days	20 days	30 days
Pioneer License	R12-4-201	1 day	29 days	30 days
Private Game Farm License	R12-4-413	10 days	20 days	30 days
Scientific Collecting Permit	R12-4-418	10 days	20 days	30 days
Small Game Depredation Permit	R12-4-113	10 days	20 days	30 days
Sport Falconry License	R12-4-422	10 days	20 days	30 days
<u>Taxidermy Registration</u>	<u>R12-4-204</u>	<u>10 days</u>	<u>20 days</u>	<u>30 days</u>
Watercraft Agents	R12-4-509	10 days	20 days	30 days
White Amur Stocking License	R12-4-424	10 days	20 days	30 days
Wildlife Holding License	R12-4-417	10 days	20 days	30 days
Wildlife Rehabilitation License	R12-4-423	10 days	50 days	60 days
Wildlife Service License	R12-4-421	10 days	50 days	60 days



Zoo License	R12-4-420	10 days	20 days	30 days
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**ARTICLE 2. LICENSES; PERMITS; STAMPS; TAGS**

**R12-4-204. Taxidermy Registration; Register**

- A.** A person shall register with the Department before engaging in the business of taxidermy for hire. A taxidermy registration authorizes a person to mount, refurbish, maintain, restore, or preserve wildlife as defined under A.R.S. § 17-101.
- B.** A taxidermy registration expires on December 31 of each year.
- C.** The Department shall deny a taxidermy registration when the applicant:
  - 1. Fails to meet the requirements established under this Section;
  - 2. Provides false information during the application process; or
  - 3. Provides false information in the register required under A.R.S. § 17-363(B).
- D.** The Department shall provide written notice to the applicant stating the reason for the denial. The applicant may appeal the denial to the Commission as prescribed under A.R.S. Title 41, Chapter 6, Article 10.
- E.** A person may apply for a taxidermy registration by paying the applicable fee and submitting an application to the Department. The application form is available on the Department's website. A taxidermy registration applicant shall provide all of the following information:
  - 1. The applicant's information:
    - a. Name;
    - b. Date of birth;
    - c. Department identification number, when applicable;
    - d. Mailing address, when applicable;
    - e. Physical address;
    - f. Telephone number, when available;
    - g. Email address, when available; and
  - 2. The applicant's business information:
    - a. Name;
    - b. Mailing address;
    - c. Email address;
    - d. Website URL address, if available;
    - e. Business telephone number, when applicable;
    - f. Calendar year for which the application is made; and
    - g. Whether the applicant is seeking renewal of an existing taxidermy registration.
  - 3. Affirmation that the information provided on the application is true and accurate; and
  - 4. Applicant's signature and date.
- F.** A registered taxidermist may submit an application for renewal of a taxidermy registration after December 1 of the year it was issued.
- G.** A registered taxidermist shall maintain a register of all persons who furnish raw and unmounted wildlife specimens for taxidermy service using the form available on the Department's website.
  - 1. This register shall be:
    - a. Maintained for a period of five years after the date the raw and unmounted wildlife specimens were received;
    - b. Provided upon request to an employee of the Department; and
    - c. Filed with the Department on or before January 31 of each year.
  - 2. This register shall contain all of the following information, as applicable:
    - a. The registered taxidermist's information:
      - i. Name;
      - ii. Taxidermy registration number;
      - iii. Email address, when available; and
    - b. The customer's or potential customer's:
      - i. Name;
      - ii. Address;
      - iii. Taker's tag or license number;
      - iv. Species and number of wildlife received;
      - v. Date wildlife received; and
    - c. A signed affirmation from the registered taxidermist that the information provided in the register is true and accurate.
  - 3. The taxidermy renewal registration becomes invalid if the register is not submitted to the Department by January 31 of the year following registration.
- H.** As authorized under A.R.S. § 17-363(C), the Commission may revoke or suspend the taxidermy registration of a person convicted of violating any provision of A.R.S. § 17-363 or requirement established under this Section.



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

[R19-137]

PREAMBLE

- 1. Article, Part, or Section Affected (as applicable) Rulemaking Action
2. Citations to the agency's statutory authority to include the authorizing statute (general) and the implementing statute (specific):
3. The effective date of the rules:
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 rule:
5. The agency's contact person who can answer questions about the rulemaking:
6. An agency's justification and reason why the rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:



the nonresident off-highway vehicle user indicia prescribed under A.R.S. § 28-1177.

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

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

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

Not applicable

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

The Commission anticipates the proposed rulemaking will have a positive economic impact on the provider of an educational course of instruction that is approved by the Department. A course provider is not required to have the course approved by the Department. However, there is an economic advantage to obtaining the Department's approval because under A.R.S. § 28-1174(G) a judge may require a person who violates the statute to take an approved course. The provider of an approved course may also charge any fee up to the course fee established in this rulemaking. In determining the maximum fee that the provider of an approved educational course of instruction in off-highway vehicle safety and environmental ethics may charge, the Director reviewed fees currently charged for related courses. For example: the Motorcycle Safety Foundation currently charges \$185 for basic rider training; the ATV Safety Institute charges \$55 to \$150 for ATV Rider training depending on the student's age. The Director set the maximum fee at an amount believed to be consistent with fees currently charged, allowing for market competition among providers and enabling providers to increase the fee over time. Because of the course fee, the rulemaking may have economic impact on those who participate in an approved course, either voluntarily or under court order. However, the Department offers a low-cost online course to the public through Kalkomey Enterprises, LLC; and has partnered with the Recreational Off-highway Vehicle Association and the ATV Institute to offer no-fee online courses.

The Commission anticipates a minimal economic impact to qualified persons and business entities seeking to operate OHVs, as defined under A.R.S. § 28-1177. Depending on the owner's declared use, costs may include additional administrative expenses for preparing the prescribed application and a nominal user fee for each ATV (all-terrain vehicle) or OHV registered with the Department under A.R.S. § 28-1179.

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

R12-4-1002(A) was amended to include the title of the Department's OHV Law Enforcement Program Manager to further clarify where and to whom a person may submit a request for course approval.

In addition, minor grammatical and style corrections were made at the request of the Governor's Regulatory Review Council staff.

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

The Notice of Proposed Rulemaking was published in the *Arizona Administrative Register* on January 18, 2019; the official public comment period began January 18, 2019 and ended on February 18, 2019. The Department also issued a press release regarding the proposed changes included in the Notice of Proposed Rulemaking and the Department's contact information for persons interested in submitting a comment. The Department did not receive any public or stakeholder comments in response to the proposed rulemaking.

**12. All agency's 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 authorization for an approved course described in R12-4-1002 falls within the definition of "general permit" as defined under A.R.S. § 41-1001(11). The rule complies with A.R.S. § 41-1037.

The Nonresident Off-highway Vehicle User Indicia described in R12-4-1005 falls within the definition of "general permit" as defined under A.R.S. § 41-1001(11). The rule complies with A.R.S. § 41-1037.

No other rules included in this rulemaking package 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 rule. The rule is 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.

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

Society of Automotive Engineers, J1287, Measurement of Exhaust Sound Pressure Levels of Stationary Motorcycles, April 2017, available from SAE International, 400 Commonwealth Dr., Warrendale, PA 15096 or online at [www.sae.org](http://www.sae.org), incorporated under R12-4-1004.

International Organization for Standardization, ISO5130:2007, Acoustics--Measurements of Sound Pressure Level Emitted by Stationary Road Vehicles, 2077, available from American National Standards Institute, Attention Customer Service Department, 25



W. 43rd St., 4th Floor, New York, NY 10056 or online at www.iso.org, incorporated under R12-4-1004.

**14. Whether the rule previously made, amended, or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-4-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:**

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

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

**TITLE 12. NATURAL RESOURCES  
CHAPTER 4. GAME AND FISH COMMISSION**

**ARTICLE 10. ~~RESERVED~~ OFF-HIGHWAY VEHICLES**

Section

- R12-4-1001. Minimum Standards for an Approved Off-highway Vehicle Educational Course
- R12-4-1002. Course-approval Procedure
- R12-4-1003. Fee for an Approved Course
- R12-4-1004. Off-highway Vehicle Sound-level Requirements
- R12-4-1005. Nonresident Off-highway Vehicle User Indicia

**ARTICLE 10. ~~RESERVED~~ OFF-HIGHWAY VEHICLES**

**R12-4-1001. Minimum Standards for an Approved Off-highway Vehicle Educational Course**

The Department may approve an educational course of instruction in basic off-highway vehicle (OHV) safety and environmental ethics, provided the course meets the following minimum standards:

1. Course content. The course shall provide information regarding:
  - a. OHV safety;
  - b. Responsibilities of users of OHVs;
  - c. Use of an OHV in a manner that does not harm the natural terrain, plants, or animals;
  - d. Use of an OHV in a manner that minimizes air pollution; and
  - e. State statutes and rules regarding use of OHVs.
2. Course procedures. The course provider shall:
  - a. Use a written examination to measure the extent to which a participant learned the course content; and
  - b. Provide a certificate of completion to a participant who receives a score of 80% or above on the written examination or that demonstrates an equivalent proficiency.

**R12-4-1002. Course-approval Procedure**

**A.** To obtain approval of an educational course of instruction in basic off-highway vehicle (OHV) safety and environmental ethics, the course provider shall submit an application to the Department's OHV Law Enforcement Program Manager using a form furnished by the Department. The provider shall include the following information on the application form:

1. Name of provider;
2. If the provider is not an individual, the name of the person who will maintain contact with the Department;
3. Business address;
4. Business email address; and
5. Business and contact telephone numbers.

**B.** In addition to the application form required under subsection (A), a provider shall include a copy of all of the following:

1. The curriculum that will be used to provide the educational course;
2. Any materials that will be provided to course participants;
3. The written examination required under R12-4-1001(2)(a); and
4. The certificate of completion required under R12-4-1001(2)(b).

**C.** The Department shall either approve or deny a request to approve an educational course within 60 days of receiving the application. The Department shall not approve an educational course that fails to meet the requirements established under R12-4-1001 or this Section. The Department shall provide a written notice to the course provider stating the reason for the denial.

**D.** The provider of an educational course of instruction that is not approved by the Department may appeal the denial to the Commission as prescribed under A.R.S. Title 41, Chapter 6, Article 10.

**R12-4-1003. Fee for an Approved Course**

Under A.R.S. § 28-1175(B), the provider of an approved educational course of instruction in basic off-highway vehicle safety and environmental ethics may collect a fee from each participant that:

1. Is reasonable and commensurate for the course, and
2. Does not exceed \$300.

**R12-4-1004. Off-highway Vehicle Sound-level Requirements**

**A.** A peace officer who has reason to believe that an off-highway vehicle (OHV) is being operated in violation of A.R.S. § 28-1179(A)(3) may direct the operator to submit the OHV to an onsite test to measure the OHV's sound level. In accordance with A.R.S. § 28-1179(A)(3), the sound level of an OHV shall be measured using the following procedures, which are incorporated by reference and are available for inspection at the Arizona Game and Fish Department, 5000 W. Carefree Highway, Phoenix, Arizona 85086:



1. All terrain vehicle or motorcycle. Society of Automotive Engineers, J1287. Measurement of Exhaust Sound Pressure Levels of Stationary Motorcycles, April 2017, available from SAE International, 400 Commonwealth Dr., Warrendale, PA 15096 or online at [www.sae.org](http://www.sae.org); and
  2. Other OHV. International Organization for Standardization, ISO 5130:2007, Acoustics-Measurements of Sound Pressure Level Emitted by Stationary Road Vehicles, 2007, May 31, 2007 Edition 2, available from American National Standards Institute, Attention Customer Service Department, 25 W. 43rd St., 4th Floor, New York, NY 10056 or online at [www.iso.org](http://www.iso.org).
- B.** If a peace officer directs the operator of an OHV to submit the OHV to an onsite test to measure the OHV's sound level, the operator shall allow the OHV and associated equipment to be tested. If the peace officer believes that more than one test of the OHV's sound level is necessary to ensure that an accurate measure is obtained, the operator shall allow multiple tests.
- C.** If it is determined that an OHV is being operated in violation of A.R.S. § 28-1179(A)(3), the operator of the OHV shall:
1. Immediately stop operating the OHV; and
  2. Ensure the vehicle is not operated again until it can be operated in compliance with A.R.S. § 28-1179(A)(3), except:
    - a. During a period of emergency; or
    - b. When the operation is directed by a peace officer or other public authority.
- D.** This Section does not include any later amendments or editions of the incorporated materials.

**R12-4-1005. Nonresident Off-highway Vehicle User Indicia**

- A.** The owner or operator of an all-terrain vehicle (ATV) or off-highway vehicle (OHV) as defined under A.R.S. § 28-1171 shall not operate the ATV or OHV off-highway in this state without an Arizona off-highway vehicle user indicia. This requirement only applies to an ATV or OHV that:
1. Is designed by the manufacturer primarily for travel over unimproved terrain.
  2. Has an unladen weight of two thousand five hundred pounds or less.
- B.** For lawful Arizona off-highway operation, the owner or operator of a qualifying nonresident ATV or OHV shall apply to the Department for an off-highway vehicle user indicia as prescribed under A.R.S. § 28-1177. The owner or operator shall submit to the Department:
1. The nonresident off-highway vehicle user indicia application furnished by the Department and available on the Department's website.
  2. The fee established under subsection (C)(1), and
  3. The convenience fee established under subsection (C)(2).
- C.** As authorized under A.R.S. § 28-1177:
1. The fee for the nonresident off-highway vehicle user indicia is \$25.
  2. The Department may also collect and retain a reasonable and commensurate fee for its services.
- D.** The owner or operator of the ATV or OHV titled or registered out-of-state shall display the nonresident off-highway user indicia in a manner that is clearly visible to outside inspection:
1. For vehicles with three or more wheels, on the left side rear quadrant of the vehicle.
  2. For two-wheeled vehicles, the indicia shall be displayed on the left fork leg.
- E.** A printed receipt or an electronic copy of the receipt of payment for an annual decal that is purchased online shall serve as a temporary permit for a period of 30 days from the date of purchase.
- F.** Under A.R.S. § 28-1178, a person may operate an ATV or OHV in this state without the nonresident off-highway user indicia required under A.R.S. § 28-1177 when any one of the following applies:
1. The person is loading or unloading an ATV or OHV from a vehicle.
  2. The person is participating in an off-highway special event.
  3. The person is operating an ATV or OHV:
    - a. During an emergency or as directed by a peace officer or other public authority.
    - b. Exclusively for agriculture, ranching, construction, mining or building trade purposes.
    - c. Exclusively on private land.



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**

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**REGISTER INDEXES**

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

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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*

**CORRECTIONS**

C = Corrections to Published Rules

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## RULES EFFECTIVE DATES CALENDAR

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

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



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



## REGISTER PUBLISHING DEADLINES

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

Deadline Date (paper only) Friday, 5:00 p.m.	Register Publication Date	Oral Proceeding may be scheduled on or after
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
June 7, 2019	June 28, 2019	July 29, 2019
June 14, 2019	July 5, 2019	August 5, 2019
June 21, 2019	July 12, 2019	August 12, 2019
June 28, 2019	July 19, 2019	August 19, 2019
July 5, 2019	July 26, 2019	August 26, 2019
July 12, 2019	August 2, 2019	September 3, 2019
July 19, 2019	August 9, 2019	September 9, 2019
July 26, 2019	August 16, 2019	September 16, 2019
August 2, 2019	August 23, 2019	September 23, 2019
August 9, 2019	August 30, 2019	September 30, 2019
August 16, 2019	September 6, 2019	October 7, 2019
August 23, 2019	September 13, 2019	October 15, 2019
August 30, 2019	September 20, 2019	October 21, 2019
September 6, 2019	September 27, 2019	October 28, 2019
September 13, 2019	October 4, 2019	November 4, 2019
September 20, 2019	October 11, 2019	November 12, 2019
September 27, 2019	October 18, 2019	November 18, 2019
October 4, 2019	October 25, 2019	November 25, 2019
October 11, 2019	November 1, 2019	December 2, 2019
October 18, 2019	November 8, 2019	December 9, 2019
October 25, 2019	November 15, 2019	December 16, 2019
November 1, 2019	November 22, 2019	December 23, 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	<b>Wednesday</b> 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	<b>Wednesday</b> 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.