



Arizona Administrative REGISTER

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~ Administrative Register Contents ~

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Information 1256

Rulemaking Guide 1257

RULES AND RULEMAKING

Final Rulemaking, Notices of

 2 A.A.C. 20 Citizens Clean Elections Commission 1259

 2 A.A.C. 20 Citizens Clean Elections Commission 1261

 2 A.A.C. 20 Citizens Clean Elections Commission 1263

 9 A.A.C. 5 Department of Health Services - Child Care Facilities 1265

Proposed Expedited Rulemaking, Notices of

 9 A.A.C. 24 Department of Health Services - Arizona Medically Underserved Area Health Services 1274

GOVERNOR'S OFFICE

Governor's Executive Order 2020-02

 Moratorium on Rulemaking to Promote Job Creation and Economic Development; Implementation of Licensing Reform Policies 1287

INDEXES

 Register Index Ledger 1289

 Rulemaking Action, Cumulative Index for 2020 1290

 Other Notices and Public Records, Cumulative Index for 2020 1295

CALENDAR/DEADLINES

 Rules Effective Dates Calendar 1296

 Register Publishing Deadlines 1298

GOVERNOR'S REGULATORY REVIEW COUNCIL

 Governor's Regulatory Review Council Deadlines 1299

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ABOUT THIS PUBLICATION

The authenticated pdf of the *Administrative Register* (A.A.R.) posted on the Arizona Secretary of State's website is the official published version for 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 *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 notices of rules terminated by the agency and rules that have expired.

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Rules can be: made (all new text); amended (rules on file, changing text); repealed (removing text); or renumbered (moving rules to a different Section number).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

New rules in this publication (whether proposed or made) are denoted with underlining; repealed text is stricken.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 authenticated pdf of *Code* chapters posted on the Arizona Secretary of State's website are the official published version of rules in the A.A.C. 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.

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ADMINISTRATIVE REGISTER
This publication is available online for free at www.azsos.gov.

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

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

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The Office of the Secretary of State is an equal opportunity employer.



Participate in the Process

Look for the Agency Notice

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

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

Attend a public hearing/meeting

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

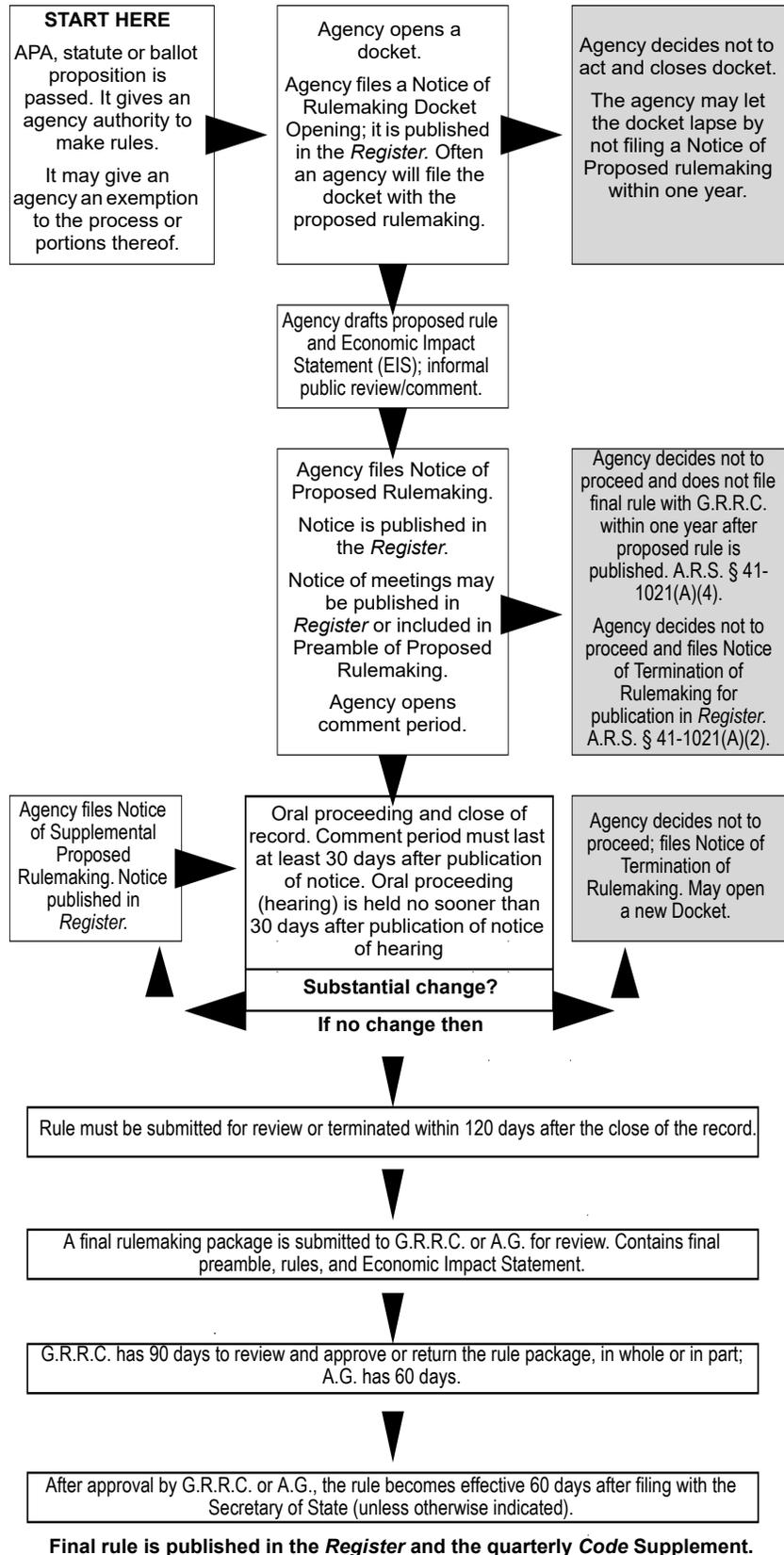
An agency may not have a public meeting scheduled on the Notice of Proposed Rulemaking. If not, you may request that the agency schedule a proceeding. This request must be put in writing within 30 days after the published Notice of Proposed Rulemaking.

Write the agency

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

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

Arizona Regular Rulemaking Process



Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Acronyms

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

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

APA – *Administrative Procedure Act*

A.R.S. – *Arizona Revised Statutes*

CFR – *Code of Federal Regulations*

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

FR – *Federal Register*

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

U.S.C. – *United States Code*

About Preambles

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

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

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



NOTICES OF 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 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

[R20-100]

PREAMBLE

- | | |
|--|--|
| <p>1. <u>Article, Part, or Section Affected (as applicable)</u>
R2-20-701</p> | <p><u>Rulemaking Action</u>
Amend</p> |
| <p>2. <u>Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):</u>
Authorizing statute: A.R.S. § 16-956(A)(6), <i>Id.</i> § 16-956(A)(7)
Implementing statute: A.R.S. § 16-948(C)</p> | |
| <p>3. <u>The effective date of the rule:</u>
June 4, 2020</p> | |
| <p>a. <u>If the agency selected a date earlier than the 60 day effective date as specified in A.R.S. § 41-1032(A) include the earlier date and state the reason or reasons the agency selected the earlier date as provided in A.R.S. § 41-1032(A)(1) through (5):</u></p> <p>The Citizens Clean Elections Commission voted unanimously to give these amendments immediate effect under A.R.S. §§ 16-956(C), 16-956(D) because the election cycle is well underway. According to A.R.S. § 16-956(C)-(D), the Commission determined unanimously at an open meeting that an immediate effective date was necessary for this rule. Because Proposition 306 was enacted by voters in 2018 and because the Governor's Regulatory Review Council voted to return an earlier version of this rule that expressly removed language that conflicted with Proposition 306, the election cycle and the qualifying period are now well underway. In order to ensure alignment between the Commission's rules and the statute an immediate effective date was required. The Governor's Regulatory Review Council agreed that an immediate effective date was necessary but determined that it should be set on the date the Commission submitted its certificate of approval to the Secretary of State. GRRC staff members recommended that the Council give the rule amendment immediate effect on June 2, 2020. However, the Council did so after effectively declaring A.R.S. §§ 16-956(D) inoperative following the enactment of Proposition 306. The Commission does not agree that Proposition 306 invalidated A.R.S. § 16-956(D) or that the Commission is no longer authorized to make such a declaration, let alone whether GRRC may. The text of Proposition 306 reinforces the Commission's authority to declare effective dates of rules; nor does Legislative Council's analysis suggest that Proposition 306 would cause a repeal of section 16-956(D), rather, to the contrary, Legislative Council determined that "The Citizens Clean Elections Commission would be required to follow the rulemaking requirements of the Administrative Procedures Act (title 41, chapter 6, article 3) to adopt the rules for carrying out the Citizens Clean Elections Act, except as otherwise provided by law. . . ." Section 16-956(D) provides otherwise and correctly left the Commission, which is sensitive to the election calendar, in charge of determining effective dates of amendments. Nevertheless, in the interest of time and clarity, for this rule amendment, the Commission permits GRRC's effective date, with the express reservation of its rights, and the rights of other affected parties, to challenge, dispute and reverse any effective date in violation of the state statute, the Arizona and U.S. Constitutions.</p> | |
| <p>b. <u>If the agency selected a date later than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):</u>
Not applicable</p> | |
| <p>4. <u>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:</u>
Notice of Rulemaking Docket Opening: 26 A.A.R. 115, January 17, 2020
Notice of Proposed Rulemaking: 26 A.A.R. 101, January 17, 2020
Notice of Final Rulemaking: 26 A.A.R. 886, May 8, 2020</p> | |



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

Name: Thomas M. Collins
Address: Citizens Clean Elections Commission
1616 W. Adams, Suite 110
Phoenix, AZ 85007
Telephone: (602) 364-3477
E-mail: ccec@azcleelections.gov
Website: azcleelections.gov

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

The proposed amendment, authored by Governor's Regulatory Review Council Member John Sundt, is intended to smooth the Commission's rules regarding participating candidate expenditures as provided by A.R.S. § 16-948(C).

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:

Not applicable

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

Not applicable

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

The Commission believes there is little consumer, economic, or small business impact. The amendment only concerns participating candidates.

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 this final rulemaking.

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

None received

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

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

Not applicable

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

Not applicable

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

Not applicable

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

None

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

Not applicable

15. The full text of the rules follows:

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

ARTICLE 7. USE OF FUNDS AND REPAYMENT

Section
R2-20-701. Purpose and Scope

ARTICLE 7. USE OF FUNDS AND REPAYMENT

R2-20-701. Purpose and Scope

Notwithstanding any other provision of the rules to the contrary, a participating candidate shall not make any payment to a private organization that is exempt under section 501(a) of the internal revenue code and that is eligible to engage in activities to influence the outcome



ber John Sundt, is intended to smooth the Commission’s rules regarding participating candidate expenditures as provided by A.R.S. § 16-948(C).

- 7. **A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
Not applicable
- 8. **A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable
- 9. **A summary of the economic, small business, and consumer impact:**
Because the rule amendment does not substantively change the underlying Commission investigative process, there is no economic, small business, or consumer impact cost. The clarification will have an economic, small business and consumer benefit because a clearer rule lowers compliance costs.
- 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 this final rulemaking.
- 11. **An agency’s summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:**
None received
- 12. **All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**
 - a. **Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**
Not applicable
 - b. **Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**
Not applicable
 - c. **Whether a person submitted an analysis to the agency that compares the rule’s impact of the competitiveness of business in this state to the impact on business in other states:**
Not applicable
- 13. **A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rule:**
None
- 14. **Whether the rule was previously made, amended or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:**
Not applicable
- 15. **The full text of the rules follows:**

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

ARTICLE 7. USE OF FUNDS AND REPAYMENT

Section
R2-20-702.01. Use of Assets

ARTICLE 7. USE OF FUNDS AND REPAYMENT

R2-20-702.01. Use of Assets

A participating candidate may use assets such as signs, pamphlets, and office equipment from a prior election cycle only after the candidate’s current campaign pays for the assets in an amount equal to the fair market value of the assets, which amount shall in no event be less than one-fifth (1/5) the original purchase price of such assets. If the candidate was a participating candidate during the prior election cycle, the cash payment shall be made to the Fund. If the candidate was not a participating candidate during the prior election cycle, the cash payment shall be made to the prior campaign. If the prior campaign account of a nonparticipating candidate is closed, the payment shall be made to the candidate. Notwithstanding any other provision of the rules to the contrary, a participating candidate shall not make any payment to a private organization that is exempt under section 501(a) of the internal revenue code and that is eligible to engage in activities to influence the outcome of a candidate election, nor make any payment directly or indirectly to a political party.



- 7. **A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
Not applicable
- 8. **A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable
- 9. **A summary of the economic, small business, and consumer impact:**
The rule amendment may have some impact on individuals who would otherwise have run for office or have purchased certain goods and services in the past, as well as small business that may have made such purchases.
- 10. **A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:**
Not applicable
- 11. **An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:**
None received
- 12. **All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**
 - a. **Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**
Not applicable
 - b. **Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**
Not applicable
 - c. **Whether a person submitted an analysis to the agency that compares the rule's impact of the competitive-ness of business in this state to the impact on business in other states:**
Not applicable
- 13. **A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rule:**
None
- 14. **Whether the rule was previously made, amended or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:**
Not applicable
- 15. **The full text of the rules follows:**

TITLE 2. ADMINISTRATION
CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

ARTICLE 7. USE OF FUNDS AND REPAYMENT

Section
R2-20-703.01. Campaign Consultants

ARTICLE 7. USE OF FUNDS AND REPAYMENT

R2-20-703.01. Campaign Consultants

- A. No change
- B. No change
- C. No change
 - 1. No change
 - 2. No change
 - 3. No change
- D. No change
- E. **Notwithstanding any other provision of the rules to the contrary, a participating candidate shall not make any payment to a private organization that is exempt under section 501(a) of the internal revenue code and that is eligible to engage in activities to influence the outcome of a candidate election, nor make any payment directly or indirectly to a political party.**



NOTICE OF FINAL RULEMAKING
TITLE 9. HEALTH SERVICES
CHAPTER 5. DEPARTMENT OF HEALTH SERVICES
CHILD CARE FACILITIES

[R20-103]

PREAMBLE

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

<u>Article, Part, or Section Affected (as applicable)</u>	<u>Rulemaking Action</u>
R9-5-101	Amend
R9-5-502	Amend
R9-5-516	Amend

- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**
 Authorizing statute: A.R.S. §§ 36-132(A) and 36-136(G)
 Implementing statute: A.R.S. §§ 36-882 through 36-894.01

- 3. The effective date of the rule:**
 June 3, 2020
 - a. If the agency selected a date earlier than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):**
 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 the safety of infants and children enrolled in a child care facility, licensed pursuant to 9 A.A.C. 5, the rules are less burdensome by being more effective and increase benefits for enrolled infants, enrolled children, parents, child care facilities, and the Department. The rules have no public impact on public health and safety; and do not affect public involvement or the public participation process.
 - b. If the agency selected a date later than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):**
 Not applicable

- 4. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed expedited rule:**
 Notice of Rulemaking Docket Opening: 25 A.A.R. 1561, June 21, 2019
 Notice of Proposed Rulemaking: 26 A.A.R. 401, March 13, 2020

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

Name:	Thomas Salow, Branch Chief
Address:	Department of Health Services Public Health Licensing Services 150 N. 18th Ave., Suite 400 Phoenix, AZ 85007-3248
Telephone:	(602) 364-1935
Fax:	(602) 334-3808
E-mail:	Thomas.Salow@azdhs.gov
or	
Name:	Stephanie Elzenga, Administrative Counsel
Address:	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:	Stephanie.Elzenga@azdhs.gov

- 6. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, under A.R.S. § 41- 1027, to include an explanation about the rulemaking:**
 The Department licenses child care facilities under A.R.S. Title 36, Chapter 7.1, Article 1, and has adopted rules for child care facilities in 9 A.A.C. 5. A.R.S. § 15-341(A)(34) and (35) requires child care facilities located on a public school premises to allow school-aged children to possess emergency medications and self-administer auto-injectable epinephrine and handheld inhaler devices. A.R.S. § 36-2229(B) allows child care facilities, that are an authorized entity, to acquire, stock, and administer or provide an inhaler to an individual experiencing respiratory distress. The Department plans to amend A.A.C. R9-5-516 to address matters identified in A.R.S. §§ 15-341 and 36-2229. Additionally in 2018 and 2017, the Department completed complaint investigations related to infant deaths at child care facilities. Because of these deaths, the Department plans to amend the policies and procedures requirements in A.A.C. R9-5-502 "for non-crawling infants" to clarify a staff member's supervision of and interaction with a non-



crawling infant. The Department believes amending the rules will eliminate confusion and ensure the health and safety for enrolled children attending a child care facility.

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:

As used in the 2020 Economic, Small Business, and Consumer Impact Statement for this rulemaking, the annual costs/revenues associated are designated as minimal when 1,000 or less, moderate when between \$1,000 and \$10,000, and substantial when greater than \$10,000. A cost listed as significant when meaningful or important, but not readily subject to quantification.

The Department identifies affected persons as the Department, child care facilities, children enrolled in a child care facilities and their parents, and the public. The changes made to the rules include clarifying the supplemental standards for infants’ policies and procedures related to supervising non-crawling infants and “tummy time” as an infant activity; clarifying an exception in A.R.S. § 36-2229(D) that allows a facility to acquire, store, and administer or provide an inhaler to an individual experiencing respiratory distress; and adding a requirement that enrolled school-aged children may possess emergency medications and self-administer auto-injectable epinephrine and handheld inhaler devices according to A.R.S. § 15-341. The Department expects that the proposed changes will provide a significant benefit to the Department for having rules that will better protect the health and safety of infants and students enrolled in child care facilities. The Department expects that the cost for technical resources to amend the rules to be minimal to moderate. For child care facilities, the Department anticipates that child care facilities may incur a minimal cost for updating policies and procedures related to supervising non-crawling infants. The Department also expects that adding a requirement to allow school-aged children to possess emergency medications will not cause child care facilities to incur any additional cost and rather, provide a significant benefit for staff who will no longer be held responsible for a child not receiving medication when need the most. Lastly, the Department anticipates that children enrolled in a child care facilities and their parents should not incur any additional costs and rather should receive additional benefits from requirements that better clarify the needs of infant who receive tummy-time and the needs of other enrolled children who require inhalers and other emergency medications. Although, it is possible that parents, of an enrolled infant who requires tummy-time for ensuring proper physical development, could see an increase in child care fees if their child care facility chooses to add additional staff to care for those infants. However, the Department expects child care facilities will not hire additional staff. Overall, the Department believes that the benefits of having the amended rules outweigh any potential costs associated with the rulemaking.

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

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

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

During the formal 30-day public comment period, the Department did not receive any comments.

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 Department, according to A.R.S. § 36-882, is required to provide licensure for child care facilities and under A.R.S. § 36-888, the Department retains the authority to deny, revoke, or suspend an applicant or a child care facility licensee’s ability to operate. The Department does not use a general permit for child care facilities.

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 competitive-ness of business in this state to the impact on business in other states:

No business competitiveness analysis was received by the Department.

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

None

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

The rule was not previously made as an emergency rule.

15. The full text of the rules follows:



TITLE 9. HEALTH SERVICES
CHAPTER 5. DEPARTMENT OF HEALTH SERVICES
CHILD CARE FACILITIES

ARTICLE 1. GENERAL

Sections
 R9-5-101. Definitions

ARTICLE 5. FACILITY PROGRAM AND EQUIPMENT

R9-5-502. Supplemental Standards for Infants
 R9-5-516. Medications

ARTICLE 1. GENERAL

R9-5-101. Definitions

In addition to the definitions in A.R.S. § 36-881, the following definitions apply in this Chapter unless otherwise specified:

1. "Abuse" has the same meaning as in A.R.S. § 8-201.
2. "Accident" means an unexpected occurrence that:
 - a. Causes injury to an enrolled child,
 - b. Requires attention from a staff member, and
 - c. May or may not be an emergency.
3. "Accommodation school" has the same meaning as in A.R.S. § 15-101.
4. "Accredited" means approved by the:
 - a. New England Commission of Institution of Higher Education,
 - b. Middle States Commission of Higher Education,
 - c. North Central the Higher Learning Commission,
 - d. Northwest Commission on Colleges and Universities,
 - e. Commission on Colleges, or
 - f. Western Association of Schools and Colleges.
5. "Activity" means an action planned by a licensee and performed by an enrolled child while supervised by a staff member.
6. "Activity area" means a specific indoor or outdoor space or room of a licensed facility that is designated by a licensee for use by an enrolled child for an activity.
7. "Adaptive device" means equipment used to augment an individual's use of the individual's arms, legs, sight, hearing, or other physical part or function.
8. "Administrative completeness review time-frame" has the same meaning as in A.R.S. § 41-1072.
9. "Adult" means an individual who is at least 18 years of age.
10. "Age-appropriate" means consistent with a child's age and age-related stage of physical growth and mental development.
11. "Agency" means any board, commission, department, office, or other administrative unit of the federal government, the state, or a political subdivision of the state.
12. "Applicant" means a person or governmental agency requesting one of the following:
 - a. A license, or
 - b. Approval of a change affecting a license under R9-5-208.
13. "Application" means the documents that an applicant is required to submit to the Department for licensure or approval of a request for a change affecting a license.
14. "Assistant teacher-caregiver" means a staff member who aids a teacher-caregiver in planning, developing, or conducting child care activities.
15. "Association" means a group of individuals other than a corporation, limited liability company, partnership, joint venture, or public school who has established a governing board and bylaws to operate a facility.
16. "Beverage" means a liquid for drinking, including water.
17. "Business organization" has the same meaning as "entity" in A.R.S. § 10-140.
18. "Calendar day" means each day, not including the day of the act, event, or default from which a designated period of time begins to run, but including the last day of the period unless it is a Saturday, Sunday, or legal holiday, in which case the period runs until the end of the next day that is not a Saturday, Sunday, or legal holiday.
19. "Calendar week" means a seven-day period beginning on Sunday at 12:00 a.m. and ending on Saturday at 11:59 p.m.
20. "C.C.P." means Certified Childcare Professional, a credential awarded by the National Early Childhood Program Accreditation.
21. "C.D.A." means Child Development Associate, a credential awarded by the Council for Professional Recognition.
22. "Change in ownership" means a transfer of controlling legal or controlling equitable interest and authority in a facility resulting from a sale or merger of a facility.
23. "Charter school" has the same meaning as in A.R.S. § 15-101.
24. "Child care experience" means an individual's documented work with children in:
 - a. A child care facility or a child care group home that was licensed, certified, or approved by a state in the United States or by one of the Uniformed Services of the United States;
 - b. A public school, a charter school, a private school, or an accommodation school;
 - c. A public or private educational institution authorized under the laws of another state where instruction was provided for any grade or combination of grades between pre-kindergarten and grade 12; or



- d. One of the following professional fields:
 - i. Nursing,
 - ii. Social work,
 - iii. Psychology,
 - iv. Child development, or
 - v. A closely-related field.
25. “Child care services” means the range of activities and programs provided by a licensee to an enrolled child, including personal care, supervision, education, guidance, and transportation.
26. “Child with special needs” means:
 - a. A child with a health care provider’s diagnosis and record of a physical or mental condition that substantially limits the child in providing self-care or performing manual tasks or any other major life function such as walking, seeing, hearing, speaking, breathing, or learning;
 - b. A child with a “developmental disability” as defined in A.R.S. § 36-551; or
 - c. A “child with a disability” as defined in A.R.S. § 15-761.
27. “Clean” means to remove dirt or debris by methods such as washing with soap and water, vacuuming, wiping, dusting, or sweeping.
28. “Closely-related field” means any educational instruction or occupational experience pertaining to the growth, development, physical or mental care, or education of children.
29. “Communicable disease” has the same meaning as in A.A.C. R9-6-101.
30. “Compensation” means money or other consideration, including goods, services, vouchers, time, government or public expenditures, government or public funding, or another benefit, that is received as payment.
31. “Corporal punishment” means any physical action used to discipline a child that inflicts pain to the body of the child, or that may result in physical injury to the child.
32. “CPR” means cardiopulmonary resuscitation.
33. “Credit hour” means an academic unit earned at an accredited college or university:
 - a. By attending a one-hour class session each calendar week during a semester or equivalent shorter course term, or
 - b. Completing practical work for a course as determined by the accredited college or university.
34. “Designated agent” means an individual who meets the requirements in A.R.S. § 36-889(D).
35. “Developmentally-appropriate” means consistent with a child’s physical, emotional, social, cultural, and cognitive development, based on the child’s age and family background and the child’s personality, learning style, and pattern and timing of growth.
36. “Discipline” means the on-going process of helping a child develop self-control and assume responsibility for the child’s own actions.
37. “Documentation” means information in written, photographic, electronic, or other permanent form.
38. “Electronic signature” has the same meaning as in A.R.S. § 41-351(9).
39. “Emergency” means a potentially life-threatening occurrence involving an enrolled child or staff member that requires an immediate response or medical treatment.
40. “Endanger” means to expose an individual to a situation where physical injury or mental injury to the individual may occur.
41. “Enrolled” means placed by a parent and accepted by a licensee for child care services.
42. “Evening and nighttime care” means child care services provided between the hours of 8:00 p.m. and 5:00 a.m.
43. “Facility” has the same meaning as “child care facility” in A.R.S. § 36-881.
44. “Facility director” means an individual who is designated by a licensee as the individual responsible for the daily onsite operation of a facility.
45. “Facility premises” means property that is:
 - a. Designated on an application for a license by the applicant; and
 - b. Licensed for child care services by the Department under A.R.S. Title 36, Chapter 7.1, Article 1, and this Chapter.
46. “Fall zone” means the surface under and around a piece of equipment onto which a child falling from or exiting from the equipment would be expected to land.
47. “Field trip” means an activity planned by a staff member for an enrolled child:
 - a. At a location or area that is not licensed for child care services by the Department, or
 - b. At a child care facility in which the child is not enrolled.
48. “Final construction drawings” means facility plans that include the architectural, structural, mechanical, electrical, fire protection, plumbing, and technical specifications of the physical plant and the facility premises and that have been approved by local government for the construction, alteration, or addition of a facility.
49. “Food” means a raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption, or chewing gum.
50. “Food preparation” means processing food for human consumption by cooking or assembling the food, but does not include distributing prepackaged food or whole fruits or vegetables.
51. “Full-day care” means child care services provided for six or more hours per day between the hours of 5:00 a.m. and 8:00 p.m.
52. “Governmental agency” has the same meaning as in A.R.S. § 44-7002.
53. “Guidance” means the ongoing direction, counseling, teaching, or modeling of generally accepted social behavior through which a child learns to develop and maintain the self-control, self-reliance, and self-esteem necessary to assume responsibilities, make daily living decisions, and live according to generally accepted social behavior.
54. “Hazard” means a source of endangerment.
55. “Health care provider” means a physician, physician assistant, or registered nurse practitioner.
56. “High school equivalency diploma” means:



- a. A document issued by the State Board of Education under A.R.S. § 15-702 to an individual who passes a general educational development test or meets the requirements of A.R.S. § 15-702(B);
 - b. A document issued by another state to an individual who passes a general educational development test or meets the requirements of a state statute equivalent to A.R.S. § 15-702(B); or
 - c. A document issued by another country to an individual who has completed that country's equivalent of a 12th grade education, as determined by the Department based upon information obtained from American or foreign consulates or embassies or other governmental agencies.
57. "Hours of operation" means the specific time during a day for which a licensee is licensed to provide child care services.
58. "Illness" means physical manifestation or signs of sickness, such as pain, vomiting, rash, fever, discharge, or diarrhea.
59. "Immediate" or "immediately" means without restriction, delay, or hesitation.
60. "Inaccessible" means:
- a. Out of an enrolled child's reach, or
 - b. Locked.
61. "Infant" means:
- a. A child 12 months of age or younger, or
 - b. A child 18 months of age or younger who is not yet walking.
62. "Infant care" means child care services provided to an infant.
63. "Infestation" means the presence of lice, pinworms, scabies, or other parasites.
64. "Inspection" means:
- a. Examination of a facility by the Department to determine compliance with A.R.S. Title 36, Chapter 7.1, Article 1, and this Chapter;
 - b. Review of facility documents, records, or reports by the Department; or
 - c. Examination of a facility by a local governmental agency.
65. "Lesson plan" means a written description of the activities scheduled in each activity area for a day.
66. "License" means the written authorization issued by the Department to operate a facility in Arizona.
67. "Licensed applicator" who complies with A.A.C. R3-8-201(C).
68. "Licensed capacity" means the maximum number of enrolled children for whom a licensee is authorized by the Department to provide child care services in a facility or a part of a facility at any given time.
69. "Licensee" means a person or governmental agency to whom the Department has issued a license to operate a facility in Arizona.
70. "Local" means under the jurisdiction of a city or county in Arizona.
71. "Mat" means a foam pad that has a waterproof cover and is of sufficient size and thickness to accommodate the height, width, and weight of a reclining child's body.
72. "Medication" means a substance prescribed by a physician, physician assistant, or registered nurse practitioner or available without a prescription for the treatment or prevention of illness or infestation.
73. "Menu" means:
- a. A written description of the food that a facility provides and serves as a meal or snack, or
 - b. The combination of food that a facility provides and serves as a meal or snack.
74. "Motor vehicle" has the same meaning as in A.R.S. § 28-101.
75. "N.A.C." means the National Administrator Credential, a credential issued by the National Institute of Child Care Management.
76. "Name" means, for an individual, the individual's first name and the individual's last name.
77. "Naptime" means any time during hours of operation, other than evening and nighttime hours, that is designated by a licensee for the rest or sleep of enrolled children.
78. "Neglect" has the same meaning as in A.R.S. § 8-201.
79. "One-year-old" means a child who is not an infant and at least 12 months of age but not yet two years of age.
80. "Outbreak" has the same meaning as in A.A.C. R9-6-101.
81. "Overall time-frame" has the same meaning as in A.R.S. § 41-1072.
82. "Parent" means:
- a. A natural or adoptive mother or father,
 - b. A legal guardian appointed by a court of competent jurisdiction, or
 - c. A "custodian" as defined in A.R.S. § 8-201.
83. "Part-day care" means child care services provided for fewer than six hours per day between the hours of 5:00 a.m. and 8:00 p.m.
84. "Perishable food" means food that becomes unfit for human consumption if not stored to prevent spoilage.
85. "Pesticide" has the same meaning as in A.R.S. § 32-3601.
86. "Pesticide label" means the written, printed, or graphic matter approved by the United States Environmental Protection Agency on, or attached to, a pesticide container.
87. "Physical injury" means temporary or permanent damage or impairment to a child's body.
88. "Physical plant" means a building that houses a facility, or the licensed areas within a building that houses a facility, including the architectural, structural, mechanical, electrical, plumbing, and fire protection elements of the building.
89. "Physician" means an individual licensed as a doctor of:
- a. Allopathic medicine under A.R.S. Title 32, Chapter 13;
 - b. Naturopathic medicine under A.R.S. Title 32, Chapter 14;
 - c. Osteopathic medicine under A.R.S. Title 32, Chapter 17;
 - d. Homeopathic medicine under A.R.S. Title 32, Chapter 29; or
 - e. Allopathic, naturopathic, osteopathic, or homeopathic medicine under the law of another state.



90. “Physician assistant” means:
 - a. An individual who is licensed under A.R.S. Title 32, Chapter 25; or
 - b. An individual who is licensed as a physician assistant under the law of another state.
91. “Private pool” has the same meaning as “private residential swimming pool” in A.A.C. R18-5-201.
92. “Private school” has the same meaning as in A.R.S. § 15-101.
93. “Program” means a variety of activities organized and conducted by a staff member.
94. “Public pool” has the same meaning as “public swimming pool” in A.A.C. R18-5-201.
95. “Public school” has the same meaning as “school” in A.R.S. § 15-101.
96. “Registered nurse practitioner” means:
 - a. An individual who is licensed and certified as a “registered nurse practitioner” under A.R.S. § 32-1601, or
 - b. An individual who is licensed or certified as a registered nurse practitioner under the law of another state.
97. “Regular basis” means at recurring, fixed, or uniform intervals.
98. “Responsible party” means an individual or a group of individuals who:
 - a. Is assigned by a public school, charter school, or governmental agency; and
 - b. Has general oversight of the child care facility.
99. “Sanitize” means to use heat, chemical agents, or germicidal solutions to disinfect and reduce pathogen counts, including bacteria, viruses, mold, and fungi.
100. “School-age child” means a child who:
 - a. Meets one of the following:
 - i. Is five years old on or before January 1 of the current school year, or
 - ii. Is five years old on or before January 1 of the most recent school year; and
 - b. Meets one of the following:
 - i. Attends kindergarten or a higher level program in a public, charter, accommodation, or private school during the current school year;
 - ii. Attended kindergarten or a higher level program in a public, charter, accommodation, or private school during the most recent school year;
 - iii. Is home-schooled at a kindergarten or higher level during the current school year; or
 - iv. Was home-schooled at a kindergarten or higher level during the most recent school year.
101. “School-age child care” means child care services provided to a school-age child.
102. “School campus” means the contiguous grounds of a public, charter, accommodation, or private school, including the buildings, structures, and outdoor areas available for use by children attending the school.
103. “School governing board” has the same meaning as “governing board” in A.R.S. § 15-101.
104. “Screen time” means the use of electronic media to watch television or to watch a video, a DVD, or a movie at the facility or at another location or the use of electronic media or a computer for game-playing, entertainment, communication, or educational purposes.
105. “Semi-public pool” has the same meaning as “semipublic swimming pool” in A.A.C. R18-5-201.
106. “Service classification” means one of the following:
 - a. Full-day care;
 - b. Part-day care;
 - c. Evening and nighttime care;
 - d. Infant care;
 - e. One-year-old child care;
 - f. Two-year-old child care;
 - g. Three-year-old, four-year-old, and five-year-old child care;
 - h. School-age child care; or
 - i. Weekend care.
107. “Signatory” means an individual who is authorized by a school district governing board, school district superintendent, or governmental agency to sign a document on behalf of the school district governing board, school district superintendent, or governmental agency.
108. “Signed” means affixed with an individual’s signature or with a symbol representing an individual’s signature if the individual is unable to write the individual’s name.
109. “Sippy cup” means a lidded drinking container that is designed to be leak proof or leak-resistant and from which a child drinks through a spout or straw.
110. “Space utilization” means the designated use of an area within a facility for specific child care services or activities.
111. “Staff” or “staff member” means the same as “child care personnel” as defined in A.R.S. § 36-883.02.
112. “Student-aide” means an individual less than 16 years of age who is participating in an educational, curriculum-based course of study; vocational education; or occupational development program and who, without being compensated by a licensee, is present at a facility to receive instruction from and supervision by staff in the provision of child care services.
113. “Substantive review time-frame” has the same meaning as in A.R.S. § 41-1072.
114. “Supervision” means:
 - a. For an enrolled child, knowledge of and accountability for the actions and whereabouts of the enrolled child, including the ability to see or hear the enrolled child at all times, to interact with the enrolled child, and to provide guidance to the enrolled child; or
 - b. For an individual other than an enrolled child, knowledge of and accountability for the actions and whereabouts of the individual, including the ability to see and hear the individual when the individual is in the presence of an enrolled child and the ability to intervene in the individual’s actions to prevent harm to enrolled children.



115. "Swimming pool" has the same meaning as in A.A.C. R18-5-201.
116. "Teacher-caregiver" means a staff member responsible for developing, planning, and conducting child care activities.
117. "Teacher-caregiver-aide" means a staff member who provides child care services under the supervision of a teacher-caregiver.
118. "Training" means child care-related conferences, seminars, lectures, workshops, classes, courses, or instruction.
119. "Tummy time" means a limited period-of-time no more than 20 minutes used to allow a non-crawling infant:
- To strengthen the infant's head, neck, and upper body muscles; and
 - To increase the infant's sensory perception, visual and hearing acuity, and social and emotional interaction.
- ~~119-120.~~ "Volunteer" means a staff member who, without compensation, provides child care services that are the responsibility of a licensee.
- ~~120-121.~~ "Working day" means a Monday, Tuesday, Wednesday, Thursday, or Friday that is not a state holiday, federal holiday, or a statewide furlough day.

ARTICLE 5. FACILITY PROGRAM AND EQUIPMENT

R9-5-502. Supplemental Standards for Infants

- A. A licensee providing child care services for infants shall:
- Provide a wall-enclosed room for infants that provides exits required by R9-5-601(1);
 - Provide age-appropriate active and quiet activities for each infant;
 - Provide age-appropriate indoor and outdoor activities for each infant;
 - Permit an infant to maintain the infant's pattern of sleeping and waking;
 - Develop, document, and implement tummy time policies and procedures that:
 - ~~provide~~ Provide an opportunity for a non-crawling infant to spend time experience tummy time each day on the infant's stomach while the infant is awake;
 - While the infant is awake, and
 - On the infant's stomach;
 - Ensure a staff member who is supervising a non-crawling infant while the infant is flat on their stomach and on the floor:
 - Is within reach of the infant;
 - Does not perform any other duties while supervising the infant;
 - Does not allow the use of pillows, comforters, sheepskins, stuffed toys, or other soft products in the same floor space as the infant; and
 - Does not allow any product specified in subsection (A)(5)(b)(iii) to be within reach of the infant;
 - Require continuous interaction between a non-crawling infant and the staff member who is supervising the non-crawling infant during tummy time;
 - Ensure, as an infant demonstrates ability and strength to control physical movement and greater sensory perception and social interaction, an assigned staff member provide a tummy-time period to:
 - A 2 - 3 month old infant of no more than 15 minutes;
 - A 3 - 4 month old infant of no more than 20 minutes; and
 - A 5 - 6 month old infant of 20 minutes; and
 - Ensure a non-crawling infant's tummy time period specified in subsection (A)(5)(d):
 - Is determined by the assigned staff member's assessment of the infant;
 - Is gradually increased as the infant's ability, strength, and perception increases; and
 - Does not exceed tummy time periods specified in subsection (5)(D)(i) through (iii).
 - Provide an outdoor activity area or an indoor activity area for large muscle development substituted for an outdoor activity area that is used by infants when enrolled children older than infants are not present;
 - Provide space, materials, and equipment in an infant room that includes the following:
 - An area with nonabrasive flooring for sitting, crawling, and playing;
 - Toys, materials, and equipment, that are too large for a child to swallow and free from sharp edges and points, in a quantity sufficient to meet the needs of the infants in attendance that include:
 - Toys to enhance physical development such as toys for stacking, pulling, and grasping;
 - Soft toys;
 - Books;
 - Toys to enhance visual development such as crib mobiles and activity mats with an object or objects suspended above the infant's head; and
 - Unbreakable mirrors; and
 - At least one adult-size chair for use by a:
 - Staff member when holding or feeding an infant, or
 - Nursing mother when breastfeeding her infant;
 - Provide a crib for each infant that:
 - Has bars or openings spaced no more than 2 3/8 inches apart and a crib mattress measured to fit not more than 1/2 inch from the crib side;
 - Has a commercially waterproofed mattress; and
 - Is furnished with clean, sanitized, crib-size bedding, including a fitted sheet and top sheet or a blanket;
 - Prohibit the use of stacked cribs;
 - Ensure that an occupied crib with a crib side that does not have a non-porous barrier is placed at least 2 feet from another occupied crib side that does not have a non-porous barrier; and
 - Label each food container received from the parent with the infant's name.
- B. A licensee providing child care services for infants shall not:



1. Allow an infant room to be used as a passageway to another area of the facility;
 2. Permit an infant who is awake to remain for more than 30 consecutive minutes in a crib, swing, feeding chair, infant seat, or any equipment that confines movement;
 3. Permit an infant to use a walker; or
 4. Allow screen time in an infant room.
- C. A licensee shall ensure that:
1. A staff member providing child care services in an infant room:
 - a. Plays and talks with each infant;
 - b. Holds and rocks each infant;
 - c. Responds immediately to each infant’s distress signals;
 - d. Keeps dated, daily, documentation of each infant including:
 - i. A description of any activities the infant participated in,
 - ii. The infant’s food consumption, ~~and~~
 - iii. Diaper changes; and
 - iv. Tummy time;
 - e. Maintains the documentation in subsection (C)(1)(d) on facility premises for 12 months after the date on the documentation;
 - f. Provides a copy of the documentation in subsection (C)(1)(d) to the infant’s parent upon request;
 - g. Does not allow bumper pads, pillows, comforters, sheepskins, stuffed toys, or other soft products in a crib when an infant is in the crib;
 - h. Cleans and sanitizes each crib and mattress used by an infant when soiled;
 - i. Changes each crib sheet and blanket before use by another infant, when soiled, or at least once every 24 hours;
 - j. Cleans and sanitizes all sheets and blankets before use by another infant;
 - k. Places an infant to sleep on the infant’s back, unless the infant’s parent submits written instructions from the infant’s health care provider that states otherwise;
 - l. Obtains written, current, and dated dietary instructions from a parent or health care provider regarding the method of feeding and types of foods to be prepared or fed to an infant at the facility;
 - m. Posts the current written dietary instructions in the infant room and the kitchen and maintains the instructions on facility premises for 12 months after the date of the instructions; and
 - n. Follows the current written dietary instructions of a parent when feeding the infant;
 2. A staff member providing child care services in an infant room does not:
 - a. Place an infant directly on a waterproof mattress cover; or
 - b. Place an infant to sleep using a positioning device that restricts movement, unless the infant’s health care provider has instructed otherwise in writing;
 3. When preparing, using, or caring for an infant’s feeding bottles, a staff member:
 - a. Labels each bottle received from the parent with the infant’s name;
 - b. Ensures that a bottle is not:
 - i. Heated in a microwave oven;
 - ii. Propped for an infant feeding; or
 - iii. Permitted in an infant’s crib unless the written instructions required by subsection (C)(1)(l) state otherwise;
 - c. Empties and rinses bottles previously used by an infant; and
 - d. Cleans and sanitizes a bottle, bottle cover, and nipple before reuse; and
 4. When feeding an infant, a staff member:
 - a. Provides an infant with food for growth and development that includes:
 - i. Formula provided by the infant’s parent or the licensee or breast milk provided by the infant’s parent, following written instructions required by subsection (C)(1)(l); and
 - ii. Cereal as requested by the infant’s parent or health care provider;
 - b. If the staff member prepares an infant’s formula, prepares the infant’s formula in a sanitary manner;
 - c. Stores formula and breast milk in a sanitary manner at the facility;
 - d. Does not mix cereal with formula and feed it to an infant from a bottle or infant feeder unless the written instructions required by subsection (C)(1)(l) state otherwise;
 - e. Except for finger food, feeds solid food to an infant by spoon from an individual container;
 - f. Uses a separate container and spoon for each infant;
 - g. Holds and feeds an infant under 6 months of age and an infant older than 6 months of age who cannot hold a bottle for feeding; and
 - h. If an infant is no longer being held for feeding, seats the infant in a feeding chair or at a table with a chair that allows the infant to reach the food while sitting.

R9-5-516. Medications

- A. A licensee shall ensure that a written statement is prepared and maintained on facility premises that specifies:
1. Whether prescription or nonprescription medications are administered to enrolled children; and
 2. If prescription or nonprescription medications are administered, the requirements in subsection (B) for administering the prescription or nonprescription medications.
- B. If prescription or nonprescription medications are administered, a licensee shall ensure that:
1. A facility director, or a staff member designated in writing by the facility director, is responsible for the administration of all medications in the facility, including storing, supervising an enrolled child’s ingestion of a medication, and documenting all medications administered to an enrolled child;



2. A facility director ensures that only one staff member in the facility at any given time is responsible for the administration of medications;
 3. A facility director, or a staff member designated in writing by the facility director, does not administer a medication to an enrolled child unless the facility receives written authorization signed by the enrolled child's parent or health care provider that includes the:
 - a. Name of the enrolled child;
 - b. Type of the medication;
 - c. Prescription number, if any;
 - d. Instructions for administration specifying the:
 - i. Dosage and route of administration;
 - ii. If indicated, starting and ending dates of the dosage period; and
 - iii. Times and frequency of administration;
 - e. Reason for the medication; and
 - f. Date of authorization; and
 4. A staff member:
 - a. Administers a prescription medication provided by a parent only from a container dispensed by a pharmacy;
 - b. Administers a nonprescription medication provided by a parent for an enrolled child only from a container prepackaged and labeled for use by the manufacturer and labeled with the enrolled child's name;
 - c. Does not administer any medication that has been transferred from one container to another; and
 - d. Does not administer a nonprescription medication to an enrolled child inconsistent with the instructions on the nonprescription medication's label, unless the facility receives written authorization from the enrolled child's health care provider.
- C.** A licensee shall allow an enrolled child to receive an injection only after obtaining a written authorization from a health care provider.
- D.** A licensee shall maintain the health care provider's written authorization required in subsection (C) on facility premises for 12 months after the date of the written authorization.
- E.** An individual authorized by state law to give injections may give an injection to an enrolled child. In an emergency, an individual may give an injection to an enrolled child according to A.R.S. §§ 32-1421(A)(1) and 32-1631(2).
- F.** A licensee shall maintain documentation of all medications administered to an enrolled child.
1. Documentation shall contain:
 - a. The name of the enrolled child;
 - b. The name and amount of medication administered and the prescription number, if any;
 - c. The date and time the medication was administered; and
 - d. The signature of the staff member who administered the medication to the enrolled child; and
 2. A licensee shall maintain the documentation on facility premises for 12 months after the date the medication is administered.
- G.** A licensee shall return all unused prescription and nonprescription medications to a parent when the medication prescription date has expired or the medication is no longer being administered to the enrolled child or dispose of the medication if unable to locate the enrolled child's parent after the child's disenrollment.
- H.** Except as provided in subsection (J), a licensee shall ensure that prescription and nonprescription medications are stored as follows:
1. An enrolled child's medication is kept in a locked, leak-proof storage cabinet or container that is used only for storing enrolled children's medications and is located out of reach of children;
 2. Medication for a staff member is kept in a locked, leak-proof storage cabinet or container that is separate from the storage container for enrolled children's medications and is located out of reach of children; and
 3. Medications requiring refrigeration are kept in a locked, leak-proof container in a refrigerator.
- I.** Except as specified in A.R.S. § 36-2229(B) through (D), a licensee shall ensure that a facility does not stock a supply of medications for administration to enrolled children, including:
1. Any prescription medication; or
 2. A nonprescription medication such as aspirin, acetaminophen, ibuprofen, or cough syrup.
- J.** A staff member's or enrolled child's prescription medication necessary to treat life-threatening symptoms:
1. May be kept in the activity area where the staff member or enrolled child is present; and
 2. Except when the prescription medication is administered to treat life-threatening symptoms, is inaccessible to an enrolled child.
- K.** A licensee of a licensed child care facility owned and located on a public school premises shall ensure that enrolled school-aged children are allowed to possess emergency medications and self-administer auto-injectable epinephrine and handheld inhaler devices according to A.R.S. § 15-341, if an enrolled school-aged child:
1. Has a written prescription from a physician,
 2. Is named on the prescription label, and
 3. Has written documentation from the enrolled school-aged child's parent approving the enrolled school-aged child to possess and self-administer emergency medication.



NOTICES OF PROPOSED EXPEDITED RULEMAKING

This section of the Arizona Administrative Register contains Notices of Proposed Expedited Rulemaking. The Office of the Secretary of State is the filing office and publisher of these rules.

Questions about the interpretation of the proposed expedited rule should be addressed to the agency proposing the rule. Refer to Item #5 to contact the person charged with the rulemaking.

NOTICE OF PROPOSED EXPEDITED RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 24. DEPARTMENT OF HEALTH SERVICES
ARIZONA MEDICALLY UNDERSERVED AREA HEALTH SERVICES

[R20-99]

PREAMBLE

- 1. Article, Part, or Section Affected (as applicable) Rulemaking Action
2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):
3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed expedited rule:
4. The agency's contact person who can answer questions about the rulemaking:
5. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, under A.R.S. § 41- 1027, to include an explanation about the rulemaking:



other changes identified in the Report. The changes identified will not increase the cost of regulatory compliance, increase a fee, or reduce procedural rights of a regulated person. Amending the rules as identified in the Report meets the criteria for expedited rulemaking and implements a course of action proposed in a five-year-review report. This rulemaking achieves the purpose prescribed in A.R.S. § 41-1027(A)(7) to implement a course of action proposed in a five-year-review report. The Department believes amending these rules will eliminate confusion and reduce regulatory burden. The proposed amendments will conform to rulemaking format/style requirements of the Governor’s Regulatory Review Council and the Office of the Secretary of State.

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

7. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state.
Not applicable

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

9. The agency's contact person who can answer questions about the economic, small business, and consumer impact statement:
Not applicable

10. Where, when, and how persons may provide written comments on the proposed expedited rule:
Close of record: July 8, 2020 at 4:00 p.m.
A person may submit written comments on the proposed expedited rules no later than the close of record to either of the individuals listed in item 4.

11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:
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 Article 2 rules establish requirements for determining whether a primary care area may be designated as an Arizona medically underserved area and the Article 3 rules specifies functions for a coordinating medical provider. The Department believes the rules are exempt from the general permit requirement pursuant to A.R.S. 41-1037(A)(3).

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:
There are no federal rules applicable to the subject of the rule.

c. Whether a person submitted an analysis to the agency that compares the rule’s impact of the competitiveness of business in this state to the impact on business in other states:
No such analysis was submitted.

12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:
None

13. The full text of the rules follows:

**TITLE 9. HEALTH SERVICES
CHAPTER 24. DEPARTMENT OF HEALTH SERVICES
ARIZONA MEDICALLY UNDERSERVED AREA HEALTH SERVICES**

ARTICLE 2. ARIZONA MEDICALLY UNDERSERVED AREAS

- Section
- R9-24-201. Definitions
- R9-24-202. Arizona Medically Underserved Area Designation
- R9-24-203. Primary Care Index
- Table 4-2.1. Primary Care Index Scoring
- R9-24-204. Primary Care Area Boundaries Determination
- R9-24-205. ~~Time frames~~ Repealed

ARTICLE 3. COORDINATING MEDICAL PROVIDERS

- Section
- R9-24-301. Definitions
- R9-24-302. CPM Functions



ARTICLE 2. ARIZONA MEDICALLY UNDERSERVED AREAS

R9-24-201. Definitions

In addition to the definitions in A.R.S. § 36-2351, the following definitions apply in this Article, unless otherwise specified:

1. "Act, event, or default" means an occurrence or the failure of something to occur.
2. "Agency" has the same meaning as in A.R.S. § 41-1001.
3. "Ambulatory care sensitive conditions" means the illnesses listed in the first table of Appendix B (entitled "Ambulatory Care Sensitive Conditions") to "Using Administrative Data to Monitor Access, Identify Disparities, and Assess Performance of the Safety Net," in *Tools for Monitoring the Health Care Safety Net*, AHRQ Publication No. 03-0027, September 2003, Agency for Healthcare Research and Quality, Rockville, MD, and available on the web site of the Agency for Healthcare Research and Quality, U.S. Department of Health and Human Services, at <http://www.ahrq.gov/data/safetynet/billappb.htm>.
4. "Arizona Medical Board" means the agency established by A.R.S. § 32-1402 to regulate physicians licensed under A.R.S. Title 32, Chapter 13.
5. "Arizona medically underserved area" means:
 - a. A primary care area or part of a primary care area with the designation described in R9-24-202(1), or
 - b. A primary care area with the designation described in R9-24-202(2).
6. "Arizona Regulatory Board of Physician Assistants" means the agency established by A.R.S. § 32-2502 to regulate physician assistants.
7. "Arizona State Board of Nursing" means the agency established by A.R.S. § 32-1602 to regulate nurses and nursing assistants.
8. "Birth life expectancy" means the average life span at the time of birth according to the most recent U.S. life expectancy data in the National Vital Statistics Reports of the National Vital Statistics System, available on the web site of the National Center for Health Statistics, Centers for Disease Control and Prevention, U.S. Department of Health and Human Services, at <http://www.cdc.gov/nchs/fastats/lifexpec.htm>.
9. "Board of Osteopathic Examiners in Medicine and Surgery" means the agency established by A.R.S. § 32-1801 to regulate physicians licensed under A.R.S. Title 32, Chapter 17.
10. "Boundary change" means a re-determination of the geographic limits of a primary care area.
11. "Census block" means a geographic unit that is:
 - a. The smallest unit of census geography established by the U.S. Census Bureau, and
 - b. One of approximately 8 million similar units covering the entire nation.
12. "Day" means calendar day:
 - a. Excluding the day of the act, event, or default that triggers the running of a time frame;
 - b. Excluding the last day of a time frame if it is a Saturday, Sunday, or legal holiday; and
 - c. If the last day of a time frame is excluded under subsection (12)(b), including the next day that is not a Saturday, Sunday, or legal holiday.
13. "Family unit" means:
 - a. Two or more individuals related by birth, marriage, or adoption who live at the same residence; or
 - b. One individual who does not live at the same residence with anyone related by birth, marriage, or adoption.
14. "First health care contact" means the initial telephone call or visit to a health care provider as defined in 45 CFR 160.103 for an individual's health issue.
15. "Full time" means providing primary care services for at least 40 hours between a Sunday at 12:00 midnight and the next Sunday at 12:00 midnight.
16. "Health organization" means:
 - a. A person or entity that provides medical services;
 - b. A third party payor defined in A.R.S. § 36-125.07(C); or
 - c. A trade or professional association described in 501(c)(3), (4), (5), or (6) of the Internal Revenue Code, 26 U.S.C. 501(c), that is exempt from federal income taxes.
17. "Indian reservation" has the same meaning as in A.R.S. § 11-801.
18. "Legal holiday" means a state service holiday listed in A.A.C. R2-5-402.
19. "Local planning personnel" means individuals who develop programs related to the delivery of and access to medical services for places or areas:
 - a. Under the jurisdiction of an Arizona city or county, or
 - b. In an Arizona Indian reservation or less than 50 miles outside the boundaries of an Indian reservation.
20. "Low weight birth" means the live birth of an infant weighing less than 2500 grams or 5 pounds, 8 ounces.
21. "Medical services" has the same meaning as in A.R.S. § 36-401.
22. "Mobility limitation" means an individual's physical or mental condition that:
 - a. Has lasted for at least six months;



- b. Impairs the individual's ability to go outside the individual's residence alone, and
 - e. Is not a temporary health problem such as a broken bone that is expected to heal normally.
23. "Motor vehicle" has the same meaning as in A.R.S. § 28-101.
24. "Nonresidential" means not primarily used for living and sleeping.
25. "Person" has the same meaning as in A.R.S. § 41-1001.
26. "Physician assistant" has the same meaning as in A.R.S. § 32-2501.
27. "Political subdivision" means a county, city, town, district, association, or authority created by state law.
28. "Population" means the number of residents of a place or an area, according to:
- a. The most recent decennial census prepared by the U.S. Census Bureau and available at <http://www.census.gov>; or
 - b. The most recent Population Estimates for Arizona's Counties, Incorporated Places and Balance of County prepared by the Department of Economic Security Arizona Office of Economic Opportunity and available at <http://www.workforce.az.gov/?PAGED=67&SUBID=137>.
29. "Poverty threshold" means calendar year income relative to family unit size that:
- a. Determines an individual's poverty status;
 - b. Is defined annually by the U.S. Census Bureau, and
 - e. Is available for the most recently completed calendar year at <http://www.census.gov/hhes/poverty/threshld.html>.
30. "Primary care area" means a geographic region determined by the Department under R9-24-204.
31. "Primary care HPSA" means primary care health professional shortage area designated by the U.S. Department of Health and Human Services under 42 U.S.C. 254e, 42 CFR 5.1 through 5.4, and 42 CFR Part 5, Appendix A.
32. "Primary care index" means the document in which the Department designates primary care areas as medically underserved according to R9-24-203 and Table 1.
33. "Primary care provider" means a physician, physician assistant, or registered nurse practitioner who:
- a. Except for emergencies, is an individual's first health care contact; and
 - b. Provides primary care services in general or family practice, general internal medicine, pediatrics, or obstetrics and gynecology.
34. "Primary care services" means health care provided by a primary care provider, including:
- a. Illness and injury prevention;
 - b. Health promotion and education;
 - e. Identification of individuals at special risk for illness;
 - d. Early detection of illness;
 - e. Treatment of illness and injury; and
 - f. Referral to specialists.
35. "Primary care services utilization pattern" means a distribution of the use of primary care services resulting from the factors listed in R9-24-204(A)(3)(a).
36. "Registered nurse practitioner" has the same meaning as in A.R.S. § 32-1601.
37. "Residence" means a structure or part of a structure where an individual lives and sleeps.
38. "Resident" means an individual who lives and sleeps in a place or an area more than one-half of the time.
39. "Residential" means primarily used for living and sleeping.
40. "Self care limitation" means an individual's physical or mental condition that:
- a. Has lasted for at least six months;
 - b. Impairs the individual's ability to perform activities such as dressing, bathing, or moving around inside the individual's residence; and
 - e. Is not a temporary health problem such as a broken bone that is expected to heal normally.
41. "Specialist" means an individual who:
- a. Is regulated under:
 - i. A.R.S. Title 32, Chapters 7, 8, 11, 13, 14, 15, 15.1, 16, 17, 18, 19, 19.1, 25, 28, 29, 33, 34, 35, 39, or 41;
 - ii. A.R.S. Title 36, Chapter 6, Article 7; or
 - iii. A.R.S. Title 36, Chapter 17; and
 - b. Meets the education, knowledge, and skill requirements generally recognized in the profession related to a specific service or procedure, patient category, body part or system, or type of disease.
42. "Street route" means a course of travel by road.
43. "Temporary" means lasting for a limited time.
44. "Topography" means the surface configuration of a place or region, including elevations and positions of the physical features.
45. "Travel pattern" means a prevalent flow of motor vehicles resulting from:



- a. ~~The configuration of streets, and~~
- b. ~~The location of residential and nonresidential areas.~~
- 46. ~~“Value” means a number within a value range.~~
- 47. ~~“Value range” means, for a criterion listed in R9-24-203(B) and Table 1, a measurement:~~
 - a. ~~Consisting of a scale between upper and lower limits, except for the supplementary criteria score under R9-24-203(B)(12); and~~
 - b. ~~To which Table 1 assigns points or 0 points.~~
- 48. ~~“Work disability” means an individual’s physical or mental condition that:~~
 - a. ~~Has lasted for at least six months;~~
 - b. ~~Limits the individual’s choice of jobs or prevents the individual from working for more than 34 hours per week, and~~
 - e. ~~Is not a temporary health problem such as a broken bone that is expected to heal normally.~~

In addition to the definitions in A.R.S. § 36-2351, the following definitions apply in this Article, unless otherwise specified:

1. “Agency” has the same meaning as in A.R.S. § 41-1001.
2. “Arizona Medical Board” means the agency established by A.R.S. § 32-1402 to regulate physicians licensed under A.R.S. Title 32, Chapter 13.
3. “Arizona medically underserved area” means:
 - a. A primary care area with the designation described in R9-24-202(1), or
 - b. A primary care area with the designation described in R9-24-202(2).
4. “Board of Osteopathic Examiners in Medicine and Surgery” means the agency established by A.R.S. § 32-1801 to regulate physicians licensed under A.R.S. Title 32, Chapter 17.
5. “Census tract” means a small, relatively permanent statistical subdivision of a county established by the U.S. Bureau of Census.
6. “Communities of color” means individuals who self identify their race/ethnicity as anything other than Non-Hispanic White.
7. “Disability” means physical, mental, or sensory impairment as reported to the American Community Survey that may include hearing difficulty, vision difficulty, cognitive difficulty, ambulatory difficulty, self-care difficulty and independent living difficulty.
8. “Federal poverty level” means a set of money income thresholds that vary by family size and composition used by the U.S. Census Bureau to determine who is in poverty.
9. “First health care contact” means the initial telephone call or visit to a health care provider as defined in 45 CFR 160.103 for an individual’s health issue.
10. “Full-time” means providing primary care services for at least 40 hours between a Sunday at 12:00 midnight and the next Sunday at 12:00 midnight.
11. “Health organization” means:
 - a. A person or entity that provides medical services;
 - b. A third party payor defined in A.R.S. § 36-125.07(C); or
 - c. A trade or professional association described in 501(c)(3), (4), (5), or (6) of the Internal Revenue Code, 26 U.S.C. 501(c), that is exempt from federal income taxes.
12. “Indian reservation” has the same meaning as in A.R.S. § 11-801.
13. “Local planning personnel” means an individual who develop programs related to the delivery of and access to medical services for places or areas:
 - a. Under the jurisdiction of an Arizona city or county, or
 - b. In an Arizona Indian reservation or less than 50 miles outside the boundaries of an Indian reservation.
14. “Low birthweight” means any neonate weighing less than 2,500 grams at birth or less than 5 pounds 8 ounces.
15. “Medical services” has the same meaning as in A.R.S. § 36-401.
16. “Nonresidential” means not primarily used for living and sleeping.
17. “Person” has the same meaning as in A.R.S. § 41-1001.
18. “Political subdivision” means a county, city, town, district, association, or authority created by state law.
19. “Population” means the number of residents of a place or an area, according to the most recent American Community Survey prepared by the U.S. Census Bureau.
20. “Primary care area” means a geographic region determined by the Department under R9-24-204.
21. “Primary care HPSA” means primary care health professional shortage area designated by the U.S. Department of Health and Human Services under 42 U.S.C. 254e, 42 CFR 5.1 through 5.4, and 42 CFR Part 5, Appendix A.
22. “Primary care index” means the document in which the Department designates primary care areas as medically underserved according to R9-24-203 and Table 2.1.
23. “Primary care physician” means an Arizona licensed practitioner who:
 - a. Except for emergencies, is an individual’s first health care contact; and



- b. Provides primary care services in general or family practice, general internal medicine, pediatrics, or obstetrics and gynecology.
- 24. “Primary care services” means health care provided by a primary care physician, including:
 - a. Illness and injury prevention.
 - b. Health promotion and education.
 - c. Identification of individuals at special risk for illness.
 - d. Early detection of illness.
 - e. Treatment of illness and injury, and
 - f. Referral to specialists.
- 25. “Primary care services utilization pattern” means a distribution of the use of primary care services resulting from the factors listed in R9-24-204(A)(3)(a).
- 26. “Resident” means an individual who lives and sleeps in a place or an area more than one-half of the time.
- 27. “Residential” means primarily used for living and sleeping.
- 28. “Specialist” means an individual who:
 - a. Is regulated under:
 - i. A.R.S. Title 32, Chapters 7, 8, 11, 13, 14, 15, 15.1, 16, 17, 18, 19, 19.1, 25, 28, 29, 33, 34, 35, 39, or 41;
 - ii. A.R.S. Title 36, Chapter 6, Article 7; or
 - iii. A.R.S. Title 36, Chapter 17; and
 - b. Meets the education, knowledge, and skill requirements generally recognized in the profession related to a specific service or procedure, patient category, body part or system, or type of disease.
- 29. “Topography” means the surface configuration of a place or region, including elevations and positions of the physical features.
- 30. “Travel pattern” means a prevalent flow of vehicles resulting from:
 - a. The configuration of streets, and
 - b. The location of residential and nonresidential areas.
- 31. “Value” means a number within a value range.
- 32. “Value range” means, for a criterion listed in R9-24-203(B) and Table 2.1, a measurement:
 - a. Consisting of a scale between upper and lower limits, except for the supplementary criteria score under R9-24-203(B)(8); and
 - b. To which Table 2.1 assigns points or 0 points.

R9-24-202. Arizona Medically Underserved Area Designation

The Department shall designate as Arizona medically underserved areas:

1. ~~The primary care areas or parts of primary care areas~~ designated as primary care HPSAs by the U.S. Department of Health and Human Services, and
2. The primary care areas designated as medically underserved by the Department under R9-24-203 and Table 4-2.1.

R9-24-203. Primary Care Index

~~A. Every 12 months, the Department shall prepare, according to this Section, a primary care index for designating primary care areas determined under R9-24-204 as Arizona medically underserved areas.~~

- ~~1. For each primary care area determined under R9-24-204, the Department shall calculate the value for each criterion in subsection (B):~~
 - ~~a. After calculating the value for each criterion in subsection (B), the Department shall assign points to each value according to Table 1.~~
 - ~~b. A primary care area’s score is the sum of the points received by the primary care area for each criterion in subsection (B).~~
- ~~2. The Department shall designate as Arizona medically underserved:~~
 - ~~a. The primary care areas that, according to subsection (B) and Table 1 score within the top 25 percent on the primary care index or that obtain more than 55 points, whichever results in the designation of more Arizona medically underserved areas; and~~
 - ~~b. The primary care areas or parts of primary care areas with the designation described in R9-24-202(1).~~

B. For each primary care area determined by the Department under R9-24-204, the primary care index shall include a score for each of the following:

1. ~~Population to primary care provider ratio, determined by dividing the population of the primary care area by the number of primary care providers in the primary care area:~~
 - ~~a. Using primary care provider data from the Arizona Medical Board, the Board of Osteopathic Examiners in Medicine and Surgery, the Arizona State Board of Nursing, and the Arizona Regulatory Board of Physician Assistants;~~
 - ~~b. Counting a full time physician as 1.0, a full time physician assistant as 0.8, and a full time registered nurse practitioner as 0.8; and~~



- e. If the Department determines that a physician, physician assistant, or registered nurse practitioner practices less than full-time in the primary care area, lowering the number obtained under subsection (B)(1)(b) as follows:
 - i. Creating a fraction with a numerator that represents the number of hours per week the physician, physician assistant, or registered nurse practitioner practices in the primary care area and with a denominator of 40;
 - ii. Multiplying 1.0 or 0.8, whichever is appropriate, by the fraction obtained under subsection (B)(1)(e)(i);
 - iii. Subtracting the result obtained under subsection (B)(1)(e)(ii) from 1.0 or 0.8, whichever is appropriate; and
 - iv. Subtracting the result obtained under subsection (B)(1)(e)(iii) from the number obtained under subsection (B)(1)(b);
- 2. Travel distance to the nearest primary care provider, determined by:
 - a. Estimating the distance in miles:
 - i. From the center of the most densely populated area in the primary care area determined from the most recent Population Estimates for Arizona's Counties, Incorporated Places and Balance of County identified in R9-24-201(28)(b) or, for the year in which the most recent decennial census is published, from the most recent decennial census prepared by the U.S. Census Bureau; and
 - ii. To the nearest primary care provider determined from the data described in subsection (B)(1)(a); and
 - b. Using the most direct street route;
- 3. Composite transportation score, determined by:
 - a. Compiling data on the following six indicators from the most recent decennial census prepared by the U.S. Census Bureau:
 - i. Percentage of population with calendar year income less than 100 percent of the poverty threshold;
 - ii. Percentage of population older than age 65;
 - iii. Percentage of population younger than age 14;
 - iv. Percentage of population with a work disability, mobility limitation, or self care limitation;
 - v. Percentage of population without a motor vehicle; and
 - vi. The motor vehicle to population ratio;
 - b. Calculating the statewide average value for each of the six indicators in subsection (B)(3)(a);
 - c. Dividing the value of each indicator for each primary care area by the statewide average value for that indicator;
 - d. Multiplying the figure calculated under subsection (B)(3)(c) for each indicator by 100; and
 - e. Averaging the six indicator values obtained under subsection (B)(3)(d) for each primary care area;
- 4. Percentage of population with calendar year income less than 200% of the poverty threshold, determined from data in the most recent decennial census prepared by the U.S. Census Bureau;
- 5. Percentage of population with annual income between 100% and 200% of the poverty threshold, determined from data in the most recent decennial census prepared by the U.S. Census Bureau;
- 6. Percentage of uninsured births, determined from Department birth records reporting payment source as "self-pay" or "unknown;"
- 7. Ambulatory care sensitive condition hospital admissions:
 - a. Based on the number of hospital admissions for ambulatory care sensitive conditions per 1000 individuals living in the primary care area who are under age 65; and
 - b. Determined from hospital inpatient and emergency department services data provided by the Department;
- 8. Percentage of low weight births, determined from data provided by the Department;
- 9. From data provided by the Department, the sum of the percentage of births for which the mothers reported:
 - a. No prenatal care;
 - b. Prenatal care that began in the second or third trimester; and
 - c. Four or fewer prenatal care visits;
- 10. Percentage of deaths at ages younger than the birth life expectancy, determined from the most recent U.S. life expectancy data and data provided by the Department;
- 11. Number of infant deaths per 1000 live births, determined from data provided by the Department;
- 12. Supplementary criteria score, based on the presence or absence in a primary care area of the following:
 - a. Percentage of minority population greater than the statewide average for all counties, determined from data in the most recent Population Estimates for Arizona's Counties, Incorporated Places and Balance of County identified in R9-24-201(28)(b) and from data in the most recent decennial census;
 - b. Percentage of elderly population greater than the statewide average for all counties, determined from data in the most recent Population Estimates for Arizona's Counties, Incorporated Places and Balance of County identified in R9-24-201(28)(b) and from data in the most recent decennial census; and
 - c. Average annual unemployment rate greater than the average annual statewide rate, from data in the most recent Arizona Unemployment Statistics Program Special Unemployment Report, prepared by the Arizona Department of Economic Security; Research Administration, in cooperation with the U.S. Department of Labor, Bureau of Labor Statistics, and available at <http://www.workforce.arizona.gov>; and
- 13. Sole provider or no provider score:
 - a. Based on whether a primary care area has only 1.0 or less than 1.0 primary care provider;



- b. Counting a full-time physician as 1.0, a full-time physician assistant as 0.8, and a full-time registered nurse practitioner as 0.8; and
 - e. If the Department determines that a physician, physician assistant, or registered nurse practitioner practices less than full-time in the primary care area, lowering the number obtained under subsection (B)(13)(b) as follows:
 - i. Creating a fraction with a numerator that represents the number of hours per week the physician, physician assistant, or registered nurse practitioner practices in the primary care area and with a denominator of 40;
 - ii. Multiplying 1.0 or 0.8, whichever is appropriate, by the fraction obtained under subsection (B)(13)(e)(i);
 - iii. Subtracting the result obtained under subsection (B)(13)(e)(ii) from 1.0 or 0.8, whichever is appropriate; and
 - iv. Subtracting the result obtained under subsection (B)(13)(e)(iii) from the number obtained under subsection (B)(13)(b).
- C.** Every 12 months, according to subsections (A) and (B) and Table 1, the Department shall:
- 1. Withdraw an Arizona medically underserved area designation;
 - 2. Continue an Arizona medically underserved area designation, or
 - 3. Designate a new Arizona medically underserved area.
- D.** A list of current Arizona medically underserved areas is available in the Department's annual Arizona Medically Underserved Areas (AzMUA) Report at <http://www.azdhs.gov/hsd/>.
- A.** Every 24 months, the Department shall prepare, according to this Section, a primary care index for designating primary care areas determined under R9-24-204 as Arizona medically underserved areas.
- 1. For each primary care area determined under R9-24-204, the Department shall calculate the value for each criterion in subsection (B):
 - a. After calculating the value for each criterion in subsection (B), the Department shall assign points to each value according to Table 2.1.
 - b. A primary care area's score is the sum of the points received by the primary care area for each criterion in subsection (B).
 - 2. The Department shall designate as Arizona medically underserved:
 - a. The primary care areas that, according to subsection (B) and Table 2.1, score within the top 25 percent on the primary care index or that obtain more than 30 points, whichever results in the designation of more Arizona medically underserved areas; and
 - b. The primary care areas with the designation described in R9-24-202(1).
- B.** For each primary care area determined by the Department under R9-24-204, the primary care index shall include a score for each of the following:
- 1. Population-to-primary care physician ratio, determined by dividing the population of the primary care area by the number of primary care physicians in the primary care area:
 - a. Using primary care physician data from the Arizona Medical Board and the Board of Osteopathic Examiners in Medicine and Surgery,
 - b. The Department shall determine an equivalency for a full-time physician where 40 hours equals 1 and 20 hours equal 0.5.
 - 2. Travel distance to the nearest primary care physician, determined by:
 - a. Estimating the distance in miles:
 - i. From the center of the most densely populated area in the primary care area determined from the most recent American Community Survey prepared by the U.S. Census Bureau; and
 - ii. To the nearest primary care physician determined from the data described in subsection (B)(1)(a); and
 - b. Using the most direct street route;
 - 3. Percentage of population with calendar year income less than 200% of the Federal poverty level, determined from data in the most recent American Community Survey prepared by the U.S. Census Bureau;
 - 4. Percentage of population who do not have health insurance as determined by the most recent American Community Survey prepared by the U.S. Census Bureau;
 - 5. Low birthweight rate percent of births;
 - 6. Late or no prenatal care percent of births;
 - 7. Infant mortality rate per 1,000 live births;
 - 8. Supplementary criteria score, based on a rate greater than the state wide average for:
 - a. Percentage of population age 65 and older;
 - b. Percentage of population age 14 and younger;
 - c. Percentage of population with a disability;
 - d. Percentage of communities of color; and
 - e. Percentage of population who speaks a language other than English.
- C.** Every 24 months, according to subsections (A) and (B) and Table 2.1, the Department shall:
- 1. Withdraw an Arizona medically underserved area designation,
 - 2. Continue an Arizona medically underserved area designation, or
 - 3. Designate a new Arizona medically underserved area.



D. A list of current Arizona medically underserved areas is available in the Department’s biennial Arizona Medically Underserved Areas Report at <http://www.azdhs.gov/hsd/>.

Table 4-2.1. Primary Care Index Scoring

CRITERIA	VALUE RANGE	POINTS
Population to primary care provider ratio	£ 2000:1 2001:1 to 2500:1 2501:1 to 3000:1 3001:1 to 3500:1 3501:1 to 4000:1 >4000:1 or no provider	0 2 4 6 8 10
Travel distance to nearest primary care provider	£ 15.0 miles 15.1-25.0 miles 25.1-35.0 miles 35.1-45.0 miles 45.1-55.0 miles >55.0 miles	0 2 4 6 8 10
Composite transportation score	51st highest score and below 41st-50th highest scores 31st-40th highest scores 21st-30th highest scores 11th-20th highest scores 10 highest scores	0 2 4 6 8 10
Percentage of population with annual income less than 200% of poverty threshold	£ 15.0% 15.1-25.0% 25.1-35.0% 35.1-45.0% 45.1-55.0% >55.0%	0 2 4 6 8 10
Percentage of population with annual income between 100% and 200% of poverty threshold	£ 10.0% 10.1-15.0% 15.1-20.0% 20.1-25.0% 25.1-30.0% >30.0%	0 2 4 6 8 10
Percentage of uninsured births	£ 6.0% 6.1-10.0% 10.1-14.0% 14.1-18.0% 18.1-22.0% >22.0%	0 2 4 6 8 10
Ambulatory care sensitive condition hospital admissions	£ 8.0 8.1-12.0 12.1-16.0 16.1-20.0 20.1-24.0 >24.0	0 2 4 6 8 10
Percentage of low weight births	£ 6.0% 6.1-8.0% 8.1-10.0% 10.1-12.0% 12.1-14.0% >14.0%	0 2 4 6 8 10
Sum of the percentage of births with: a. No prenatal care, b. Prenatal care begun in second or third trimester, and c. Prenatal care visits £ 4	£ 15.0% 15.1-25.0% 25.1-35.0% 35.1-45.0% 45.1-55.0% >55.0%	0 2 4 6 8 10
Percentage of deaths at ages younger than birth life expectancy	£ 40.0% 40.1-50.0% 50.1-60.0% 60.1-70.0% 70.1-80.0% >80.0%	0 2 4 6 8 10



Number of infant deaths per 1000 live births	£ 4.0 4.1-6.0 6.1-8.0 8.1-10.0 10.1-12.0 >12.0	0 2 4 6 8 10
Supplementary criteria score	1-Criterion 2-Criteria 3-Criteria	2 4 6
Sole provider or no provider score	Primary care provider £ 1.0 Primary care providers > 1.0	5 0
Key to Symbols £ represents "less than or equal to" > represents "more than"		

CRITERIA	VALUE RANGE	POINTS
<u>Population-to-primary care physician ratio</u>	≤ 3000:1 3001:1 to 3500:1 3501:1 to 4000:1 4001:1 to 5000:1 5001:1 to 10,000:1 >10,000:1 or no physician	0 2 4 6 8 10
<u>Travel distance to nearest primary care physician</u>	< 10.0 miles 10.1-20.0 miles 20.1-30.0 miles 30.1-40.0 miles 40.1-50.0 miles > 50.0 miles	0 2 4 6 8 10
<u>Percentage of population with annual income less than 200% of Federal poverty level</u>	≤ 20.0% 20.1-32.0% 32.1-39.0% 39.1-51.0% >51.0%	0 2 4 6 8
<u>Percentage of population who do not have health insurance</u>	≤ 6.2% 6.3-9.6% 9.7-12.2% 12.3-17.2% >17.2%	0 2 4 6 8
<u>Low Birthweight Rate (percent of births)</u>	≤ 6.2% 6.3-6.9% 7.0-7.5% 7.6-8.2% >8.2%	0 2 4 6 8
<u>Late or No Prenatal Care Rate (percent of births)</u>	≤ 4.6% 4.7-6.2% 6.3-8.7% 8.3-12.4% >12.4%	0 2 4 6 8
<u>Infant Mortality Rate (per 1,000 live births)</u>	≤ 3.5 3.6-5.4 5.5-7.0 7.1-10.0 >10.0	0 2 4 6 8



In addition to the criteria specified in R9-24-203(B) and listed above, if a primary care area satisfies one or more of the following supplementary criteria, add one additional point to the primary care area score for each supplementary criteria satisfied.

Supplementary criteria score, based on a rate greater than the state wide average for:

1. Percentage of population age 65 and older;
2. Percentage of population age 14 and younger;
3. Percentage of population with a disability;
4. Percentage of population who are communities of color; and
5. Percentage of population who speaks a language other than English.

Key to Symbols: ≤ represents “less than or equal to” and > represents “more than”

R9-24-204. Primary Care Area Boundaries Determination

- A. The Department shall determine the boundaries of primary care areas for the entire state. A primary care area’s boundaries shall meet the following requirements:
 1. The geographic area within the boundaries corresponds to or is larger than a ~~census block~~ census tract identified for the geographic area in the most recent ~~decennial census~~ American Community Survey prepared by the U.S. Census Bureau;
 2. The boundaries are consistent with the population’s primary care services utilization patterns; and
 3. The primary care utilization patterns are determined by considering:
 - a. The geographic area’s:
 - i. Topography,
 - ii. Social and cultural relationships of the people living within the geographic area,
 - iii. Political subdivision boundaries, and
 - iv. Travel patterns; and
 - b. Data about the type, amount, and location of primary care services used by the geographic area’s population, obtained from local planning personnel, government officials, health organizations, primary care ~~providers~~ physicians, and residents of the geographic area.
- B. In addition to the requirements for primary care area boundaries in subsection (A), the Department shall consider:
 1. Indian reservation boundaries, and
 2. Primary care HPSA boundaries.
- ~~C. Without receiving a primary care area boundary change request under subsection (D), the Department may redetermine the boundaries of one or more primary care areas according to the requirements and considerations in subsections (A) and (B).~~
- ~~D. A primary care area’s local planning personnel, government officials, health organizations, primary care providers, or residents may submit to the Department a primary care area boundary change request.~~
 1. ~~A person requesting a boundary change shall:~~
 - ~~a. Make the request in writing;~~
 - ~~b. Include documentation supporting the boundary change, and~~
 - ~~c. Submit the request by October 1 to be considered for inclusion in the next calendar year’s Arizona medically underserved area designation process.~~
 2. ~~The Department shall review a primary care area boundary change request according to the time frames in R9-24-205.~~

R9-24-205. ~~Time frames~~ Repealed

- ~~A. The overall time frame described in A.R.S. § 41-1072 for a primary care area boundary change request under R9-24-204(C) is 90 days.~~
 1. ~~A person requesting a boundary change and the Department may agree in writing to extend the substantive review time frame and the overall time frame.~~
 2. ~~An extension of the substantive review time frame and the overall time frame may not exceed 25 percent of the overall time frame.~~
- ~~B. The administrative completeness review time frame described in A.R.S. § 41-1072 for a primary care area boundary change request under R9-24-204(C) is 30 days and begins on the date the Department receives a boundary change request.~~
 1. ~~Within the administrative completeness review time frame, the Department shall mail a notice of administrative completeness or a notice of deficiencies to the person requesting a boundary change.~~
 - ~~a. A notice of deficiencies shall list each deficiency and the information or documents needed to complete the boundary change request.~~
 - ~~b. A notice of deficiencies suspends the administrative completeness review time frame and the overall time frame from the date the Department mails the notice until the date the Department receives the missing information or documents.~~
 - ~~c. If the person requesting a boundary change does not submit to the Department all the information and documents listed in the notice of deficiencies within 60 days after the date the Department mails the notice of deficiencies, the Department considers the boundary change request withdrawn.~~
 2. ~~If the Department approves a boundary change request during the administrative completeness review time frame, the Department does not issue a separate written notice of administrative completeness.~~
- ~~C. The substantive review time frame described in A.R.S. § 41-1072 for a primary care area boundary change request under R9-24-204(C) is 60 days and begins on the date the Department mails the notice of administrative completeness.~~
 1. ~~Within the substantive review time frame, the Department shall mail written notification of approval or denial of the boundary change request to the person requesting a boundary change.~~
 2. ~~During the substantive review time frame:~~
 - ~~a. The Department may make one comprehensive written request for additional information; and~~
 - ~~b. If the Department and the person requesting a boundary change agree in writing to allow one or more supplemental requests for information, the Department may make the number of supplemental requests for information agreed to.~~



3. A comprehensive written request for additional information or a supplemental request for information suspends the substantive review time frame and the overall time frame from the date the Department mails the request until the date the Department receives all the information and documents requested.
 4. If the person requesting a boundary change does not submit to the Department all the information and documents listed in a comprehensive written request for additional information or a supplemental request for information within 60 days after the date the Department mails the request, the Department shall deny the boundary change request.
- D.** The Department shall approve a primary care area boundary change request under R9-24-204(C) unless:
1. The requested boundaries do not meet the requirements in R9-24-204(A);
 2. The considerations required in R9-24-204(B) support the current boundaries and outweigh the information and documents submitted with the boundary change request; or
 3. The person requesting the boundary change does not submit information and documents as stated in subsection (B)(1)(e) or subsection (C)(4).

ARTICLE 3. COORDINATING MEDICAL PROVIDERS

R9-24-301. Definitions

In addition to the definitions in A.R.S. § 36-2351 and 9 A.A.C. 24, Article 2, the following definitions apply in this Article, unless otherwise specified:

1. "CMP" means coordinating medical provider.
2. "Continuing medical education" means instruction that meets the requirements in:
 - a. A.A.C. R4-16-102 for a physician licensed under A.R.S. Title 32, Chapter 13;
 - b. A.A.C. R4-17-205 for a physician assistant licensed under A.R.S. Title 32, Chapter 25; and
 - c. A.R.S. § 32-1825 and A.A.C. R4-22-109 for a physician licensed under A.R.S. Title 32, Chapter 17.
3. "Continuing nursing education" means instruction that:
 - a. Is required by A.A.C. R4-19-511 for authorization from the Arizona State Board of Nursing for a registered nurse practitioner to prescribe and dispense drugs and devices;
 - b. Meets requirements for continuing education established by a nurse credentialing organization, such as the American Nurses Credentialing Center; or
 - c. Provides training related to the performance of a nurse's job duties.
2. "Continuing education" means instruction that meets the requirements in:
 - a. A.A.C. R4-17-205 for a physician assistant licensed under A.R.S. Title 32, Chapter 25; or
 - b. A.A.C. R4-19-511 for authorization from the Arizona State Board of Nursing for a registered nurse practitioner to prescribe and dispense drugs and devices.
- 4.3. "Drug prescription services" means providing medication that requires an order by medical personnel authorized by law to order the medication.
5. "Durable medical equipment" means an item that:
 - a. Can withstand repeated use;
 - b. Is designed to serve a medical purpose; and
 - c. Generally is not useful to an individual in the absence of a medical condition, illness, or injury.
- 6.4. "Governing authority" has the same meaning as in A.R.S. § 36-401.
- 7.5. "Independent decision" means a registered nurse practitioner's action without a physician's order according to A.A.C. R4-19-508 and A.A.C. R4-19-511.
- 8.6. "Medical direction" means guidance, advice, or consultation provided by a CMP to a registered nurse practitioner.
- 9.7. "Medical personnel" means a medical clinic's physicians, physician assistants, registered nurse practitioners, and nurses.
10. "Nurse" means an individual licensed as a graduate, professional, or registered nurse or as a practical nurse under A.R.S. Title 32, Chapter 15.
8. "Physician assistant" has the same meaning as in A.R.S. § 32-2501.
- 10.9. "Order" means a written directive.
- 11.10. "Practice requirements" means the standards for physicians established in:
 - a. A.R.S. Title 32, Chapter 13 and 4 A.A.C. 16; or
 - b. A.R.S. Title 32, Chapter 17 and 4 A.A.C. 22.
- 12.11. "Referral source" means a person who sends an individual to a third person for medical services.
12. "Registered nurse practitioner" means an individual licensed under A.R.S. Title 32, Chapter 15.
13. "Social services" means assistance, other than medical services, provided to maintain or improve an individual's physical, mental, and social participation capabilities.
14. "Supervision" has the same meaning as in A.R.S. § 32-2501.
15. "Support services" means drug prescription services, social services, and provision of durable medical equipment.
16. "Work schedule coverage" means a medical clinic's system for ensuring that a sufficient number of medical personnel are present at the medical clinic.
17. "Written protocol" means an agreement that identifies and is signed by a CMP and a registered nurse practitioner or a physician assistant.

R9-24-302. CMP Functions

- A.** A CMP shall:
1. Participate in planning for the delivery of medical services and support services within the Arizona medically underserved area that includes ways to increase access to medical services and support services for the Arizona medically underserved area's residents;
 2. Develop written protocols that:



- a. Describe the manner and frequency that a registered nurse practitioner or a physician assistant at a medical clinic will communicate with the CMP, in addition to the face-to-face meeting required in subsection (A)(5);
 - b. Specify the criteria used by a registered nurse practitioner at the medical clinic in making an independent decision to refer an individual to a physician; and
 - c. Specify procedures to be followed by a physician assistant at the medical clinic when the CMP's supervision of the physician assistant is by a means other than physical presence;
 - 3. Approve or disapprove the selection of registered nurse practitioners and physician assistants who will work at the medical clinic;
 - 4. Provide:
 - a. Medical direction to the registered nurse practitioners at the medical clinic, and analysis
 - b. Supervision to the physician assistants at the medical clinic;
 - 5. At least weekly, conduct a face-to-face meeting with each registered nurse practitioner and each physician assistant at the medical clinic to evaluate the medical services provided by the registered nurse practitioner or physician assistant;
 - 6. For ~~continuing medical education or continuing nursing education~~ continuing education of a medical clinic's medical personnel:
 - a. Recommend specific areas of instruction, including instruction in referral sources; and
 - b. Develop a written plan for work schedule coverage to accommodate ~~continuing medical education or continuing nursing education~~ continuing education; and
 - 7. At least annually, meet with the medical clinic's governing authority to evaluate the medical clinic's program and the medical care provided by the medical clinic's medical personnel.
- B.** The requirements in subsection (A) do not replace the practice requirements applicable to a CMP.



GOVERNOR EXECUTIVE ORDER

Executive Order 2020-02 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 2020-02

Moratorium on Rulemaking to Promote Job Creation and Economic Development; Implementation of Licensing Reform Policies

[M20-01]

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, 2018 and 2019; and

WHEREAS, the State of Arizona eliminated or improved 637 burdensome regulations in 2019 and a total of 2,289 needless regulations have been eliminated or improved since 2015; and

WHEREAS, estimates show these eliminations saved job creators \$53.9 million in operating costs in 2019 and a total of over \$134.3 million in savings since 2015; and

WHEREAS, in 2019, for every one new necessary rule added to the Administrative Code, five have been repealed or improved; and

WHEREAS, approximately 354,000 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 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 that submits a rulemaking request pursuant to this Order shall recommend for consideration by the Office of the Governor at least **three** existing rules to eliminate for every **one** additional rule requested by the agency.



3. A State agency that submits a rulemaking exemption request pursuant to this Order shall include with their request an analysis of how small businesses may be impacted by any newly proposed rules or rule modifications.
4. 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 the Arizona Revised Statutes or Arizona Administrative Code. Any material that is not specifically authorized must be removed immediately.
5. A State agency that issues occupational or professional licenses shall prominently post on the agency’s website landing page all current state policies that ease licensing burdens and the exact steps applicants must complete to receive their license using these policies. State agencies should provide information that applies to all applicants, but have a designated area on such landing page that includes licensing information specifically for military spouses, active duty service members and veterans and all policies that make it easier for these applicant groups to receive their license. Examples of reduced licensing burdens include universal recognition of out-of-state licenses, availability of temporary licenses, fee waivers, exam exemptions and/or allowing an applicant to substitute military education or experience for licensing requirements. A landing page feature may link to an internal agency web page with more information, if necessary. All information must be easy to locate and written in clear and concise language.
6. All state agencies that are required to issue occupational or professional licenses by universal recognition (established by section 32-4302, Arizona Revised Statutes) must track all applications received for this license type. Before any agency denies a professional or occupational license applied for under section 32-4302, Arizona Revised Statutes, the agency shall submit the application and justification for denial to the Office of the Governor for review before any official action is taken by the agency. The Office of the Governor should be notified of any required timeframes, whether in statute or rule, for approval or denial of the license by the agency.
7. 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.
8. 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 13th day of January in the Year Two Thousand and Twenty and of the Independence of the United States of America the Year Two Hundred and Forty-Fourth.

ATTEST:
Katie Hobbs
SECRETARY OF STATE



REGISTER INDEXES

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

Abbreviations for rulemaking activity in this Index include:

PROPOSED RULEMAKING

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

SUPPLEMENTAL PROPOSED RULEMAKING

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

FINAL RULEMAKING

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

SUMMARY RULEMAKING

PROPOSED SUMMARY

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

FINAL SUMMARY

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

EXPEDITED RULEMAKING

PROPOSED EXPEDITED

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

SUPPLEMENTAL EXPEDITED

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

FINAL EXPEDITED

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

EXEMPT RULEMAKING

EXEMPT

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

EXEMPT PROPOSED

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

EXEMPT SUPPLEMENTAL PROPOSED

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

FINAL EXEMPT RULEMAKING

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

EMERGENCY RULEMAKING

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

RECODIFICATION OF RULES

RC = Recodified

REJECTION OF RULES

RJ = Rejected by the Attorney General

TERMINATION OF RULES

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

RULE EXPIRATIONS

EXP = Rules have expired

See also “emergency expired” under emergency rulemaking

CORRECTIONS

C = Corrections to Published Rules

2020 Arizona Administrative Register Volume 26 Page Guide

Issue 1, Jan. 3, 2020.....1-44	Issue 2, Jan. 10, 2020.....45-96	Issue 3, Jan. 17, 2020.....97-124
Issue 4, Jan. 24, 2020.....125-182	Issue 5, Jan. 31, 2020.....183-218	Issue 6, Feb. 7, 2020.....219-258
Issue 7, Feb. 14, 2020.....259-304	Issue 8, Feb. 21, 2020.....305-330	Issue 9, Feb. 28, 2020.....331-366
Issue 10, March 6, 2020.....367-396	Issue 11, March 13, 2020.....397-468	Issue 12, March 20, 2020.....469-524
Issue 13, March 27, 2020.....525-584	Issue 14, April 3, 2020.....585-640	Issue 15, April 10, 2020.....641-674
Issue 16, April 17, 2020.....675-718	Issue 17, April 24, 2020.....719-776	Issue 18, May 1, 2020.....777-874
Issue 19, May 8, 2020.....875-942	Issue 20, May 15, 2020.....943-992	Issue 21, May 22, 2020.....993-1042
Issue 22, May 29, 2020.....1043-1112	Issue 23, June 5, 2020.....1113-1152	Issue 24, June 12, 2020.....1153-1196
Issue 25, June 19, 2020.....1197-1254		

RULEMAKING ACTIVITY INDEX

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

THIS INDEX INCLUDES RULEMAKING ACTIVITY THROUGH ISSUE 25 OF VOLUME 26.

Accountancy, Board of

R4-1-101.	FM-339
R4-1-104.	FM-339
R4-1-115.03.	FM-339
R4-1-226.01.	FM-339
R4-1-228.	FR-339; FN-339
R4-1-229.	FM-339
R4-1-341.	FM-339
R4-1-344.	FM-339
R4-1-345.	FM-339
R4-1-346.	FM-339
R4-1-453.	FM-339
R4-1-454.	FM-339
R4-1-455.	FM-339
R4-1-455.01.	FM-339
R4-1-456.	FM-339

**Administration, Department of -
Public Buildings Maintenance**

R2-11-501.	FN-679
------------	--------

**Agriculture, Department of - Animal
Services Division**

R3-2-101.	FM-781
R3-2-102.	FM-781
R3-2-208.	FM-781
R3-2-301.	FR-781
R3-2-302.	FM-781
R3-2-401.	FM-781
R3-2-402.	FM-781
R3-2-403.	FN-781
R3-2-404.	FM-781
R3-2-405.	FM-781
R3-2-406.	FM-781
R3-2-407.	FM-781
R3-2-408.	FM-781
R3-2-409.	FM-781
R3-2-410.	FR-781; FN-812

R3-2-411.	FR-781
R3-2-412.	FR-781
R3-2-413.	FM-781
R3-2-501.	FM-781
R3-2-503.	FM-781
R3-2-504.	FM-781
R3-2-505.	FM-781
R3-2-601.	FR-781
R3-2-602.	FM-781
R3-2-603.	FR-781
R3-2-604.	FR-781
R3-2-605.	FM-781
R3-2-606.	FM-781
R3-2-607.	FM-781
R3-2-608.	FR-781
R3-2-609.	FM-781
R3-2-611.	FM-781
R3-2-612.	FM-781
R3-2-613.	FM-781
R3-2-614.	FM-781
R3-2-615.	FM-781
R3-2-616.	FM-781
R3-2-617.	FM-781
R3-2-618.	FM-781
R3-2-620.	FM-781
R3-2-701.	FM-781
R3-2-702.	FM-781
R3-2-703.	FM-781
R3-2-708.	FM-781
R3-2-801.	FM-781
R3-2-803.	FM-781
R3-2-804.	FM-781
R3-2-805.	FM-781
R3-2-807.	FM-781
R3-2-808.	FM-781
R3-2-901.	FM-781
R3-2-902.	FM-781
R3-2-906.	FM-781
R3-2-907.	FM-781
R3-2-908.	FM-781

R3-2-1101.	FEN-916
R3-2-1102.	FEN-916
R3-2-1103.	FEN-916
R3-2-1104.	FEN-916
R3-2-1105.	FEN-916
R3-2-1106.	FEN-916
R3-2-1107.	FEN-916
R3-2-1108.	FEN-916
R3-2-1109.	FEN-916
R3-2-1110.	FEN-916
R3-2-1111.	FEN-916
R3-2-1112.	FEN-916
R3-2-1113.	FEN-916
R3-2-1114.	FEN-916
R3-2-1115.	FEN-916
R3-2-1116.	FEN-916
R3-2-1117.	FEN-916
R3-2-1118.	FEN-916
R3-2-1119.	FEN-916
R3-2-1120.	FEN-916
R3-2-1121.	FEN-916
R3-2-1122.	FEN-916
R3-2-1123.	FEN-916
R3-2-1124.	FEN-916
R3-2-1125.	FEN-916

**Agriculture, Department of - Citrus
Fruit and Vegetable**

R3-10-201.	XN-681
R3-10-301.	XN-681
R3-10-302.	XN-681
R3-10-303.	XN-681
R3-10-304.	XN-681
R3-10-305.	XN-681
R3-10-401.	XN-681
R3-10-402.	XN-681
R3-10-403.	XN-681
R3-10-404.	XN-681
R3-10-405.	XN-681
R3-10-406.	XN-681

R3-10-407. XN-681
 R3-10-501. XN-681
 R3-10-502. XN-681
 R3-10-503. XN-681
 R3-10-504. XN-681
 R3-10-601. XN-681
 R3-10-602. XN-681
 R3-10-603. XN-681
 R3-10-701. XN-681
 R3-10-801. XN-681
 R3-10-802. XN-681
 R3-10-803. XN-681
 R3-10-804. XN-681
 R3-10-805. XN-681
 R3-10-806. XN-681
 R3-10-807. XN-681
 R3-10-901. XN-681
 R3-10-902. XN-681
 R3-10-903. XN-681
 R3-10-1001. XN-681
 R3-10-1002. XN-681
 R3-10-1003. XN-681
 R3-10-1004. XN-681
 R3-10-1005. XN-681
 R3-10-1101. XN-681
 R3-10-1102. XN-681
 R3-10-1103. XN-681
 R3-10-1104. XN-681
 R3-10-1105. XN-681
 R3-10-1106. XN-681
 R3-10-1107. XN-681
 R3-10-1108. XN-681
 R3-10-1109. XN-681
 R3-10-1110. XN-681
 R3-10-1111. XN-681
 R3-10-1112. XN-681
 R3-10-1112. XN-681
 R3-10-1113. XN-681
 R3-10-1114. XN-681
 R3-10-1115. XN-681
 R3-10-1201. XN-681
 R3-10-1301. XN-681
 R3-10-1401. XN-681
 R3-10-1402. XN-681
 R3-10-1403. XN-681
 R3-10-1404. XN-681
 R3-10-1405. XN-681
 R3-10-1406. XN-681
 R3-10-1407. XN-681
 R3-10-1408. XN-681
 R3-10-1501. XN-681
 R3-10-1601. XN-681
 R3-10-1602. XN-681
 R3-10-1603. XN-681
 R3-10-1604. XN-681
 R3-10-1605. XN-681
 R3-10-1606. XN-681
 R3-10-1607. XN-681
 R3-10-1608. XN-681
 R3-10-1609. XN-681
 R3-10-1610. XN-681
 R3-10-1611. XN-681
 R3-10-1612. XN-681
 R3-10-1613. XN-681
 R3-10-1614. XN-681
 R3-10-1615. XN-681

R3-10-1701. XN-681
 R3-10-1702. XN-681
 R3-10-1703. XN-681
 R3-10-1704. XN-681
 R3-10-1705. XN-681
 R3-10-1706. XN-681
 R3-10-1707. XN-681

Agriculture, Department of - Pest Management Division

R3-8-103. PEM-379

Arizona Health Care Cost Containment System - Grievance System

R9-34-101. FM-548

Behavioral Health Examiners, Board of

R4-6-101. PM-997
 R4-6-211. PM-997
 R4-6-212. PM-997
 R4-6-212.01. PM-997
 R4-6-214. PM-997
 R4-6-215. PM-997
 R4-6-216. PM-997
 R4-6-304. PM-997
 R4-6-402. PM-997
 R4-6-501. PM-997
 R4-6-502. PM-997
 R4-6-504. PM-997
 R4-6-601. PM-997
 R4-6-602. PM-997
 R4-6-604. PM-997
 R4-6-701. PM-997
 R4-6-704. PM-997
 R4-6-706. PM-997
 R4-6-802. PM-997
 R4-6-1101. PM-997
 R4-6-1106. PM-997

Child Safety, Department of - Permanency and Support Services

R21-5-201. FM-241
 R21-5-205. FM-241

Clean Elections Commission, Citizens

R2-20-104. TM-114
 R2-20-113. FM-335
 R2-20-209. FM-111; FM-542
 R2-20-701. PM-101; FM-886
 R2-20-702. FM-309; FM-1132
 R2-20-702.01. PM-102; FM-887
 R2-20-703.01. PM-104; FM-889
 R2-20-704. FM-337

Corporation Commission - Fixed Utilities

R14-2-2601. FN-473
 R14-2-2602. FN-473
 R14-2-2603. FN-473
 R14-2-2604. FN-473

R14-2-2605. FN-473
 R14-2-2606. FN-473
 R14-2-2607. FN-473
 R14-2-2608. FN-473
 R14-2-2609. FN-473
 R14-2-2610. FN-473
 R14-2-2611. FN-473
 R14-2-2612. FN-473
 R14-2-2613. FN-473
 R14-2-2614. FN-473
 R14-2-2615. FN-473
 R14-2-2616. FN-473
 R14-2-2617. FN-473
 R14-2-2618. FN-473
 R14-2-2619. FN-473
 R14-2-2620. FN-473
 R14-2-2621. FN-473
 R14-2-2622. FN-473
 R14-2-2623. FN-473
 R14-2-2624. FN-473
 R14-2-2625. FN-473
 R14-2-2626. FN-473
 R14-2-2627. FN-473
 R14-2-2628. FN-473

Corporation Commission - Transportation

R14-5-202. PM-11; FM-1024
 R14-5-204. PM-11; FM-1024

Dispensing Opticians, Board of

R4-20-120. FM-202

Economic Security, Department of - Child Support Enforcement

R6-7-103. FM-15

Economic Security, Department of - Developmental Disabilities

R6-6-401. P#-5; PN-5
 R6-6-402. P#-5; PM-5
 R6-6-403. PR-5; P#-5
 R6-6-404. PM-5
 R6-6-405. P#-5; PM-5

Economic Security, Department of - Food Stamps Program

R6-14-301. FN-263
 R6-14-302. FN-263
 R6-14-303. FN-263
 R6-14-304. FN-263
 R6-14-305. FN-263
 R6-14-306. FN-263
 R6-14-307. FN-263
 R6-14-308. FN-263
 R6-14-309. FN-263
 R6-14-310. FN-263
 R6-14-311. FN-263
 R6-14-401. FN-263
 R6-14-402. FN-263
 R6-14-403. FN-263
 R6-14-404. FN-263
 R6-14-405. FN-263
 R6-14-406. FN-263



R9-10-706.	PEM-49; FEM-551		FER-816; FEN-816	R9-16-308.	PER-148; PEN-148;
R9-10-707.	PEM-49; FEM-551	R9-16-207.	PER-129; PEN-129;		FER-835; FEN-835
R9-10-708.	PEM-49; FEM-551		FER-816; FEN-816	R9-16-309.	PER-148; PEN-148;
R9-10-712.	PEM-49; FEM-551	R9-16-208.	PEM-129; FEM-816		FER-835; FEN-835
R9-10-716.	PEM-49; FEM-551	R9-16-209.	PER-129; PEN-129;	R9-16-310.	PER-148; FEM-835
R9-10-722.	PEM-49; FEM-551		FER-816; FEN-816	R9-16-311.	PER-148; PEN-148;
Health Services, Department of - Medical Marijuana Program		Table 2.1.	PER-129; FER-816		FER-835; FEN-835
R9-17-101.	XM-734	R9-16-210.	PER-129; PEN-129;	R9-16-312.	PER-148; PEN-148;
R9-17-107.	XM-968		FER-816; FEN-816		FER-835; FEN-835
Table 1.1.	XM-968		PER-129; PEN-129;	R9-16-313.	PER-148; PEN-148;
R9-17-310.	XM-734	R9-16-211.	FER-816; FEN-816		FER-835; FEN-835
R9-17-317.	XM-734; XM-968		PER-129; PEN-129;		PER-148; PEN-148;
R9-17-317.01.	XN-734	R9-16-212.	FER-816; FEN-816	R9-16-314.	PER-148; PEN-148;
Table 3.1.	XN-734		PER-129; PEN-129;		FER-835; FEN-835
R9-17-402.	XM-734; XM-968		FER-816; FEN-816		PER-148; PEN-148;
R9-17-402.01.	XN-734; XM-968	R9-16-213.	PER-129; PEN-129;	Table 3.1.	PER-148; FEN-835
R9-17-403.	XM-734; XM-968		FER-816; FEN-816	R9-16-315.	PER-148; PEN-148;
R9-17-404.	XM-734		PER-129; PEN-129;		FER-835; FEN-835
R9-17-404.01.	XN-734	R9-16-214.	FER-816; FEN-816		PER-148; PEN-148;
R9-17-404.02.	XN-734		PER-129; PEN-129;	R9-16-316.	PER-148; PEN-148;
R9-17-404.03.	XN-734		FER-816; FEN-816		FER-835; FEN-835
R9-17-404.04.	XN-734	Table 2.1.	PER-129; FEN-816		PER-148; PEN-148;
R9-17-404.05.	XN-734		PER-129; FEM-816	Table 3.1.	PER-148; FER-835
R9-17-404.06.	XN-734	R9-16-215.	PEM-129; FEM-816		PER-148; FER-835
R9-17-404.07.	XN-734; XM-968		PER-129; FEN-816	R9-16-317.	PER-148; FER-835
R9-17-407.	XM-734	R9-16-216.	PER-129; FEN-816		PER-148; FER-835
R9-17-408.	XM-734		PEM-148; FEM-835	R9-16-401.	PM-1171
R9-17-409.	XM-734	R9-16-301.	PER-148; PEN-148;	R9-16-402.	PM-1171
R9-17-410.	XM-734		FER-835; FEN-835	R9-16-405.	PM-1171
Health Services, Department of - Occupational Licensing		R9-16-302.	PER-148; PEN-148;	R9-16-407.	PM-1171
R9-16-201.	PEM-129; FEM-816		FER-835; FEN-835	R9-16-501.	PER-165; FEM-852
R9-16-202.	PER-129; PEN-129;	R9-16-303.	PER-148; PEN-148;	R9-16-502.	PER-165; FEM-852
	FER-816; FEN-816		FER-835; FEN-835	R9-16-503.	PER-165; FEM-852
R9-16-203.	PER-129; PEN-129;	R9-16-304.	PER-148; PEN-148;	R9-16-504.	PER-165; FEM-852
	FER-816; FEN-816		FER-835; FEN-835	R9-16-505.	PER-165; PEN-165;
R9-16-204.	PER-129; PEN-129;	R9-16-305.	PER-148; PEN-148;		FER-852; FEN-852
	FER-816; FEN-816		FER-835; FEN-835	Table 5.1.	PER-165; FER-852
R9-16-205.	PER-129; PEN-129;	R9-16-306.	PER-148; PEN-148;		PER-165; PEN-165;
	FER-816; FEN-816		FER-835; FEN-835	R9-16-506.	PER-165; PEN-165;
R9-16-206.	PER-129; PEN-129;	R9-16-307.	PER-148; PEN-148;	Table 5.1.	PER-165; FEN-852
	FER-816; FEN-816		FER-835; FEN-835		PER-165; FEM-852

R9-16-508.	PEN-165; FEN-852	R20-5-629.	FM-373	R13-10-104.	FM-723
R9-16-614.	FM-351	Land Department, State		R13-10-107.	FM-723
R9-16-623.	FM-351	R12-5-2105.	EXP-290	Exhibit A.	FM-723
Health Services, Department of - Radiation Control		R12-5-2106.	EXP-290	Exhibit B.	FM-723
R9-7-101.	PEM-431; FEM-1067	Manufactured Housing, Board of		Exhibit C.	FM-723
R9-7-102.	PEM-431; FEM-1067	R4-34-101.	PM-529	Exhibit D.	FM-723
R9-7-302.	PEM-431; FEM-1067	R4-34-102.	PM-529	Exhibit I-1.	FN-723
R9-7-305.	PEM-431; FEM-1067	R4-34-203.	PM-529	Exhibit I-2.	FN-723
R9-7-313.	PEM-431; FEM-1067	R4-34-204.	PM-529	Public Safety, Department of - Tow Trucks	
R9-7-318.	PEM-431; FEM-1067	R4-34-502.	PM-529	R13-3-902.	FM-963
R9-7-448.	PEM-431; FEM-1067	R4-34-504.	PM-529	Psychologist Examiners, Board of	
R9-7-1302.	PM-1157	R4-34-603.	PM-529	R4-26-203.	PM-187; FM-1010
R9-7-1303.	PM-1157	R4-34-606.	PM-529	R4-26-203.01.	PM-187; FM-1010
R9-7-1304.	PM-1157	R4-34-607.	PM-529	R4-26-205.	PM-187; FM-1010
R9-7-1306.	PM-1157	R4-34-701.	PM-529	R4-26-207.	PM-187; FM-1010
Table 13.1.	PN-1157	R4-34-702.	PM-529	Table 1.	PM-187; FM-1010
R9-7-1307.	PR-1157	R4-34-703.	PM-529	R4-26-401.	PM-187; FM-1017
Table 1.	PR-1157	R4-34-704.	PM-529	R4-26-403.	PM-187; FM-1017
Table 13.2.	PN-1157	R4-34-705.	PM-529	R4-26-404.1.	PM-187; FM-1017
R9-7-1507.	PEM-431; FEM-1067	R4-34-706.	PM-529	R4-26-404.2.	PM-187; FM-1017
R9-7-1510.	PEM-431; FEM-1067	R4-34-801.	PM-529	R4-26-406.	PM-187; FM-1017
R9-7-1514.	PEM-431; FEM-1067	R4-34-802.	PM-529	R4-26-407.	PR-187; FR-1017
R9-7-1907.	PEM-431; FEM-1067	R4-34-805.	PM-529	R4-26-408.	PM-187; FM-1017
R9-7-1923.	PEM-431; FEM-1067	Nursing Care Institution Adminis- trators and Assisted Living Facility Managers, Board of Examiners of		R4-26-415.	PM-187
R9-7-1927.	PEM-431; FEM-1067	R4-33-702.	PM-589; EM-1091	Retirement System Board, State	
R9-7-1977.	PEM-431; FEM-1067	R4-33-703.1.	PM-589; EM-1091	R2-8-115.	PM-947
Health Services, Department of - Vital Records and Statistics		Pharmacy, Board of		R2-8-120.	PR-947
R9-19-101.	PEM-891	R4-23-110.	FM-223	R2-8-122.	FM-371
R9-19-104.	PEM-891	R4-23-204.	FM-223	R2-8-126.	PM-947
R9-19-201.	PEM-891	R4-23-205.	FM-223	R2-8-127.	PN-947
R9-19-202.	PEM-891	R4-23-407.	FM-223; FM-544	R2-8-128.	PN-947
R9-19-204.	PEM-891	R4-23-408.	FM-223	R2-8-129.	PN-947
R9-19-208.	PEM-891	R4-23-411.	FM-223	R2-8-130.	PN-947
R9-19-210.	PEM-891	R4-23-607.	FM-223	R2-8-131.	PN-947
R9-19-301.	PEM-891	R4-23-801.	FR-223	R2-8-132.	PN-947
R9-19-304.	PEM-891	R4-23-1103.	FM-223	R2-8-133.	PN-947
R9-19-305.	PEM-891	R4-23-1106.	FM-223	Secretary of State, Office of the	
R9-19-306.	PEM-891	Podiatry Examiners, Board of		R2-12-1201.	F#-106; FN-106
R9-19-309.	PEM-891	R4-25-101.	PM-645	R2-12-1202.	F#-106; FM-106
R9-19-314.	PEM-891	R4-25-102.	PM-645	R2-12-1203.	F#-106
R9-19-315.	PEM-891	R4-25-103.	PM-645	R2-12-1204.	F#-106; FM-106
Industrial Commission of Arizona		R4-25-104.	PM-645	R2-12-1205.	F#-106; FM-106
R20-5-507.	FM-311	Table 1.	PM-645	R2-12-1206.	F#-106; FM-106
R20-5-601.	FM-373	R4-25-201.	PM-645	R2-12-1207.	F#-106; FM-106
R20-5-601.01.	EXP-290	R4-25-203.	PR-645	R2-12-1208.	FR-106; F#-106
R20-5-602.	FM-373	R4-25-301.	PM-645	R2-12-1209.	FR-106
Public Safety, Department of - Alcohol Testing		R4-25-302.	PM-645	R2-12-1301.	FN-537
R13-10-101.	FM-723	R4-25-501.	PM-645	R2-12-1302.	FN-537
R13-10-103.	FM-723	R4-25-502.	PM-645	R2-12-1303.	FN-537



R2-12-1304. FN-537
 R2-12-1305. FN-537
 R2-12-1306. FN-537
 R2-12-1307. FN-537
 R2-12-1308. FN-537

Transportation, Department of - Commercial Programs

R17-5-601. FM-1047
 R17-5-603. FM-1047

R17-5-604. FM-1047
 R17-5-609. FM-1047
 R17-5-610. FM-1047
 R17-5-612. FM-1047
 R17-5-614. FR-1047;
 FN-1047
 R17-5-616. FM-1047
 R17-5-621. FM-1047

Transportation, Department of -

Highways

R17-3-801. EXP-382
 R17-3-802. EXP-382
 R17-3-803. EXP-382
 R17-3-804. EXP-382
 R17-3-805. EXP-382
 R17-3-806. EXP-382
 R17-3-808. EXP-382

OTHER NOTICES AND PUBLIC RECORDS INDEX

Other legal notices required to be published under the Administrative Procedure Act, such as Rulemaking Docket Openings, are included in this Index by volume page number. Notices of Agency Ombudsman, Substantive Policy Statements, Proposed Delegation Agreements, and other applicable public records as required by law are also listed in this Index by volume page number.

THIS INDEX INCLUDES OTHER NOTICE ACTIVITY THROUGH ISSUE 25 OF VOLUME 26.

Agency Ombudsman, Notices of

Child Safety, Department of; p. 384
 Chiropractic Examiners, Board of; p. 173
 Dental Examiners, Board of; p. 384
 First Things First/Early Childhood Development and Health Board; p. 456
 Osteopathic Examiners in Medicine and Surgery, Board of; p. 21
 Public Safety, Department of; p. 21

Delegation Agreements, Notices of Proposed

Environmental Quality, Department of; pp. 1234-1235

Docket Opening, Notices of Rulemaking

Agriculture, Department of - Pest Management Division; 3 A.A.C. 8; p. 383
 Behavioral Health Examiners, Board of; 4 A.A.C. 6; p. 1028
 Child Safety, Department of - Foster Home and Child Welfare Agency Facility Safety; p. 1136
 Clean Elections Commission, Citizens; 2 A.A.C. 20; pp. 115-116
 Corporation Commission - Transportation; 14 A.A.C. 5; p. 19
 Economic Security, Department of - Developmental Disabilities; 6 A.A.C. 6; p. 17
 Environmental Quality, Department of - Hazardous Waste Management; 18 A.A.C. 8; p. 318
 Game and Fish Commission; 12 A.A.C. 4; p. 1135
 Health Services, Department of - Administration; 9 A.A.C. 1; pp. 206-207
 Health Services, Department of - Child Care Group Homes; 9 A.A.C. 3; pp. 1232-1233

Health Services, Department of - Arizona Medically Underserved Areas; 9 A.A.C. 24; pp. 1180-1181
 Health Services, Department of - Communicable Diseases and Infestations; 9 A.A.C. 6; p. 291
 Health Services, Department of - Food, Recreational, and Institutional Sanitation; 9 A.A.C. 8; p. 356
 Health Services, Department of - Health Care Institution Facility Data; 9 A.A.C. 11; p. 569
 Health Services, Department of - Health Care Institutions: Licensing; 9 A.A.C. 10; pp. 317, 1179
 Health Services, Department of - Occupational Licensing; 9 A.A.C. 16; pp. 626-627
 Health Services, Department of - Radiation Control; 9 A.A.C. 7; pp. 355-356, 762
 Health Services, Department of - Vital Records and Statistics; 9 A.A.C. 19; p. 659-660
 Manufactured Housing, Board of; 4 A.A.C. 34; p. 568
 Nursing Care Institution Administrators and Assisted Living Facility Managers, Board of Examiners of; 4 A.A.C. 33; p. 17
 Peace Officer Standards and Training Board, Arizona; 13 A.A.C. 4; pp. 978
 Podiatry Examiners, Board of; 4 A.A.C. 25; p. 658
 Psychologist Examiners, Board of; 4 A.A.C. 26; pp. 205-206
 Public Safety, Department of - Tow Trucks; 13 A.A.C. 3; p. 18
 Public Safety, Department of - School Buses; 13 A.A.C. 13; p. 569
 Retirement System Board, State; 2 A.A.C. 8; p. 978

Governor's Office

Executive Order 2019-01: pp. 23-24
Executive Order 2020-02: pp. 174-175
Governor's Regulatory Review Council
 Notices of Action Taken at Monthly Meetings: pp. 217, 257-258, 302-303, 581-582, 872-873, 1110-1111, 1252-1253

Public Information, Notices of

Environmental Quality, Department of - Pesticides and Water Pollution Control; pp. 1236-1238
 Environmental Quality, Department of - Safe Drinking Water; pp. 628-629, 661
 Environmental Quality, Department of - Water Pollution Control; p. 706
 Health Services, Department of; pp. 246-247
 Land Department, State; p. 1182

Substantive Policy Statement, Notices of

Contractors, Registrar of; p. 319
 Finance Authority, Water Infrastructure; pp. 319-321
 Industrial Commission of Arizona; p. 1137
 Land Department, State; pp. 512-513
 Real Estate Department; p. 662
 State Lottery, Arizona; p. 117



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	3/1	2/1	4/1	3/1	4/30	4/1	5/31	5/1	6/30	6/1	7/31
1/2	3/2	2/2	4/2	3/2	5/1	4/2	6/1	5/2	7/1	6/2	8/1
1/3	3/3	2/3	4/3	3/3	5/2	4/3	6/2	5/3	7/2	6/3	8/2
1/4	3/4	2/4	4/4	3/4	5/3	4/4	6/3	5/4	7/3	6/4	8/3
1/5	3/5	2/5	4/5	3/5	5/4	4/5	6/4	5/5	7/4	6/5	8/4
1/6	3/6	2/6	4/6	3/6	5/5	4/6	6/5	5/6	7/5	6/6	8/5
1/7	3/7	2/7	4/7	3/7	5/6	4/7	6/6	5/7	7/6	6/7	8/6
1/8	3/8	2/8	4/8	3/8	5/7	4/8	6/7	5/8	7/7	6/8	8/7
1/9	3/9	2/9	4/9	3/9	5/8	4/9	6/8	5/9	7/8	6/9	8/8
1/10	3/10	2/10	4/10	3/10	5/9	4/10	6/9	5/10	7/9	6/10	8/9
1/11	3/11	2/11	4/11	3/11	5/10	4/11	6/10	5/11	7/10	6/11	8/10
1/12	3/12	2/12	4/12	3/12	5/11	4/12	6/11	5/12	7/11	6/12	8/11
1/13	3/13	2/13	4/13	3/13	5/12	4/13	6/12	5/13	7/12	6/13	8/12
1/14	3/14	2/14	4/14	3/14	5/13	4/14	6/13	5/14	7/13	6/14	8/13
1/15	3/15	2/15	4/15	3/15	5/14	4/15	6/14	5/15	7/14	6/15	8/14
1/16	3/16	2/16	4/16	3/16	5/15	4/16	6/15	5/16	7/15	6/16	8/15
1/17	3/17	2/17	4/17	3/17	5/16	4/17	6/16	5/17	7/16	6/17	8/16
1/18	3/18	2/18	4/18	3/18	5/17	4/18	6/17	5/18	7/17	6/18	8/17
1/19	3/19	2/19	4/19	3/19	5/18	4/19	6/18	5/19	7/18	6/19	8/18
1/20	3/20	2/20	4/20	3/20	5/19	4/20	6/19	5/20	7/19	6/20	8/19
1/21	3/21	2/21	4/21	3/21	5/20	4/21	6/20	5/21	7/20	6/21	8/20
1/22	3/22	2/22	4/22	3/22	5/21	4/22	6/21	5/22	7/21	6/22	8/21
1/23	3/23	2/23	4/23	3/23	5/22	4/23	6/22	5/23	7/22	6/23	8/22
1/24	3/24	2/24	4/24	3/24	5/23	4/24	6/23	5/24	7/23	6/24	8/23
1/25	3/25	2/25	4/25	3/25	5/24	4/25	6/24	5/25	7/24	6/25	8/24
1/26	3/26	2/26	4/26	3/26	5/25	4/26	6/25	5/26	7/25	6/26	8/25
1/27	3/27	2/27	4/27	3/27	5/26	4/27	6/26	5/27	7/26	6/27	8/26
1/28	3/28	2/28	4/28	3/28	5/27	4/28	6/27	5/28	7/27	6/28	8/27
1/29	3/29	2/29	4/29	3/29	5/28	4/29	6/28	5/29	7/28	6/29	8/28
1/30	3/30			3/30	5/29	4/30	6/29	5/30	7/29	6/30	8/29
1/31	3/31			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	1/30/21
7/2	8/31	8/2	10/1	9/2	11/1	10/2	12/1	11/2	1/1/21	12/2	1/31/21
7/3	9/1	8/3	10/2	9/3	11/2	10/3	12/2	11/3	1/2/21	12/3	2/1/21
7/4	9/2	8/4	10/3	9/4	11/3	10/4	12/3	11/4	1/3/21	12/4	2/2/21
7/5	9/3	8/5	10/4	9/5	11/4	10/5	12/4	11/5	1/4/21	12/5	2/3/21
7/6	9/4	8/6	10/5	9/6	11/5	10/6	12/5	11/6	1/5/21	12/6	2/4/21
7/7	9/5	8/7	10/6	9/7	11/6	10/7	12/6	11/7	1/6/21	12/7	2/5/21
7/8	9/6	8/8	10/7	9/8	11/7	10/8	12/7	11/8	1/7/21	12/8	2/6/21
7/9	9/7	8/9	10/8	9/9	11/8	10/9	12/8	11/9	1/8/21	12/9	2/7/21
7/10	9/8	8/10	10/9	9/10	11/9	10/10	12/9	11/10	1/9/21	12/10	2/8/21
7/11	9/9	8/11	10/10	9/11	11/10	10/11	12/10	11/11	1/10/21	12/11	2/9/21
7/12	9/10	8/12	10/11	9/12	11/11	10/12	12/11	11/12	1/11/21	12/12	2/10/21
7/13	9/11	8/13	10/12	9/13	11/12	10/13	12/12	11/13	1/12/21	12/13	2/11/21
7/14	9/12	8/14	10/13	9/14	11/13	10/14	12/13	11/14	1/13/21	12/14	2/12/21
7/15	9/13	8/15	10/14	9/15	11/14	10/15	12/14	11/15	1/14/21	12/15	2/13/21
7/16	9/14	8/16	10/15	9/16	11/15	10/16	12/15	11/16	1/15/21	12/16	2/14/21
7/17	9/15	8/17	10/16	9/17	11/16	10/17	12/16	11/17	1/16/21	12/17	2/15/21
7/18	9/16	8/18	10/17	9/18	11/17	10/18	12/17	11/18	1/17/21	12/18	2/16/21
7/19	9/17	8/19	10/18	9/19	11/18	10/19	12/18	11/19	1/18/21	12/19	2/17/21
7/20	9/18	8/20	10/19	9/20	11/19	10/20	12/19	11/20	1/19/21	12/20	2/18/21
7/21	9/19	8/21	10/20	9/21	11/20	10/21	12/20	11/21	1/20/21	12/21	2/19/21
7/22	9/20	8/22	10/21	9/22	11/21	10/22	12/21	11/22	1/21/21	12/22	2/20/21
7/23	9/21	8/23	10/22	9/23	11/22	10/23	12/22	11/23	1/22/21	12/23	2/21/21
7/24	9/22	8/24	10/23	9/24	11/23	10/24	12/23	11/24	1/23/21	12/24	2/22/21
7/25	9/23	8/25	10/24	9/25	11/24	10/25	12/24	11/25	1/24/21	12/25	2/23/21
7/26	9/24	8/26	10/25	9/26	11/25	10/26	12/25	11/26	1/25/21	12/26	2/24/21
7/27	9/25	8/27	10/26	9/27	11/26	10/27	12/26	11/27	1/26/21	12/27	2/25/21
7/28	9/26	8/28	10/27	9/28	11/27	10/28	12/27	11/28	1/27/21	12/28	2/26/21
7/29	9/27	8/29	10/28	9/29	11/28	10/29	12/28	11/29	1/28/21	12/29	2/27/21
7/30	9/28	8/30	10/29	9/30	11/29	10/30	12/29	11/30	1/29/21	12/30	2/28/21
7/31	9/29	8/31	10/30			10/31	12/30			12/31	3/1/21



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
February 7, 2020	February 28, 2020	March 30, 2020
February 14, 2020	March 6, 2020	April 6, 2020
February 21, 2020	March 13, 2020	April 13, 2020
February 28, 2020	March 20, 2020	April 20, 2020
March 6, 2020	March 27, 2020	April 27, 2020
March 13, 2020	April 3, 2020	May 4, 2020
March 20, 2020	April 10, 2020	May 11, 2020
March 27, 2020	April 17, 2020	May 18, 2020
April 3, 2020	April 24, 2020	May 26, 2020
April 10, 2020	May 1, 2020	June 2, 2020
April 17, 2020	May 8, 2020	June 8, 2020
April 24, 2020	May 15, 2020	June 15, 2020
May 1, 2020	May 22, 2020	June 22, 2020
May 8, 2020	May 29, 2020	June 29, 2020
May 15, 2020	June 5, 2020	July 6, 2020
May 22, 2020	June 12, 2020	July 13, 2020
May 29, 2020	June 19, 2020	July 20, 2020
June 5, 2020	June 26, 2020	July 27, 2020
June 12, 2020	July 3, 2020	August 3, 2020
June 19, 2020	July 10, 2020	August 10, 2020
June 26, 2020	July 17, 2020	August 17, 2020
July 3, 2020	July 24, 2020	August 24, 2020
July 10, 2020	July 31, 2020	August 31, 2020
July 17, 2020	August 7, 2020	September 8, 2020
July 24, 2020	August 14, 2020	September 14, 2020
July 31, 2020	August 21, 2020	September 21, 2020
August 7, 2020	August 28, 2020	September 28, 2020
August 14, 2020	September 4, 2020	October 5, 2020
August 21, 2020	September 11, 2020	October 13, 2020
August 28, 2020	September 18, 2020	October 19, 2020



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 under A.R.S. § 41-1013(B)(15).

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 305, Phoenix, AZ 85007. For more information, call (602) 542-2058 or visit <http://grrc.az.gov>.

GOVERNOR’S REGULATORY REVIEW COUNCIL DEADLINES FOR 2019/2020 (MEETING DATES ARE SUBJECT TO CHANGE)

[M19-118]

DEADLINE FOR PLACEMENT ON AGENDA*	FINAL MATERIALS SUBMITTED TO COUNCIL	DATE OF COUNCIL STUDY SESSION	DATE OF COUNCIL MEETING
<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
<i>Tuesday</i> January 21, 2020	<i>Tuesday</i> February 18, 2020	<i>Tuesday</i> February 25, 2020	<i>Tuesday</i> March 3, 2020
<i>Tuesday</i> February 18, 2020	<i>Tuesday</i> March 24, 2020	<i>Tuesday</i> March 31, 2020	<i>Tuesday</i> April 7, 2020
<i>Tuesday</i> March 24, 2020	<i>Tuesday</i> April 21, 2020	<i>Tuesday</i> April 28, 2020	<i>Tuesday</i> May 5, 2020
<i>Tuesday</i> April 21, 2020	<i>Tuesday</i> May 19, 2020	Wednesday May 27, 2020	<i>Tuesday</i> June 2, 2020
<i>Tuesday</i> May 19, 2020	<i>Tuesday</i> June 23, 2020	<i>Tuesday</i> June 30, 2020	<i>Tuesday</i> July 7, 2020
<i>Tuesday</i> June 23, 2020	<i>Tuesday</i> July 21, 2020	<i>Tuesday</i> July 28, 2020	<i>Tuesday</i> August 4, 2020
<i>Tuesday</i> July 21, 2020	<i>Tuesday</i> August 18, 2020	<i>Tuesday</i> August 25, 2020	<i>Tuesday</i> September 1, 2020
<i>Tuesday</i> August 18, 2020	<i>Tuesday</i> September 22, 2020	<i>Tuesday</i> September 29, 2020	<i>Tuesday</i> October 6, 2020
<i>Tuesday</i> September 22, 2020	<i>Tuesday</i> October 20, 2020	<i>Tuesday</i> October 27, 2020	<i>Tuesday</i> November 3, 2020
<i>Tuesday</i> October 20, 2020	<i>Tuesday</i> November 17, 2020	<i>Tuesday</i> November 24, 2020	<i>Tuesday</i> December 1, 2020
<i>Tuesday</i> November 17, 2020	<i>Tuesday</i> December 22, 2020	<i>Tuesday</i> December 29, 2020	<i>Tuesday</i> January 5, 2021
<i>Tuesday</i> December 29, 2020	<i>Tuesday</i> January 19, 2021	<i>Tuesday</i> January 26, 2021	<i>Tuesday</i> February 2, 2021

* 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.