



Arizona Administrative REGISTER

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From the Publisher

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Rules can be: made (all new text); amended (rules on file, changing text); repealed (removing text); or renumbered (moving rules to a different Section number).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New rules in this publication (whether proposed or made) are denoted with underlining; repealed text is stricken.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

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

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Participate in the Process

Look for the Agency Notice

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

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

Attend a public hearing/meeting

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

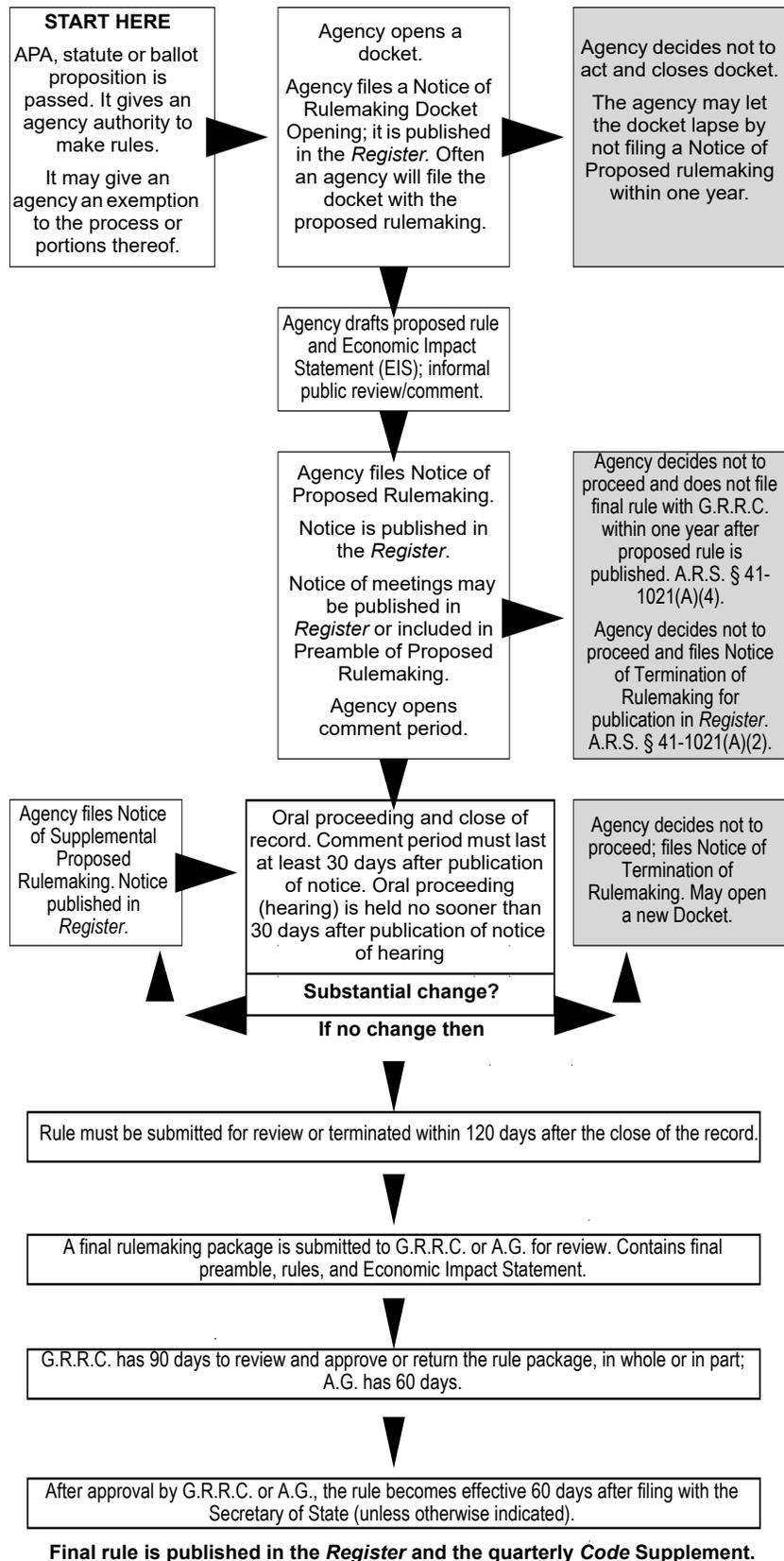
An agency may not have a public meeting scheduled on the Notice of Proposed Rulemaking. If not, you may request that the agency schedule a proceeding. This request must be put in writing within 30 days after the published Notice of Proposed Rulemaking.

Write the agency

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

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

Arizona Regular Rulemaking Process



Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Acronyms

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

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

APA – *Administrative Procedure Act*

A.R.S. – *Arizona Revised Statutes*

CFR – *Code of Federal Regulations*

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

FR – *Federal Register*

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

U.S.C. – *United States Code*

About Preambles

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

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

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



NOTICES OF PROPOSED 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.

Expedited rulemaking is an accelerated rulemaking process that does not increase the cost of regulatory compliance, increase a fee, or reduce procedural rights of persons regulated. Other requirements to conduct expedited rulemaking are listed under A.R.S. § 41-1027.

Under A.R.S. § 41-1027(C), the Governor’s Regulatory Review Council also posts Notices of Proposed Expedited Rulemaking on its website and allows any person to provide written comment for at least 30 days after posting the notice.

Questions about the interpretation of expedited rules should be addressed by the agency promulgating the rules. Refer to item 4 to contact the person charged with the rulemaking.

NOTICE OF PROPOSED EXPEDITED RULEMAKING

TITLE 9. HEALTH SERVICES

**CHAPTER 16. DEPARTMENT OF HEALTH SERVICES
OCCUPATIONAL LICENSING**

[R21-197]

PREAMBLE

- | <u>1. Article, Part, or Section Affected (as applicable)</u> | <u>Rulemaking Action</u> |
|---|---------------------------------|
| R9-16-101 | Amend |
| R9-16-102 | Amend |
| R9-16-103 | Amend |
| R9-16-104 | Amend |
| R9-16-105 | Amend |
| R9-16-107 | Amend |
| R9-16-108 | Amend |
| R9-16-109 | Amend |
| R9-16-110 | Amend |
| R9-16-111 | Amend |
| R9-16-112 | Amend |
| R9-16-113 | Amend |
| R9-16-114 | Amend |
| R9-16-115 | Amend |
| R9-16-116 | Amend |
- 2. Citations to the agency’s statutory authority for the rulemaking to include the authorizing statute (general) and the implementing statute (specific):**
 Authorizing statute: A.R.S. §§ 36-132(A)(1) and 36-136(G)
 Implementing statute: A.R.S. §§ 36-752, 36-753, 36-754, 36-755, and 41-1073 through 41-1076
 - 3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed expedited rulemaking:**
 Notice of Rulemaking Docket Opening: 27 A.A.R. 1335, August 27, 2021
 - 4. The agency’s contact person who can answer questions about the rulemaking:**
 Name: Megan Whitby, Bureau Chief
 Address: Department of Health Services
 Public Health Licensing Services
 150 N. 18th Ave., Suite 400
 Phoenix, AZ 85007
 Telephone: (602) 364-3052
 Fax: (602) 364-2079
 Email: Megan.Whitby@azdhs.gov
 or
 Name: Robert Lane, Chief
 Address: Arizona Department of Health Services
 Office of Administrative Counsel and Rules
 150 N. 18th Ave., Suite 200
 Phoenix, AZ 85007



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

5. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, under A.R.S. § 41-1027, to include an explanation about the rulemaking:

There are currently four types of midwives who provide midwifery services: certified nurse-midwives, certified midwives, certified professional midwives, and direct-entry midwives. Certified nurse-midwives are licensed nurses, usually regulated under a state's Board of Nursing, and are allowed to provide midwifery services in all 50 states. They and certified midwives receive graduate-level training in midwifery programs accredited by the Accreditation Commission for Midwifery Education and must pass a national certification examination administered by the American Midwifery Certification Board. A.R.S. Title 36, Chapter 6, Article 7, contains the statutes for the licensing in Arizona of certified professional midwives (CMPs) and direct-entry midwives (DMs), who are not required to be nurses or have advanced degrees. The Arizona Department of Health Services (Department) has adopted rules pursuant to these statutes in Arizona Administrative Code (A.A.C.) Title 9, Chapter 16, Article 1, which specify the minimum standards for an individual to be licensed in midwifery in Arizona as a CMP or DM. The CPM is the newest midwife credential, first issued in 1994 by the North American Registry of Midwives (NARM) to individuals who provide verification of the required experience and skills and pass the NARM Skills Assessment. DMs include those individuals who obtained, through demonstrated experience, skills, and knowledge, and have continuously held, a midwifery license in this state since 1999 but have not been certified by NARM. The current rules in 9 A.A.C. 16, Article 1, were last revised in an exempt rulemaking, effective July 1, 2013, pursuant to Laws 2012, Ch. 93. During the five-year review of these rules, the Department identified many issues that need to be addressed to improve the clarity, understandability, and effectiveness of the rules. After receiving an exception from the Governor's rulemaking moratorium established by Executive Order 2020-02, the Department is revising the rules by expedited rulemaking to address these issues. The Department believes the rulemaking meets the criteria for expedited rulemaking since the changes to be made will not increase the cost of regulatory compliance, increase a fee, or reduce procedural rights of persons regulated, and reflect changes specified in a five-year-review report approved by the Governor's Regulatory Review Council on July 7, 2021.

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

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

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

Not applicable

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

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

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

Not applicable

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

Close of record: Monday, November 22, 2021, 4:00 p.m.

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

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

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

The Department believes a midwifery license is a general permit in that the license specifies the individual and the services the individual is authorized to provide, but a licensed midwife is not limited to providing the services in any one location.

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

Federal laws do not apply to the rules for licensing these midwives.

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:

Not applicable

13. The full text of the rules follows:



TITLE 9. HEALTH SERVICES
CHAPTER 16. DEPARTMENT OF HEALTH SERVICES
OCCUPATIONAL LICENSING

ARTICLE 1. LICENSING OF MIDWIFERY

Section	
R9-16-101.	Definitions
R9-16-102.	Application for an Initial License <u>License</u>
R9-16-103.	<u>License</u> Renewal
R9-16-104.	Administration
R9-16-105.	Continuing Education
R9-16-107.	Time-frames
R9-16-108.	Responsibilities of a Midwife; Scope of Practice
R9-16-109.	Informed Consent for Midwifery Services
R9-16-110.	Assertion to Decline Required Tests
R9-16-111.	Prohibited Practice; Transfer of Care
R9-16-112.	Required Consultation
R9-16-113.	Emergency Measures
R9-16-114.	Midwife Report after Termination of Midwifery Services
R9-16-115.	Client and Newborn Records
R9-16-116.	Denial, Suspension, or Revocation of License; Civil Penalties; Procedures

ARTICLE 1. LICENSING OF MIDWIFERY

R9-16-101. Definitions

In addition to the definitions in A.R.S. § 36-751, the following definitions apply in this Article unless otherwise specified:

1. ~~“Abnormal presentation” means the fetus is not in a head-down position with the crown of the head being the leading body part.~~
2. ~~“Addiction” means a condition that results when a person ingests a substance that becomes compulsive and interferes with ordinary life responsibilities, such as work, relationships, or health.~~
3. ~~1. “Amniotic” means the fluid surrounding the a fetus while in the mother’s uterus.~~
4. ~~2. “Apgar score” means the number indicating a newborn’s physical condition, attained by rating selected body functions.~~
5. ~~“Aseptic” means free of germs.~~
6. ~~3. “Breech” means a complete breech, a frank breech, or an incomplete breech.~~
7. ~~“Certified nurse midwife” means an individual who meets the criteria in 4 A.A.C. 19, Article 5 and is certified by the Arizona State Board of Nursing.~~
8. ~~“Complete breech” means that at the time of birth the buttocks of a fetus is pointing downward with both legs folded at the knees and the feet near the buttocks.~~
9. ~~4. “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, statewide furlough day, or legal holiday, in which case the period runs until the end of the next day that is not a Saturday, Sunday, statewide furlough day, or legal holiday.~~
5. ~~“Certified nurse midwife” means an individual who meets the criteria in 4 A.A.C. 19, Article 5, and is certified by the Arizona State Board of Nursing.~~
10. ~~6. “Cervix” means the narrow lower end of the uterus which that protrudes into the cavity of the vagina.~~
7. ~~“Client” means a pregnant woman accepted by a midwife for the provision of midwifery services from the midwife.~~
8. ~~“Complete breech” means that, at the time of birth, the buttocks of a fetus are pointing downward with both legs folded at the knees and the feet near the buttocks.~~
11. ~~9. “Consultation” means communication between a midwife and a physician or a midwife and a certified nurse midwife for the purpose of receiving a written or verbal recommendation and implementing prospective advice regarding the care of a pregnant woman or the woman’s child fetus or newborn.~~
12. ~~“Current photograph” means an image of an individual, taken no more than 60 calendar days before the submission of the individual’s application, in a Department approved electronic format capable of producing an image that:~~
 - a. ~~Has a resolution of at least 600 x 600 pixels but not more than 1200 x 1200 pixels;~~
 - b. ~~Is 2 inches by 2 inches in size;~~
 - c. ~~Is in natural color;~~
 - d. ~~Is a front view of the individual’s full face, without a hat or headgear that obscures the hair or hairline;~~
 - e. ~~Has a plain white or off-white background; and~~
 - f. ~~Has between 1 and 1 3/8 inches from the bottom of the chin to the top of the head.~~
13. ~~10. “Dilation” means opening of the cervix during the mechanism of labor to allow for passage of the fetus.~~
14. ~~11. “Effacement” means the gradual thinning of the cervix during the mechanism of labor and indicates progress in labor.~~
15. ~~12. “Emergency care plan” means the arrangements established by a midwife for a client’s transfer of care in a situation in which the health or safety of the client or newborn are is determined to be at risk.~~
16. ~~13. “Emergency medical services provider” has the same meaning as in A.R.S. § 36-2201.~~
17. ~~14. “Episiotomy” means the cutting of the perineum, at the center, middle, or midline, in order to enlarge the vaginal opening for delivery.~~
18. ~~15. “Fetus” means a child in utero from conception to birth.~~



- 19-16. “Frank breech” means that, at the time of birth, the buttocks of a fetus ~~is~~ are pointing downward with both legs folded flat up against the head.
- 20-17. “Gestation” means the length of time from conception to birth, as calculated from the first day of the last normal menstrual period.
- 21. ~~“Gravida” means the number of times the mother has been pregnant, including a current pregnancy, regardless of whether these pregnancies were carried to term.~~
- 22-18. “Incomplete breech” means that, at the time of birth, the buttocks of a fetus ~~is~~ are pointing downward with one leg folded at the knee with the foot near the buttocks.
- 23. ~~“Infant” has the same meaning as in A.R.S. § 36-694.~~
- 24-19. “Informed consent” means a document signed by a client, as provided in R9-16-109, agreeing to the provision of midwifery services.
- 25. ~~“Intrapartum” means occurring from the onset of labor until after the delivery of the placenta.~~
- 26-20. “Jurisprudence test” means an assessment of an individual’s knowledge of the:
 - a. Laws of this state concerning the reporting of births, prenatal blood tests, and newborn screening; and
 - b. Rules pertaining to the practice of midwifery.
- 27-21. “Ketones” means certain harmful chemical elements ~~which are that, when~~ present in the body in excessive amounts, ~~when there is a~~ results in compromised bodily function.
- 28. ~~“Local registrar” means a person appointed by the state’s registrar of vital statistics for a registration district whose duty includes receipt of birth and death certificates for births and deaths occurring within that district for review, registration, and transmittal to the state office of vital records according to A.R.S. Title 36, Chapter 3.~~
- 29-22. “Meconium” means the first bowel movement of the newborn, which is greenish black in color and tarry in consistency.
- 30-23. “Midwifery services” means health care, provided by a midwife to a mother, related to pregnancy, labor, delivery, or postpartum care.
- 31-24. “Newborn” has the same meaning as in A.R.S. § 36-694.
- 32. ~~“Para” means the number of births that are greater than 20 weeks of gestation, including viable and non-viable births, where multiples are counted as one birth.~~
- 33. ~~“Parity” means the number of newborns a woman has delivered.~~
- 34-25. “Perineum” means the muscular region in the female between the vaginal opening and the anus.
- 35-26. “Physician” means an allopathic, an osteopathic, or a naturopathic practitioner licensed according to A.R.S. Title 32, ~~Chapters Chapter~~ 13, 14, or 17.
- 36-27. “Postpartum” means the six-week period following delivery of a newborn and placenta.
- 37-28. “Prenatal” means the period from conception to the onset of labor and birth.
- 38. ~~“Prenatal care” means the on-going risk assessments, clinical examinations, and prenatal, nutritional, and anticipatory guidance offered to a pregnant woman.~~
- 39-29. “Prenatal visit” means each clinical examination of a pregnant woman for the purpose of monitoring the course of gestation and the overall health of the woman.
- 40. ~~“Primigravida” means a woman who is pregnant for the first time.~~
- 41. ~~“Primipara” means a woman who has given birth to her first newborn.~~
- 42-30. “Quickening” means the first perceptible movement of the fetus in the uterus, occurring usually in the 16th to the 20th week of gestation.
- 43-31. “Rh” means a blood antigen.
- 44. ~~“Serious mental illness” means a condition in an individual who is 18 years of age or older and who exhibits emotional or behavioral functioning, as a result of a mental disorder as defined in A.R.S. § 36-501, that:~~
 - a. Is severe and persistent, resulting in a long-term limitation of their functional capacities for primary activities of daily living such as interpersonal relationships, homemaking, self-care, employment and recreation; and
 - b. Impairs or substantially interferes with the capacity of the individual to remain in the community without supportive treatment or services of a long-term or indefinite duration.
- 45. ~~“Substance abuse” means the continued use of alcohol or other drugs in spite of negative consequences.~~
- 46. ~~“Shoulder dystocia” means the shoulders of the fetus are wedged in the mother’s pelvis in such a way that the fetus is unable to be born without emergency action.~~
- 47-32. “Transfer of care” means that a midwife refers the care of a client or newborn to an emergency medical services provider, a certified nurse midwife, a hospital, or a physician who then assumes responsibility for the direct care of the client or newborn.
- 48-33. “Working day” means a Monday, Tuesday, Wednesday, Thursday, or Friday that is not a state holiday or a statewide furlough day.

R9-16-102. Application for an Initial License License

- A. An applicant for an initial license to practice midwifery shall submit:
 - 1. An application in a format provided by the Department that contains:
 - a. The applicant’s name, address, telephone number, and e-mail address;
 - b. The applicant’s Social Security Number, as required under A.R.S. §§ 25-320 and 25-502;
 - c. Whether the applicant has ever been convicted of a felony or a misdemeanor in this or another state or jurisdiction;
 - d. If the applicant was convicted of a felony or misdemeanor:
 - i. The date of the conviction,
 - ii. The state or jurisdiction of the conviction,
 - iii. An explanation of the crime of which the applicant was convicted, and
 - iv. The disposition of the case;



- e. Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-16-107(C)(2);
 - f. An attestation that information required as part of the application ~~has been submitted and~~ is true and accurate; and
 - g. The applicant's signature and date of signature;
2. ~~A copy of the applicant's:~~
- a. ~~U.S. passport, current or expired;~~
 - b. ~~Birth certificate;~~
 - e. ~~Naturalization documents; or~~
 - d. ~~Documentation of legal resident alien status;~~
2. Documentation for the applicant that complies with A.R.S. § 41-1080;
3. Documentation that demonstrates the applicant is 21 years of age or older if the documentation submitted in subsection (A)(2) does not demonstrate that the applicant is 21 years of age or older;
4. Current documentation of completion of training in:
- a. Adult basic cardiopulmonary resuscitation through a course recognized by the American Heart Association, and
 - b. Neonatal resuscitation through a course recognized by the American Academy of Pediatrics or American Heart Association;
5. Documentation of a high school diploma, a high school equivalency diploma, an associate degree, or a higher degree;
6. Documentation that the applicant is certified by the North American Registry of Midwives as a Certified Professional Midwife;
7. ~~A current photograph of the applicant;~~
8. ~~7. A~~ Except as provided in subsection (B), a non-refundable application fee of \$25; and
9. ~~8. A non-refundable testing fee of \$100 for a jurisprudence test administered by the Department.~~
- B.** An applicant is not required to submit the fee in subsection (A)(7) or (E)(1) if the applicant, as part of the application in subsection (A), submits an attestation that the applicant meets the criteria for waiver of licensing fees in A.R.S. § 41-1080.01.
- ~~B.C.~~ The Department shall review an application for an initial license to practice midwifery according to R9-16-107 and Table 1.1.
- ~~C.D.~~ If an applicant receives notification of eligibility to take the jurisprudence test, the applicant:
- 1. Shall take the jurisprudence test administered by the Department,
 - 2. Shall provide proof of identity by a government-issued photographic identification card upon the request of the individual administering the jurisprudence test,
 - 3. May take the jurisprudence test as many times as desired, within 180 calendar days after the date of the notification, without paying an additional testing fee, and
 - 4. Shall score 80% or higher correct answers on the jurisprudence test to be eligible to receive an initial license to practice midwifery.
- ~~D.E.~~ If an applicant scores 80% or higher correct answers on the jurisprudence test, the Department shall provide written notice to the applicant, within five working days after the date of the jurisprudence test, to submit to the Department:
- 1. A Except as provided in subsection (B), a licensing fee of \$25; and
 - 2. The documentation required in subsection (A)(4) or (6), if the documentation of training required in subsection(A)(4) or certification required in subsection (A)(6) is not current.
- ~~E.F.~~ The Department shall issue an initial license to practice midwifery within five working days after receiving the applicable documentation and licensing fee required in subsection ~~(D)~~ (E).
- ~~F.G.~~ The Department shall provide to an applicant a written notice of denial that complies with A.R.S. § 41-1092.03(A) and inform the applicant that the applicant may reapply under subsection (A) if the applicant does not:
- 1. Score 80% or higher correct answers on the jurisprudence test within 180 calendar days after the date of the notification of eligibility to take the jurisprudence test, or
 - 2. Submit to the Department the applicable documentation and licensing fee required in subsection (D) within 120 calendar days after the date of the notification in subsection (D).

R9-16-103. License Renewal

- A. At least 30 calendar days and no more than 60 calendar days before the expiration date of a midwifery license, a midwife shall submit to the Department:
- 1. An application for renewal of a midwifery license, in a format provided by the Department, that contains:
 - a. The midwife's name, address, telephone number, and e-mail address;
 - b. The midwife's license number;
 - c. Whether the midwife has been convicted of a felony or a misdemeanor in this or another state or jurisdiction in the previous two years;
 - d. If the midwife was convicted of a felony or misdemeanor:
 - i. The date of the conviction,
 - ii. The state or jurisdiction of the conviction,
 - iii. An explanation of the crime of which the midwife was convicted, and
 - iv. The disposition of the case;
 - e. Whether the midwife agrees to allow the Department to submit supplemental requests for information under R9-16-107(C)(2);
 - f. An attestation that the midwife has completed the continuing education requirement in R9-16-105;
 - g. An attestation that the midwife is complying with the requirements in A.R.S. § 32-3211;
 - h. An attestation that information required as part of the application ~~has been submitted and~~ is true and accurate; and
 - i. The midwife's signature and date of signature;
 - 2. Either:



- a. Documentation that the midwife is currently certified by the North American Registry of Midwives as a Certified Professional Midwife; or
 - b. For a midwife who has been continuously licensed as a midwife by the Department since 1999, a copy of both sides of documentation showing the completion of current training in:
 - i. Adult basic cardiopulmonary resuscitation that meets the requirements in R9-16-102(A)(4)(a), and
 - ii. Neonatal resuscitation that meets the requirements in R9-16-102(A)(4)(b); and
 - 3. A non-refundable renewal fee of \$25.
- B.** The Department shall review an application for renewal of a license to practice midwifery according to R9-16-107 and Table 1.

R9-16-104. Administration

- A.** A midwife may submit a written request for the Department to:
- 1. Add the midwife’s name, address, and telephone number to a list of licensed midwives on the Department’s website; or
 - 2. Remove the midwife’s name, address, and telephone number from a list of licensed midwives on the Department’s website.
- B.** A midwife shall:
- 1. Notify the Department in a format provided by the Department within five working days after:
 - a. A client has died while under the midwife’s care,
 - b. A stillborn child has been delivered by the midwife, or
 - c. A newborn delivered by the midwife has died within the first ~~6~~ six weeks after birth; and
 - 2. Provide a summary of the:
 - a. Circumstances leading up to the event, and
 - b. Actions taken by the midwife in response to the event.
- C.** A midwife shall:
- 1. Maintain documentation of:
 - a. Completion of current training in:
 - i. Adult basic cardiopulmonary resuscitation that meets the requirements in R9-16-102(A)(4)(a), and
 - ii. Neonatal resuscitation that meets the requirements in R9-16-102(A)(4)(b);
 - b. Except as provided in R9-16-103(A)(2)(b), current certification as a Certified Professional Midwife by the North American Registry of Midwives; and
 - c. The continuing education required in subsection R9-16-105 for at least the previous three years; and
 - 2. Provide a copy of documentation required in subsection (C)(1) to the Department within ~~2~~ two working days after the Department’s request.

R9-16-105. Continuing Education

During the term of a midwifery license, the midwife shall obtain at least 20 hours of continuing education ~~units~~ that:

- 1. Improve the midwife’s ability to:
 - a. Provide services within the midwife’s scope of practice,
 - b. Recognize and respond to situations outside the midwife’s scope of practice, or
 - c. Provide guidance to other services a client may need; and
- 2. Have been approved as applicable to the practice of midwifery by the:
 - a. American Nurses Association,
 - b. American Congress of Obstetrics and Gynecologists,
 - c. Midwives Alliance of North America,
 - d. Arizona Medical Association,
 - e. American College of Nurse Midwives,
 - f. Midwifery Education Accreditation Council, or
 - g. Another health professional organization.

R9-16-107. Time-frames

- A.** The overall time-frame described in A.R.S. § 41-1072(2) for each type of license granted by the Department is specified in Table 1.1. The applicant or midwife and the Department may agree in writing to extend the substantive review time-frame and the overall time-frame. The substantive review time-frame and the overall time-frame may not be extended by more than 25 percent of the overall time-frame.
- B.** The administrative completeness review time-frame described in A.R.S. § 41-1072(1) for each type of license granted by the Department is specified in Table 1.1.
- 1. The administrative completeness review time-frame begins:
 - a. For an applicant submitting an application for an initial licensure license, when the Department receives the application packet required in R9-16-102(A); and
 - b. For a licensed midwife applying to renew a midwifery license, when the Department receives the application packet required in R9-16-103(A).
 - 2. If an application is complete, the Department shall provide to the applicant or midwife, during the administrative completeness review time-frame:
 - a. A notice of administrative completeness, or
 - b. A notice of eligibility to take the jurisprudence test or a license.
 - 2-3. If an application is ~~incomplete~~ not complete, the Department shall provide a notice of deficiencies to the applicant or midwife describing the missing documentation or incomplete information.
 - a. The administrative completeness review time-frame and the overall time-frame are suspended from the date of the notice until the date the Department receives the documentation or information listed in the notice of deficiencies.



- b. An applicant or midwife shall submit to the Department the documentation or information listed in the notice of deficiencies in subsection (B)(3) within the time specified in Table 1.1 for responding to a notice of deficiencies.
- ~~3-c.~~ If the applicant or midwife submits the documentation or information listed in the notice of deficiencies within the time specified in Table 1.1, the Department shall provide a written notice of administrative completeness to the applicant or midwife.
- ~~4-d.~~ If the applicant or midwife does not submit the documentation or information listed in the notice of deficiencies within the time specified in Table 1.1, the Department shall consider the application withdrawn.
- ~~5.~~ ~~When an application is complete the Department shall provide a notice of administrative completeness to the applicant or midwife.~~
- ~~6.~~ ~~If the Department issues a notice of eligibility to take the jurisprudence test or a license during the administrative completeness review time frame, the Department shall not issue a separate written notice of administrative completeness.~~
- C. The substantive review time-frame described in A.R.S. § 41-1072(3) is specified in Table 1.1 and begins on the date of the notice of administrative completeness.
 - 1. If an application complies with the requirements in this Article and A.R.S. Title 36, Chapter 6, Article 7, the Department shall issue a notice of eligibility to take the jurisprudence test to an applicant or a license to a midwife.
 - 2. If an application does not comply with the requirements in this Article or A.R.S. Title 36, Chapter 6, Article 7, the Department shall make one comprehensive written request for additional information, unless the applicant or midwife has agreed in writing to allow the Department to submit supplemental requests for information.
 - a. The substantive review time-frame and the overall time-frame are suspended from the date that the Department sends a comprehensive written request for additional information or a supplemental request for information until the date that the Department receives all of the information requested.
 - ~~3-b.~~ An applicant or midwife shall submit to the Department all of the information requested in a comprehensive written request for additional information or a supplemental request for information in subsection (C)(2) within the time specified in Table 1.1.
 - ~~4-c.~~ If the applicant or midwife does not submit the additional information within the time specified in Table 1.1 or the additional information submitted by the applicant or midwife does not demonstrate compliance with this Article and A.R.S. Title 36, Chapter 6, Article 7, the Department shall provide to the applicant a written notice of denial that complies with A.R.S. § 41-1092.03(A).
 - ~~5-d.~~ If the applicant or midwife submits the additional information within the time specified in Table 1.1 and the additional information submitted by the applicant or midwife demonstrates compliance with this Article and A.R.S. Title 36, Chapter 6, Article 7, the Department shall issue a notice of eligibility to take the jurisprudence test to an applicant or a license to a midwife.

R9-16-108. Responsibilities of a Midwife; Scope of Practice

- A. A midwife shall provide midwifery services only to a ~~healthy~~ woman:
 - 1. Who does not have any of the conditions specified in R9-16-111(B) through (E) or another condition that may increase the risk of harm to the woman or the woman's fetus or newborn during pregnancy or labor, as determined through a physical assessment and review of the woman's obstetrical medical history and past pregnancies; and
 - 2. whose ~~Whose~~ expected outcome of pregnancy is most likely to be the delivery of a ~~healthy~~ newborn, with none of the conditions requiring transfer of care as specified in R9-16-111(J)(1), and an intact placenta.
- B. Except as provided in R9-16-111(C) or (D), a midwife who is certified by the North American Registry of Midwives as a Certified Professional Midwife may accept a client for a vaginal delivery:
 - 1. After prior Cesarean section, or
 - 2. Of a fetus in a complete breech or frank breech presentation.
- C. Before providing services to a ~~client~~ pregnant woman, a midwife shall:
 - 1. Inform ~~a client~~ the pregnant woman, both orally and in writing, of:
 - a. The midwife's scope of practice, educational background, and credentials, as specified in R9-16-102(A)(4) and (6) as applicable;
 - b. If applicable to the ~~client's~~ pregnant woman's condition, the midwife's experience with:
 - i. Vaginal birth after prior Cesarean section delivery, or
 - ii. Delivery of a fetus in a complete breech or frank breech presentation;
 - c. The potential risks; adverse outcomes; neonatal or maternal complications, including death; and alternatives associated with an at-home delivery specific to the ~~client's~~ pregnant woman's condition, including the conditions described in subsection (C)(1)(b);
 - d. The requirement for tests specified in subsections (I) and ~~(K)(4)(e)~~ (K)(3)(c), and the potential risks for declining a test, and, if a test is declined, the need for a written assertion of a ~~client's~~ pregnant woman's decision to decline testing;
 - e. The requirement for consultation for a condition specified in R9-16-112; and
 - f. The requirement for the transfer of care for a condition specified in R9-16-111; and
 - 2. Obtain a written informed consent for midwifery services according to R9-16-109.
- D. A midwife shall:
 - 1. ~~establish~~ Establish an emergency care plan for ~~the a~~ client that includes:
 - a. The name of the client;
 - b. The name of the midwife;
 - ~~1-c.~~ The name, address, and phone number of:
 - ~~a-i.~~ The hospital closest to the birthing location that provides obstetrical services, and
 - ~~b-ii.~~ An emergency medical services provider that provides service between the birthing location and the hospital identified in subsection ~~(D)(1)(a)~~ (D)(1)(c)(i);



- d. The signature of the client and the date signed; and
- e. The signature of the midwife and the date signed; and
- 2. ~~The For a delivery identified in subsection (B), ensure that the hospital identified in subsection ~~(D)(1)(a)~~ (D)(1)(c)(i) is within 25 miles of the birthing location for a delivery identified in subsection ~~(B)~~.~~
- 3. ~~The signature of the client and the date signed; and~~
- 4. ~~The signature of the midwife and the date signed.~~
- E. A midwife shall ensure the client receives a copy of the emergency care plan required in subsection (D).
- F. A midwife shall implement the emergency care plan by immediately calling the emergency medical services provider identified in subsection ~~(D)(1)(b)~~ (D)(1)(c)(ii) for any condition that threatens the life of the client or the client's ~~child~~ fetus or newborn.
- G. A midwife shall maintain all instruments used for delivery in ~~an aseptic~~ a germ-free manner and other birthing equipment and supplies in clean and good condition.
- H. A midwife shall assess a client's physical condition in order to establish the client's continuing eligibility to receive midwifery services.
- I. During the prenatal period, the midwife shall:
 - 1. ~~Until October 1, 2013, schedule or arrange for~~ Except as provided in R9-16-110, ensure that the following tests are completed by for the client within 28 weeks gestation:
 - a. Blood type, including ABO and Rh, with antibody screen;
 - b. Urinalysis;
 - c. HIV;
 - d. Hepatitis B;
 - e. Hepatitis C;
 - f. Syphilis as required in A.R.S. § 36-693;
 - g. Rubella titer;
 - h. Chlamydia; and
 - i. Gonorrhea;
 - 2. ~~Until October 1, 2013, schedule or arrange for~~ Except as provided in R9-16-110, ensure that the following tests are completed by for the client:
 - a. A blood glucose screening test for diabetes completed between 24 and 28 weeks of gestation;
 - b. A hematocrit and hemoglobin or complete blood count test completed between 28 and 36 weeks of gestation;
 - c. A vaginal-rectal swab for Group B Strep Streptococcus culture completed between 35 and 37 weeks of gestation;
 - d. At least one ultrasound and recommended follow-up testing to determine placental location and risk for placenta previa and placenta accrete; and
 - e. An ultrasound at 36-37 weeks gestation to confirm fetal presentation and estimated fetal weight for a breech pregnancy;
 - 3. ~~As of October 1, 2013, except as provided in R9-16-110, ensure that the tests in subsection (I)(1) are completed by the client within 28 weeks gestation;~~
 - 4. ~~As of October 1, 2013, except as provided in R9-16-110, ensure that the tests in subsection (I)(2) are completed by the client;~~
 - 5. ~~3.~~ Conduct a prenatal visit at least once every 4 ~~four~~ weeks until the beginning of 28 weeks of gestation, once every ~~2~~ two weeks from the beginning of 28 weeks until the end of 36 weeks of gestation, and once a week after 36 weeks of gestation that includes:
 - a. Taking the client's weight; urinalysis for protein, nitrites, glucose, and ketones; blood pressure; and assessment of the lower extremities for swelling;
 - b. Measurement of the fundal height and listening for fetal heart tones and, later in the pregnancy, feeling the abdomen to determine the position of the fetus;
 - c. Documentation of fetal movement beginning at 28 weeks of gestation;
 - d. ~~Document~~ Documentation of:
 - i. The occurrence of bleeding or invasive uterine procedures, and
 - ii. Any medications taken during the pregnancy that are specific to the needs of an Rh negative client;
 - e. Referral of a client for lab tests or other assessments, if applicable, based upon examination or history; and
 - f. Either:
 - i. ~~Recommendation of administration of the drug RhoGam Rh immunoglobulin to an unsensitized Rh negative mothers client after 28 weeks, or any time bleeding or invasive uterine procedures are done;~~ or
 - ii. ~~midwife~~ Midwife administration of ~~RhoGam Rh immunoglobulin~~ under a physician's written orders;
 - 6. ~~4.~~ Monitor fetal heart tones with a fetoscope;
 - 5. ~~and document~~ Document the client's report of first quickening, ~~between 18 and 20 weeks of gestation;~~
 - 7. ~~6.~~ Conduct weekly visits until signs of first quickening have occurred if first quickening has not been reported by 20 weeks of gestation;
 - 8. ~~7.~~ Initiate a consultation if first quickening has not occurred by the end of 22 weeks of gestation; ~~and~~
 - 9. ~~8.~~ Conduct a prenatal visit of the birthing location before the end of 35 weeks of gestation to ensure that the birthing environment is appropriate for birth and that communication is available to the hospital and emergency medical services provider identified in subsection ~~(D)(1)~~ (D)(1)(c)(i) and (ii); and
 - 9. Review with the client the circumstances when a transfer of care is required, as specified in R9-16-111.
- J. During the intrapartum period from the onset of labor until after the delivery of the placenta, a midwife shall:
 - 1. Determine if the client is in labor and the appropriate course of action to be taken by:
 - a. Assessing the interval, duration, intensity, location, and pattern of the contractions;
 - b. Determining the condition of the membranes, including whether the membranes are intact or ruptured, and the amount and color of fluid;



- c. Reviewing with the client the need for ~~an adequate~~ fluid intake related to subsection (J)(3)(d), relaxation, and activity, and emergency management; and
 - d. Deciding whether to go to the client's home or other birthing location, remain in telephone contact, or arrange for transfer of care or consultation;
 2. Contact the hospital identified in subsection ~~(D)(1)(a)~~ (D)(1)(c)(i) according to the policies and procedures established by the hospital regarding communication with midwives when the client begins labor and ends labor;
 3. During labor;
 - a. ~~assess~~ Assess the condition of the client and fetus;
 - i. ~~upon~~ Upon initial contact;
 - ii. ~~every~~ Every half hour ~~in~~ during active labor until completely dilated; and
 - iii. ~~every~~ Every 15 to 20 minutes during pushing, following rupture of the amniotic bag, or until the newborn is delivered, including;
 - ~~a-b. Initial~~ Include in the assessments required in subsection (J)(3)(a):
 - i. A physical assessment and checking of the client's vital signs every 2 two to 4 four hours of the client; and
 - ~~b-ii.~~ Assessing fetal heart tones every 30 minutes in during active first stage labor, and every 15 minutes during second stage labor, following rupture of the amniotic bag, or with any significant change in labor patterns;
 - c. Periodically ~~assessing~~ assess contractions, fetal presentation, dilation, effacement, and fetal position by vaginal examination;
 - d. ~~Maintaining~~ Maintain proper fluid balance for the client throughout labor as determined by urinary output and monitoring urine for presence of ketones; and
 - e. ~~Assisting~~ Assist In support and comfort measures to the client and family;
 4. For deliveries described in subsection (B), during labor determine the progression of active labor:
 - a. For ~~primiparas a pregnant woman giving birth to her first newborn, the progress of active labor~~ by monitoring whether dilation occurs at an average of ~~+ one~~ centimeter per hour until completely dilated, and a second stage does not exceed ~~2 two~~ hours, ~~if applicable;~~
 - b. ~~Normal progress of active labor for multigravidas~~ For a pregnant woman who has previously given birth to one or more newborns, by monitoring whether dilation occurs at an average of 1.5 to ~~2 two~~ centimeters per hour until completely dilated, and a second stage does not exceed ~~+ one~~ hour, ~~if applicable;~~ or
 - c. ~~The progress of active labor according~~ According to the Management Guidelines recommended by the American Congress of Obstetricians and Gynecologists;
 5. After delivery of the newborn:
 - a. Assess the newborn at ~~+ one~~ minute and ~~5 five~~ minutes to determine the Apgar scores;
 - b. Physically assess the newborn for any abnormalities;
 - c. Inspect the client's perineum, vagina, and cervix for lacerations;
 - d. Deliver the placenta within 1 hour and assess the client for signs of placental separation from the inner wall of the uterus, resulting in vaginal or internal frank or occult bleeding; and
 - e. Examine the placenta for intactness and to determine the number of umbilical cord vessels; and
 6. Recognize and respond to any situation requiring immediate intervention, including measures to be taken during an emergency, as specified in R9-16-113.
- K. During the postpartum period, the midwife shall:
1. During the 2 hours after delivery of the placenta, provide the following care to the client:
 - a. Every 15 to 20 minutes for the first hour and every 30 minutes for the second hour:
 - i. Take vital signs of the client,
 - ii. Perform external massage of the uterus, and
 - iii. Evaluate bleeding;
 - b. Assist the client to urinate within 2 hours following the birth, ~~if applicable;~~
 - c. Evaluate the perineum, vagina, and cervix for tears, bleeding, or blood clots;
 - d. Assist with ~~maternal-newborn and infant bonding~~ maternal-newborn bonding to develop a relationship between the client and newborn;
 - e. Assist with initial breast feeding, instructing the client in the care of the breast, and reviewing potential danger signs, if appropriate;
 - f. Provide instruction to the family about:
 - i. ~~adequate fluid~~ Fluid and nutritional intake requirements to meet the needs of the mother and newborn;
 - ii. ~~rest,~~ Rest and the types of exercise allowed;
 - iii. ~~normal~~ Normal and abnormal bleeding, bladder and bowel function;
 - iv. ~~appropriate baby care,~~ How to care for the newborn;
 - v. ~~signs~~ Signs and symptoms of postpartum depression; and
 - v. ~~any~~ Any symptoms that may pose a threat to the health or life of the client or the client's newborn and appropriate emergency phone numbers;
 - g. Recommend, or administer under physician's written orders, ~~the drug RhoGam~~ Rh immunoglobulin to an unsensitized Rh-negative ~~mother~~ client who delivers an Rh-positive newborn. ~~Administration shall occur not later than so that administration occurs within~~ 72 hours after birth; and
 - h. Document any medications taken by ~~the client~~ an unsensitized Rh-negative client who delivers an Rh-positive newborn in the client's record to ~~an unsensitized Rh-negative client who delivers an Rh-positive newborn;~~
 2. During the ~~2 two~~ hours after delivery of the placenta, provide the following care to the newborn:
 - a. Perform a newborn physical ~~exam~~ assessment to determine the newborn's gestational age and any abnormalities;



- b. Comply with the requirements in A.A.C. ~~R9-6-332~~ R9-6-338;
 - c. Recommend, or administer ~~Vitamin K~~ under physician’s written orders, Vitamin K to the newborn. ~~Administration shall occur not later than so that administration occurs within~~ 72 hours after birth; and
 - d. Document the physical assessment and administration of any medications or vitamins to the newborn in the newborn’s record according to the physician’s written orders;
3. Evaluate the client or newborn for any abnormal or emergency situation and seek consultation or intervention, if applicable, according to these rules; and
 4. Re-evaluate the condition of the client and newborn between 24 and 72 hours after delivery to determine whether the recovery is following a normal course, including:
 - a. Assessing baseline indicators such as the client’s vital signs, bowel and bladder function, bleeding, breasts, feeding of the newborn, sleep/rest cycle, and activity, with any recommendations for change;
 - b. Assessing baseline indicators of well-being in the newborn such as vital signs, weight, cry, suck and feeding, fontanel, sleeping, and bowel and bladder function with documentation of meconium, and providing any recommendations for changes made to the family;
 - c. Submitting blood obtained from a heel stick to the newborn to the state laboratory for screening according to A.R.S. § 36-694(B) and 9 A.A.C. 13, Article 2, unless a written refusal is obtained from the client and documented in the client’s record and the newborn’s record; and
 - d. Recommending to the client that the client secure medical follow-up for her newborn.
- L. A midwife shall ~~file a birth certificate with the local registrar~~ request the registration of the birth of a newborn according to A.A.C. ~~R9-19-203~~ within seven calendar days after the birth of the newborn.
- ~~M. Subsections (B), (C)(1)(b), (C)(1)(d) and (J)(2) and (4) are effective July 1, 2014.~~

R9-16-109. Informed Consent for Midwifery Services

- A. A midwife shall obtain a written informed consent for midwifery services in a format provided by the Department that contains:
1. The midwife’s:
 - a. Name,
 - b. Telephone number,
 - c. License number, and
 - d. E-mail address;
 2. The client’s:
 - a. Name;
 - b. Address;
 - c. Telephone number;
 - d. Date of birth; and
 - e. E-mail address, if applicable;
 3. An attestation that the client was:
 - a. Provided the information required in R9-16-108(C)(1);
 - b. Informed of the emergency care plan as required in R9-16-108(D); and
 - c. Given an opportunity to have questions answered, have an understanding of the information provided, and choose to continue with midwifery services; and
 4. The signatures of the client and midwife and date signed.
- B. A midwife shall ensure that the written informed consent for midwifery services is placed in the client file.
- C. A midwife shall ensure that a copy of the written informed consent for midwifery services is provided to the:
1. Client, and
 2. Department within five calendar days after a Department request.
- ~~D. This Section is effective October 1, 2013.~~

R9-16-110. Assertion to Decline Required Tests

- A. Except for R9-16-108(I)(1)(f), if the client declines a test required in ~~R9-16-108(I)(3) and (4)~~ R9-16-108(I)(1) or (2), a midwife shall obtain a written assertion of a client’s decision to decline a required test in a format provided by the Department, that contains:
1. The midwife’s:
 - a. Name,
 - b. Telephone number,
 - c. License number, and
 - d. E-mail address;
 2. The client’s:
 - a. Name;
 - b. Address;
 - c. Telephone number;
 - d. Date of birth; and
 - e. E-mail address, if applicable;
 3. The required test being declined by the client;
 4. Additional information as required by the Department;
 5. An attestation that the client:
 - a. Was provided the information as required in R9-16-108(C)(1)(d), and
 - b. Is declining testing; and
 6. The signatures of the client and midwife and date signed.



- B. A midwife shall ensure that the written assertion of the decision to decline a test is placed in the client file.
- C. A midwife shall ensure that a copy of the written assertion of the decision to decline a test is provided to the:
 - 1. Client, and
 - 2. Department within five calendar days after a Department request.

~~D. This Section is effective October 1, 2013.~~

R9-16-111. Prohibited Practice; Transfer of Care

- A. A midwife shall not provide midwifery services in a location that has the potential to cause harm to the client or the client's ~~child~~ fetus or newborn.
- B. A midwife shall not accept as a client for midwifery services ~~or continue midwifery services for a client~~ pregnant women who has ~~or develops~~ any of the following:
 - 1. A previous surgery that involved:
 - a. An incision in the uterus, except as provided in R9-16-108(B)(1); or
 - b. A previous uterine surgery that enters the myometrium;
 - 2. A history of severe postpartum bleeding, of unknown cause, which required transfusion;
 - 3. Gestational age greater than 34 weeks with no prior prenatal assessments or clinical examinations;
 - ~~2-4.~~ Multiple fetuses;
 - 3. ~~Placenta previa or placenta accreta;~~
 - 4. ~~A history of severe postpartum bleeding, of unknown cause, which required transfusion;~~
 - 5. A pelvis that will not safely allow a fetus to pass through during labor;
 - 6. Placenta previa or placenta accreta;
 - ~~5-7.~~ Deep vein thrombosis or pulmonary embolism;
 - ~~6-8.~~ Uncontrolled gestational diabetes;
 - ~~7-9.~~ Insulin-dependent diabetes;
 - ~~8-10.~~ Hypertension;
 - ~~9-11.~~ Rh disease with positive titers;
 - ~~10-12.~~ Active:
 - a. Tuberculosis;₂
 - b. Syphilis;₂
 - e. Genital herpes at the onset of labor;
 - ~~d-c.~~ Hepatitis until treated and recovered, following which midwifery services may resume; or
 - ~~e-d.~~ Gonorrhea until treated and recovered, following which midwifery services may resume;
 - ~~11.~~ Preeclampsia or eclampsia persisting after the second trimester;
 - ~~12-13.~~ A blood pressure of 140/90 or an increase of 30 millimeters of Mercury systolic or 15 millimeters of Mercury diastolic over the client's lowest baseline blood pressure for two consecutive readings taken at least six hours apart;
 - ~~13-14.~~ A persistent hemoglobin level below 10 grams ~~or a hematocrit below 30~~ during the third trimester;
 - ~~14.~~ A pelvis that will not safely allow a baby to pass through during labor;
 - 15. A serious mental illness condition related to emotional or behavioral functioning, as a result of a mental disorder as defined in A.R.S. § 36-501, that:
 - a. Is severe and persistent, resulting in a long-term limitation of the client's capacity for primary activities of daily living such as interpersonal relationships, homemaking, self-care, employment, or recreation; and
 - b. Impairs or substantially interferes with the client's capacity to remain in the community without supportive treatment or services of a long-term or indefinite duration; or
 - 16. Evidence Indications of substance abuse the continued use of one of the following despite negative consequences, including six months prior to pregnancy, ~~to one of the following,~~ that is evident during an assessment of a client:
 - a. Alcohol,
 - b. Narcotics, or
 - c. Other drugs;₂
 - ~~17.~~ Except as provided in R9-16-108(B)(2), a fetus with an abnormal presentation;
 - ~~18.~~ Labor beginning before the beginning of 36 weeks gestation;
 - ~~19.~~ A progression of labor that does not meet the requirements of R9-16-108(J)(4), if applicable;
 - ~~20.~~ Gestational age greater than 34 weeks with no prior prenatal care;
 - ~~21.~~ A gestation beyond 42 weeks;
 - ~~22.~~ Presence of ruptured membranes without onset of labor within 24 hours;
 - ~~23.~~ Abnormal fetal heart rate consistently less than 120 beats per minute or more than 160 beats per minute;
 - ~~24.~~ Presence of thick meconium, blood-stained amniotic fluid, or abnormal fetal heart tones;
 - ~~25.~~ A postpartum hemorrhage of greater than 500 milliliters in the current pregnancy; or
 - ~~26.~~ A non-bleeding placenta retained for more than 60 minutes.
- C. A midwife shall not continue midwifery services for a client who is diagnosed with or develops any of the following:
 - 1. Any condition specified in subsections (B)(4) through (16);
 - 2. A hematocrit below 30 during the third trimester;
 - 3. Except as provided in R9-16-108(B)(2), a fetus that is not in a head-down position with the crown of the head being the leading body part;
 - 4. Labor beginning before the beginning of 36 weeks gestation;
 - 5. A progression of labor that does not meet the requirements of R9-16-108(J)(4), if applicable;
 - 6. A gestation beyond 42 weeks;
 - 7. Presence of ruptured membranes without onset of labor within 24 hours;



- 8. Abnormal fetal heart rate consistently less than 120 beats per minute or more than 160 beats per minute;
- 9. Presence of thick meconium, blood-stained amniotic fluid, or abnormal fetal heart tones;
- 10. A postpartum hemorrhage of greater than 500 milliliters in the current pregnancy; or
- 11. A non-bleeding placenta retained for more than 60 minutes.

~~C-D~~ A midwife shall not perform a vaginal delivery after prior Cesarean section for a client who:

- 1. Had:
 - a. More than one previous Cesarean section;
 - b. A previous Cesarean section:
 - i. With a classical, vertical, or unknown uterine incision;
 - ii. Within 18 months before the expected delivery;
 - iii. With complications, including uterine infection; or
 - iv. Due to failure to progress as a result of cephalopelvic insufficiency; or
 - c. Complications during a previous vaginal delivery after a Cesarean section; or
- 2. Has a fetus:
 - a. With fetal anomalies, confirmed by an ultrasound; or
 - b. In a breech presentation.

~~D-E~~ A midwife shall not perform a vaginal delivery of a fetus in a breech presentation for a client who:

- 1. Had a previous:
 - a. Unsuccessful vaginal delivery or other demonstration of an inadequate maternal pelvis, or
 - b. Cesarean section; or
- 2. Has a fetus:
 - a. With fetal anomalies, confirmed by an ultrasound;
 - b. With an estimated fetal weight less than 2500 grams or more than 3800 grams; or
 - c. In an incomplete breech presentation.

~~E-F~~ If the client has any of the conditions in subsections ~~(B)~~ (C) through ~~(D)~~ (E), a midwife shall:

- 1. Document the condition in the client record, and
- 2. Initiate transfer of care.

~~F-G~~ A midwife shall not perform any operative procedures except as provided in R9-16-113.

~~G-H~~ A midwife shall not:

- 1. Use any artificial, forcible, or mechanical means to assist birth; or
- 2. Attempt to correct fetal presentations by external or internal movement of the fetus.

~~H-I~~ A midwife shall not administer drugs or medications except as provided in ~~R9-16-108(I)(5)(f), (K)(1)(g), (K)(2)(e)~~ R9-16-108(I)(3)(f), (K)(1)(g), or (K)(2)(c), or R9-16-113.

~~I-J~~ Except as provided in R9-16-113, a midwife shall:

- 1. Discontinue midwifery services and transfer care of a newborn in which any of the following conditions are present:
 - a. Birth weight less than 2000 grams;
 - b. Pale, blue, or gray color after 10 minutes;
 - c. ~~Excessive edema~~ Severe swelling, especially of the newborn's abdomen;
 - d. Major congenital anomalies; or
 - e. Respiratory distress; and
- 2. Document the condition in subsection ~~(I)(1)~~ (J)(1) in the newborn record.

R9-16-112. Required Consultation

A. A midwife shall obtain a consultation at the time a client is determined to have any of the following during the current pregnancy:

- 1. A positive culture for Group B Streptococcus;
- 2. History of seizure disorder;
- 3. History of stillbirth, premature labor, or ~~parity greater than 5~~ having delivered more than five newborns;
- 4. Age younger than 16 years;
- 5. A ~~primigravida~~ first pregnancy in a client older than 40 years of age;
- 6. Failure to auscultate fetal heart tones by the beginning of 22 weeks gestation;
- 7. Failure to gain 12 pounds by the beginning of 30 weeks gestation or gaining more than ~~8~~ eight pounds in any two-week period during pregnancy;
- 8. Greater than 1+ sugar, ketones, or protein in the urine on two consecutive visits;
- 9. Excessive vomiting or continued vomiting after the end of 20 weeks gestation;
- 10. Symptoms of decreased fetal movement;
- 11. A fever of 100.4° F or 38° C or greater measured twice at 24 hours apart;
- 12. Tender uterine fundus;
- 13. Effacement or dilation of the cervix, greater than a fingertip, accompanied by contractions, prior to the beginning of 36 weeks gestation;
- 14. Measurements for fetal growth that are not within 2 centimeters of the gestational age;
- 15. Second degree or greater lacerations of the birth canal;
- 16. Except as provided in ~~R9-16-111(B)(4)~~ R9-16-111(C)(4), ~~an abnormal~~ a progression of labor that does not follow the guidelines in R9-16-108(J)(4)(c);
- 17. An unengaged head at ~~7~~ seven centimeters dilation in active labor;
- 18. Failure of the uterus to return to normal size in the current postpartum period;
- 19. Persistent shortness of breath requiring more than 24 breaths per minute, or breathing which is difficult or painful;
- 20. Gonorrhea;



21. Chlamydia;
 22. Syphilis;
 23. Heart disease;
 24. Kidney disease;
 25. Blood disease; or
 26. A positive test result for:
 - a. HIV,
 - b. Hepatitis B, or
 - c. Hepatitis C.
- B.** A midwife shall obtain a consultation at the time a newborn demonstrates any of the following conditions:
1. Weight less than 2500 grams or § five pounds, & § eight ounces;
 2. Congenital anomalies;
 3. An Apgar score less than 7 at § five minutes;
 4. Persistent breathing at a rate of more than 60 breaths per minute;
 5. An irregular heartbeat;
 6. Persistent poor muscle tone;
 7. Less than 36 weeks gestation or greater than 42 weeks gestation by gestational exam;
 8. Yellowish-colored skin within 48 hours;
 9. Abnormal crying;
 10. Meconium staining of the skin;
 11. Lethargy;
 12. Irritability;
 13. Poor feeding;
 14. Excessively pink coloring over the entire body;
 15. Failure to urinate or pass meconium in the first 24 hours of life;
 16. A hip examination which results in a clicking or incorrect angle;
 17. Skin rashes not commonly seen in the newborn; or
 18. Temperature persistently above 99.0° or below 97.6° F.
- C.** The midwife shall inform the client of the consultation required in subsections (A) or (B) and recommendations of the physician or certified nurse midwife.
- D.** The midwife shall document the consultation required in subsections (A) or (B) and recommendations received in the client record or newborn record, as specified in R9-16-115(B)(14) or (C)(7) as applicable.

R9-16-113. Emergency Measures

- A.** In an emergency situation in which the health or safety of the client or newborn are determined to be at risk, a midwife:
1. Shall ensure that an emergency medical services provider is called; and
 2. May perform the following procedures as necessary:
 - a. Cardiopulmonary resuscitation of the client or newborn with a bag and mask;
 - b. Administration of oxygen at no more than § eight liters per minute via mask for the client and § five liters per minute for the newborn via neonatal mask;
 - c. Episiotomy to expedite the delivery during fetal distress;
 - d. Suturing of episiotomy or tearing of the perineum to stop active bleeding, following administration of local anesthetic, contingent upon consultation with a physician or certified nurse midwife, or physician's written orders;
 - e. Release of shoulder dystocia, the wedging of the shoulders of the fetus in the client's pelvis in such a way that the fetus is unable to be born without emergency action, by utilizing:
 - i. Hyperflexion of the client's legs to the abdomen,
 - ii. Application of external pressure suprapubically,
 - iii. Rotation of the nonimpacted shoulder until the impacted shoulder is released,
 - iv. Delivery of the posterior shoulder,
 - v. Application of posterior pressure on the anterior shoulder, or
 - vi. Positioning of the client on all fours with the back arched;
 - f. Manual exploration of the uterus for control of severe bleeding; or
 - g. Manual removal of placenta.
- B.** A licensed midwife may administer a maximum dose of 20 units of pitocin intramuscularly, in 10-unit dosages each, 30 minutes apart, to a client for the control of postpartum hemorrhage, contingent upon physician or certified nurse midwife consultation and written orders by a physician, and arrangements for immediate transport of the client to a hospital.
- C.** A midwife shall document in the client's record any medications taken by a client for the control of postpartum hemorrhage.

R9-16-114. Midwife Report after Termination of Midwifery Services

- A.** A midwife shall complete a midwife report for each client, in a format provided by the Department, that includes the following:
1. The midwife's:
 - a. First name,
 - b. Last name, and
 - c. License number;
 2. The client's:
 - a. Date of birth;
 - b. Client number;



- c. Date of last menstrual period;
- d. Estimated date of delivery;
- e. Gravida (number), the number of times the client has been pregnant, including a current pregnancy, regardless of whether these pregnancies were carried to term;
- f. Para (number), the number of times the client has given birth at greater than 20 weeks of gestation, including viable and non-viable births, where multiples are counted as one birth; and
- g. If applicable, whether the client had a vaginal delivery after prior Cesarean section or vaginal delivery of a fetus in a complete breech or frank breech presentation;
- 3. A description of the maternal outcome, including any complications;
- 4. If a vaginal delivery after prior Cesarean section or vaginal delivery of a fetus in a complete breech or frank breech presentation:
 - a. Rate of dilation, and
 - b. Duration of second stage labor;
- 5. If applicable, the newborn's:
 - a. Date of birth;
 - b. Gender;
 - c. Weight;
 - d. Length;
 - e. Head circumference;
 - f. Designation of average, small, or large for gestational age;
 - g. Apgar score at ~~1~~ one minute;
 - h. Apgar score at ~~5~~ five minutes;
 - i. Existence of complications;
 - j. Description of complications, if applicable;
 - k. Birth certificate filing date; and
 - l. Birth certificate number, if available;
- 6. Whether the client required transfer of care and, if applicable:
 - a. Method of transport,
 - b. Type of facility or individual to which the midwife transferred care of the client,
 - c. Name of destination,
 - d. Time arrived at destination,
 - e. Confirmation the emergency care plan was utilized, and
 - f. Medical reason for transfer of care;
- 7. The date midwifery services were terminated;
- 8. Reason for the termination of midwifery services;
- 9. If termination of midwifery services was due to a medical condition, the specific medical condition;
- 10. Whether information was provided on newborn screening; and
- 11. Whether newborn screening tests were ordered as required in A.R.S. § 36-694.
- B.** The midwife shall submit a midwife report for a client to the Department within 30 calendar days after the termination of midwifery services to the client.

R9-16-115. Client and Newborn Records

- A.** A midwife shall ensure that a record is established and maintained according to A.R.S. §§ 12-2291 and 12-2297 for each:
 - 1. Client, and
 - 2. Newborn delivered by the midwife from a client.
- B.** A midwife shall ensure that a record for each client includes the following:
 - 1. The client's full name, date of birth, address, and client number;
 - 2. Names, addresses, and telephone numbers of the client's spouse or other individuals designated by the client to be contacted in an emergency;
 - 3. Written informed consent for midwifery services, as required in R9-16-108(C)(2);
 - 4. ~~Assertion~~ If applicable, assertion to decline required tests, as required in ~~R9-16-110(A)(3)~~ R9-16-110(A);
 - 5. A copy of the emergency care plan, as required in ~~R9-16-108(E)~~ R9-16-108(D);
 - 6. The date the midwife began providing midwifery services to the client;
 - 7. The date the client is expected to deliver the newborn;
 - 8. The date the newborn was delivered, if applicable;
 - 9. An initial assessment of the client to:
 - a. Determine whether the client has a history of a condition or circumstance that would preclude care of the client by the midwife, as specified in R9-16-111; and
 - b. Determine the:
 - i. Number and outcome of previous pregnancies, and
 - ii. Number of previous medical or midwife visits the client has had during the current pregnancy;
 - 10. Progress notes documenting the midwifery services provided to the client;
 - 11. For a delivery identified in R9-16-108(B):
 - a. Rate of dilation, and
 - b. Duration of second stage labor;
 - 12. Laboratory and diagnostic reports, ~~according to~~ required in R9-16-108(I);
 - 13. Documentation of consultations as required in R9-16-112, including:
 - a. Reason for the consultation,



- b. Name of physician or certified nurse midwife contacted,
 - c. Date of consultation,
 - d. Time of consultation, ~~and~~
 - e. Recommendation made by the physician or certified nurse midwife, and
 - f. Actions taken as a result of the consultation;
14. ~~Written~~ Any written reports received from consultations ~~as~~ required in R9-16-112;
 15. A description of any conditions or circumstances arising during the pregnancy that required the transfer of care;
 16. The name of the physician, certified nurse midwife, or hospital to which the care of the client was transferred, if applicable;
 17. Documentation of medications or vitamins taken by the client;
 18. Documentation of medications or vitamins administered to the client and the physician's written orders for the medications or vitamins;
 19. The outcome of the pregnancy;
 20. The date the midwife stopped providing midwifery services to the client; and
 21. Instructions provided to the client before the midwife stopped providing midwifery services to the client.
- C. A midwife shall ensure that a record for each newborn includes the following:
1. The full name, date of birth, and address of the newborn's mother;
 2. The newborn's:
 - a. Date of birth,
 - b. Gender,
 - c. Weight at birth,
 - d. Length at birth, and
 - e. Apgar scores at ~~± one~~ one minute and ~~5 five~~ five minutes after birth;
 3. The newborn's estimated gestational age at birth;
 4. Progress notes documenting the midwifery services provided to the newborn;
 5. Laboratory and diagnostic reports, as required in R9-16-108(I);
 6. Documentation of consultations as required in R9-16-112, including:
 - a. Reason for the consultation,
 - b. Name of physician or certified nurse midwife contacted,
 - c. Date of consultation,
 - d. Time of consultation, ~~and~~
 - e. Recommendation made by the physician or certified nurse midwife, and
 - f. Actions taken as a result of the consultation;
 7. ~~Written~~ Any written reports received from consultations ~~as~~ required in R9-16-112;
 8. A description of any conditions or circumstances arising during or after the newborn's birth that required the transfer of care;
 9. The name of the physician, certified nurse midwife, or hospital to which the care of the newborn was transferred, if applicable;
 10. Documentation of medications or vitamins taken by the newborn;
 11. Documentation of medications or vitamins administered to the newborn and the physician's written orders for the medications or vitamins;
 12. Documentation of newborn screening, including when the specimen collection kit, as defined in A.A.C. R9-13-201, was submitted and results received, as required in R9-16-108(K)(4)(c);
 13. The date the midwife stopped providing midwifery services to the newborn; and
 14. Instructions provided to the client about the newborn before the midwife stopped providing midwifery services to the newborn.

R9-16-116. Denial, Suspension, or Revocation of License; Civil Penalties; Procedures

In addition to the grounds specified in A.R.S. §§ ~~36-756 and~~ 13-904(E) and 36-756, the Department may deny, suspend, or revoke a license permanently or for a definite period of time, and may assess a civil penalty for each violation, for any of the following causes:

1. Practicing under a false name or alias so as to interfere with or obstruct the investigative or regulatory process,
2. Practicing under the influence of drugs or alcohol,
3. Falsification of records,
4. Obtaining any fee for midwifery services by fraud or misrepresentation,
5. Permitting another to use the midwife's license, or
6. Knowingly providing false information to the Department.



NOTICES OF ORAL PROCEEDING

Oral proceeding means a meeting conducted by an agency during the rulemaking process at which the public provides oral (spoken) comments about proposed rules.

An agency may provide notification for an oral proceeding in: Its docket opening under A.R.S. § 41-1021(B)(5); The Preamble of its Notice of Proposed Rulemaking.

If an agency does not provide notification in this notice, an agency shall schedule an oral proceeding on a proposed rule if, within 30 days after the published notice of proposed rule making [sic], a written request for an oral

proceeding is submitted to the agency personnel listed in the notice under A.R.S. § 41-1023(C); and in an exempt rulemaking as provided in law.

The notification of proceedings are provided in Notices of Oral Proceedings in this section of the Register under A.R.S. § 41-1013(B)(5).

An oral proceeding on a proposed rule may not be held earlier than 30 days after notice of its location and time is published in the Register, therefore agencies shall refer to the Register Publishing Dates provided in this issue before scheduling a proceeding.

NOTICE OF ORAL PROCEEDING ON PROPOSED RULEMAKING
AGRICULTURAL EMPLOYMENT RELATIONS BOARD

[M21-71]

- 1. Name of the agency: Arizona Agricultural Employment Relations Board
2. Title and its heading: 4, Professions and Occupations
Chapter and its heading: 2, Agricultural Employment Relations Board

Table with 2 columns: Articles, Parts, or Sections (as applicable) being proposed; Rulemaking Action. Lists items R4-2-101 through R4-2-407 with corresponding actions like Amend, Repeal, or Renumber.

- 4. Citations to all notices published in the Register concerning the proposed rulemaking:
Notice of Rulemaking Docket Opening: 27 A.A.R. 2375, October 22, 2021
Notice of Proposed Rulemaking: 27 A.A.R. 2331, October 22, 2021

- 5. The date, time, and location of the oral proceeding:
Oral comments may be made at the oral hearing scheduled for Wednesday, December 1, 2021 at 10:00 a.m., at the Arizona Department of Agriculture, 1688 W. Adams Street, Phoenix, AZ 85007, Room 206.



6. The name and address of agency personnel to whom questions and comments on the proposed rules may be addressed:

Name: Lisa James
Address: Arizona Department of Agriculture
1688 W. Adams St.
Phoenix, AZ 85007
Telephone: (602) 542-1164
Fax: (602) 364-0830
Email: ljames@azda.gov



NOTICES OF SUBSTANTIVE POLICY STATEMENT

SUMMARIES AND LOCATION OF STATEMENT

Substantive policy statements are written expressions which inform the general public of an agency's current approach to rule or regulation practice as defined under A.R.S. § 41-1001(24).

Agencies are required to prepare a notice and publish the names of its substantive policy statements, a summary of statements, and its website address where full statements can be reviewed under A.R.S. § 41-1013(B)(9). These notices are published in this section of the *Register*.

Substantive policy statements are advisory only. A substantive policy statement does not include procedural

documents that only affect an agency's internal procedures and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the A.P.A.

Any person may petition an agency under A.R.S. § 41-1033(A)(2) to review an existing agency practice or substantive policy statement that the petitioner alleges to constitute a rule.

Contact the agency liaison listed under Item #6 with specific questions about the policy statement or interpretation of the statement's content.

NOTICE OF SUBSTANTIVE POLICY STATEMENT

DEPARTMENT OF AGRICULTURE

[M21-70]

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

SP 21-02 Industrial Hemp Performance Based Sampling

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

Issue Date: October 6, 2021

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

The Department's current method for performance-based sampling on industrial hemp microgreens, greens, transplants and mother plants, in conformance with the rules and guidelines for "Performance-Based Sampling" published by the US Department of Agriculture - Agricultural Marketing Service under 7 CFR § 990.3(a)(2)(iii)(A) and (B).

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

- 7 CFR § 990.3(a)(2)(iii)(A) and (B)
- A.R.S. § 3-316
- A.A.C. R3-4-1008

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

This is a new statement.

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

Name: Brian McGrew
 Address: Department of Agriculture
 1688 W. Adams St.
 Phoenix, AZ 85007
 Telephone: (602) 542-3228
 Email: bmcgrew@azda.gov
 Website: agriculture.az.gov

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

A person may obtain a copy at no cost via email to the person listed above or on the agency's website: <https://agriculture.az.gov>. Hard copies may be obtained for \$0.25 per page by submitting a public records request to the Department.



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 2021-02**Moratorium on Rulemaking to Promote Job Creation and Economic Development; Internal Review of Administrative Rules**

[M21-11]

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

WHEREAS, burdensome regulations inhibit job growth and economic development; 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, 2019 and 2020; and

WHEREAS, the State of Arizona eliminated or improved 462 burdensome regulations in 2020 and for a total of 2,751 needless regulations eliminated or improved since 2015; and

WHEREAS, estimates show these eliminations saved job creators \$14.7 million in operating costs in 2020 and for a total of over \$148.9 million in savings since 2015; and

WHEREAS, in 2020, for every one new necessary rule added to the Administrative Code, four have been repealed or improved; and

WHEREAS, COVID-19 has been hard on small businesses and the economy, and administrative barriers should be removed for their sake; and

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

WHEREAS, each State agency shall continue to conduct a critical and comprehensive review of its administrative rules and take action to reduce the regulatory burden, administrative delay and legal uncertainty associated with government regulation while protecting the health, peace and safety of residents; and

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

WHEREAS, Article 5, Section 4 of the Arizona Constitution and Title 41, Chapter 1, Article 1 of the Arizona Revised Statutes vests the executive power of the State of Arizona in the Governor.

NOW, THEREFORE, I, Douglas A. Ducey, by virtue of the authority vested in me by the Constitution and laws of the State of Arizona hereby declare the following:

1. A State agency subject to this Order shall not conduct any rulemaking, including regular, expedited, emergency and exempt, 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 on the public, while achieving the same regulatory objective.
 - c. To prevent a significant threat to 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 new 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. After the public comment period and the close of the rulemaking record, a State agency subject to this Order shall not submit the proposed rules to the Governor's Regulatory Review Council without a written final approval from the Office of the Governor.



Before considering the rules submitted by a State agency, the Governor’s Regulatory Review Council must obtain from the State agency the initial approval, referenced in Section 1, and the final approval from the Office of the Governor.

3. A State agency that submits a rulemaking request pursuant to this Order shall recommend for consideration by the Governor’s Office at least **three** existing rules to eliminate for every **one** additional rule requested by the agency.
4. All State agencies shall conduct a comprehensive review of any rules that were suspended during the Public Health State of Emergency for COVID-19 to determine if those rules should be permanently suspended and send a report on their findings no later than June 1, 2021.
5. 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.
6. 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 the 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.
7. A State agency that issues occupational or professional licenses must track veteran and military spouse status of applicants immediately and report that information to the Governor’s Office on an annual basis, starting July 1, 2021.
8. All State agencies that are required to issue occupational or professional licenses by “universal recognition” (established by A.R.S. § 32-4302) must track all applications received for this license type immediately and report that information to the Governor’s Office on an annual basis, starting July 1, 2021. Before any agency denies a professional or occupational license applied for under A.R.S. § 32-4302, 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 Governor’s Office should be notified of any required timeframes, whether in statute or rule, for approval or denial of the license by the agency.
9. 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.
10. 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.
11. This Executive Order supersedes Executive Order 2019-01 and Executive Order 2020-02.

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 twelfth day of February in the Year Two Thousand and Twenty-One and of the Independence of the United States of America the Year Two Hundred and Forty-Fifth.

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

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R20-6-1506.	PN-195;	R20-6-1802.	PM-2598		FR-1324
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	FEM-2524		FE#-815	R2-8-205.	FEM-479
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	FEM-2524		FEM-815	R2-8-502.	FEM-479
R13-9-202.	PEM-393;	R2-17-119.	PE#-169;	R2-8-507.	FEM-479
	FEM-2524		FE#-815;	R2-8-901.	FN-91
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	FEM-2524		PE#-169;	Technical Registration, Board of	
R13-9-603.	PEM-393;	R2-17-122.	PEM-169;	R4-30-247.	FM-93
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Public Safety, Department of - Private Investigator and Security Guard Hearing Board			FEM-815	R17-5-201.	PM-649
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R2-17-102.	PEM-169;		PE#-169;	R17-5-208.	PM-649
	FEM-815	R2-17-125.	FE#-815	R17-5-209.	PM-649
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	FEM-815	R2-17-126.	PE#-169	R17-5-211.	PM-649
R2-17-104.	PEM-169;		PEM-169;	R17-5-212.	PM-649
	FEM-815		FE#-815;	Transportation, Department of - Oversize and Overweight Special Permits	
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R17-6-109.	PM-2397		PM-2397	R17-6-503.	P#-2397;
R17-6-112.	PM-2397	R17-6-403.	P#-2397;		PN-2397
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R17-6-201.	PM-2397	R17-6-404.	PM-2397		PN-2397
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R17-6-203.	PM-2397		P#-2397		PN-2397
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R17-6-205.	PM-2397	R17-6-407.	PM-2397	R17-6-507.	P#-2397
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RULES EFFECTIVE DATES CALENDAR

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

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



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



REGISTER PUBLISHING DEADLINES

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

Deadline Date Friday, 5:00 p.m. <i>(*earlier date due to holiday)</i>	Register Publication Date	Oral Proceeding may be scheduled on or after
August 20, 2021	September 10, 2021	October 12, 2021
August 27, 2021	September 17, 2021	October 18, 2021
September 3, 2021	September 24, 2021	October 25, 2021
September 10, 2021	October 1, 2021	November 1, 2021
September 17, 2021	October 8, 2021	November 8, 2021
September 24, 2021	October 15, 2021	November 15, 2021
October 1, 2021	October 22, 2021	November 22, 2021
October 8, 2021	October 29, 2021	November 29, 2021
October 15, 2021	November 5, 2021	December 6, 2021
October 22, 2021	November 12, 2021	December 13, 2021
October 29, 2021	November 19, 2021	December 20, 2021
November 5, 2021	November 26, 2021	December 27, 2021
November 12, 2021	December 3, 2021	January 3, 2022
November 19, 2021	December 10, 2021	January 10, 2022
November 26, 2021	December 17, 2021	January 18, 2022
December 3, 2021	<i>Thursday</i> December 23, 2021*	January 24, 2022
December 10, 2021	<i>Thursday</i> December 30, 2021*	January 31, 2022
December 17, 2021	January 7, 2022	February 7, 2022
<i>Thursday</i> December 23, 2021*	January 14, 2022	February 14, 2022
<i>Thursday</i> December 30, 2021*	January 21, 2022	February 22, 2022
January 7, 2022	January 28, 2022	February 28, 2022
January 14, 2022	February 4, 2022	March 7, 2022
January 21, 2022	February 11, 2022	March 14, 2022
January 28, 2022	February 18, 2022	March 21, 2022
February 4, 2022	February 25, 2022	March 28, 2022
February 11, 2022	March 4, 2022	April 4, 2022
February 18, 2022	March 11, 2022	April 11, 2022



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 2021/2022

(MEETING DATES ARE SUBJECT TO CHANGE)

[M20-42]/[M21-61]

DEADLINE FOR PLACEMENT ON AGENDA*	FINAL MATERIALS SUBMITTED TO COUNCIL	DATE OF COUNCIL STUDY SESSION	DATE OF COUNCIL MEETING
<i>Tuesday</i> September 21, 2021	<i>Tuesday</i> October 19, 2021	<i>Tuesday</i> October 26, 2021	<i>Tuesday</i> November 2, 2021
<i>Tuesday</i> October 19, 2021	<i>Tuesday</i> November 23, 2021	<i>Tuesday</i> November 30, 2021	<i>Tuesday</i> December 7, 2021
<i>Tuesday</i> November 23, 2021	<i>Tuesday</i> December 21, 2021	<i>Tuesday</i> December 28, 2021	<i>Tuesday</i> January 4, 2022
<i>Tuesday</i> December 21, 2021	<i>Tuesday</i> January 18, 2022	<i>Tuesday</i> January 25, 2022	<i>Tuesday</i> February 1, 2022
<i>Tuesday</i> January 18, 2022	<i>Tuesday</i> February 15, 2022	<i>Tuesday</i> February 22, 2022	<i>Tuesday</i> March 1, 2022
<i>Tuesday</i> February 15, 2022	<i>Tuesday</i> March 22, 2022	<i>Tuesday</i> March 29, 2022	<i>Tuesday</i> April 5, 2022
<i>Tuesday</i> March 22, 2022	<i>Tuesday</i> April 19, 2022	<i>Tuesday</i> April 26, 2022	<i>Tuesday</i> May 3, 2022
<i>Tuesday</i> April 19, 2022	<i>Tuesday</i> May 17, 2022	<i>Tuesday</i> May 24, 2022	Wednesday June 1, 2022
<i>Tuesday</i> May 17, 2022	<i>Tuesday</i> June 21, 2022	<i>Tuesday</i> June 28, 2022	Wednesday July 6, 2022
<i>Tuesday</i> June 21, 2022	<i>Tuesday</i> July 19, 2022	<i>Tuesday</i> July 26, 2022	<i>Tuesday</i> August 2, 2022
<i>Tuesday</i> July 19, 2022	<i>Tuesday</i> August 23, 2022	<i>Tuesday</i> August 30, 2022	Wednesday September 7, 2022
<i>Tuesday</i> August 23, 2022	<i>Tuesday</i> September 20, 2022	<i>Tuesday</i> September 27, 2022	<i>Tuesday</i> October 4, 2022
<i>Tuesday</i> September 20, 2022	<i>Tuesday</i> October 18, 2022	<i>Tuesday</i> October 25, 2022	<i>Tuesday</i> November 1, 2022
<i>Tuesday</i> October 18, 2022	<i>Tuesday</i> November 22, 2022	<i>Tuesday</i> November 29, 2022	<i>Tuesday</i> December 6, 2022

* 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.