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**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA**

UNION LLC d/b/a UNION HOSPITALITY
GROUP, an Arizona limited liability
company; and GRANT KRUEGER, an
individual,

Plaintiffs,

vs.

ARIZONA DEPARTMENT OF
AGRIGULTURE, an agency of the State of
Arizona; and PAUL E. BRIERLEY, Director
of Arizona Department of Agriculture, in his
official capacity,

Defendants,

Case No.

**COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

INTRODUCTION

1. In little more than a year, the Arizona Department of Agriculture (“AZDA”) will require that all egg-laying hens in Arizona be raised in a cage-free manner and all eggs and egg products sold in Arizona come from hens raised in a cage-free manner. R3-2-901–07 (the “Cage-Free Egg Rule”).

2. But this important policy decision was not made by the Arizona Legislature—the branch of the Arizona government constitutionally responsible for making laws—it was made by AZDA, an executive branch agency.

3. The Cage-Free Egg Rule was promulgated by AZDA in consultation with Arizona egg producers and industry groups.

1 4. The egg producers first went to the Arizona Legislature to request legislation
2 requiring the cage-free housing of egg-laying hens. But they were directed to AZDA instead.

3 5. AZDA then promulgated the rule itself without any further input from the
4 Arizona Legislature pursuant to an impermissibly broad statutory delegation of lawmaking
5 power.

6 6. The applicable statute is so expansive that it functions as little more than an
7 enabling act permitting AZDA to make whatever laws it wishes regarding poultry
8 husbandry and the sale of eggs in Arizona.

9 7. Neither Arizona’s statutes governing executive branch rulemaking nor the
10 Arizona Constitution permit AZDA to promulgate rules pursuant to such a standardless
11 grant of authority.

12 8. Here, the placing of the lawmaking power in the hands of AZDA led to a
13 collusive process in which egg producers and industry groups worked closely with the
14 agency to develop the rule they wanted and to thwart the efforts of voters to pass a ballot
15 initiative enacting a similar law with a different structure.

16 9. As a result, consumers, restaurateurs, and restaurants—three groups expected
17 to be impacted by increased egg prices resulting from the rule—did not have adequate
18 protection of their interests in the rulemaking process.

19 10. Union LLC d/b/a Union Hospitality Group (“Union Hospitality Group”) and
20 Grant Krueger are members of those groups and will be negatively impacted by the
21 additional financial burdens of the rule and its restriction of their ability to find and choose
22 suppliers for Union Hospitality Group’s restaurants and Mr. Krueger’s personal
23 consumption.

24 11. Through this suit, Union Hospitality Group and Mr. Krueger seek to ensure
25 that policies that impact the lives and finances of Arizonans are enacted by the elected
26 Arizona Legislature to ensure the consideration and protection of all Arizonans’ interests,
27 not just the interests of the regulators and their regulated entities.
28

1 **PARTIES, JURISDICTION, AND VENUE**

2 12. Plaintiff Union L.L.C., doing business as Union Hospitality Group is an
3 Arizona Limited Liability Company in Pima County, State of Arizona. It operates three
4 restaurants that use eggs, and sometimes egg products, as part of their regular operations.
5 It will lose the ability to purchase the eggs and egg products it has long relied on as a direct
6 result of the Cage-Free Egg Rule. It will also suffer a pecuniary loss as a direct result of
7 the Cage-Free Egg Rule increasing the price of eggs sold in Arizona over what the price
8 would be without the rule.

9 13. Plaintiff Grant Krueger is a resident of Pima County, State of Arizona. He
10 regularly purchases eggs for his personal consumption. He will lose the ability to purchase
11 eggs he would otherwise purchase, and he will suffer a pecuniary loss as a direct result of
12 the Cage-Free Egg Rule increasing the price of eggs sold in Arizona over what the price
13 would be without the rule.

14 14. Defendant Arizona Department of Agriculture is an agency of the State of
15 Arizona organized under the laws of Arizona responsible for promulgating the Cage-Free
16 Egg Rule.

17 15. Paul E. Brierley is the Director of AZDA, sued in his official capacity.

18 16. Jurisdiction over this action and its claims is proper pursuant to A.R.S. §§ 12-
19 123, 12-1801, 12-1831, and 41-1034(A).

20 17. Venue is proper pursuant to A.R.S. § 41-1034(A).

21 **FACTS COMMON TO ALL CLAIMS**

22 **Authorizing Statute**

23 18. AZDA is authorized to regulate “poultry husbandry and the production of
24 eggs sold in [Arizona].” A.R.S. § 3-710(J).

25 19. Egg producers who operate or control egg ranches that each have “fewer than
26 twenty thousand egg-laying hens producing eggs” are exempt from regulation. *Id.*

1 20. No “political subdivision” of Arizona may issue its own poultry husbandry
2 regulations “related to the production of eggs” to ensure regulatory consistency across the
3 state. A.R.S. § 3-710(K).

4 21. The statute provides no standards, policies, or otherwise intelligible principles
5 for AZDA to follow in its development of poultry husbandry and egg production regulations
6 or by which the reasonable necessity of any such regulation can be evaluated.

7 22. The statute does not specifically authorize AZDA to issue a rule requiring
8 egg-laying hens to be housed in a cage-free manner or to otherwise regulate the housing of
9 egg-laying hens.

10 23. The statutory authorization for AZDA to regulate poultry husbandry and egg
11 production was passed in 2008. AZ H.R. B. Summ., 2008 Reg. Sess. S.B. 1373 (Apr. 8,
12 2008).

13 **Development of the Cage-Free Egg Rule**

14 24. The Cage-Free Egg Rule was promulgated not by the Arizona Legislature—
15 which has the exclusive power to make laws—but by AZDA pursuant to an impermissible
16 delegation of lawmaking authority to the executive branch by the Arizona Legislature.

17 25. Prior to the promulgation of the Cage-Free Egg Rule, egg-laying hens in
18 Arizona had to be “raised according to” the United Egg Producers’ Animal Husbandry
19 Guidelines for U.S. Egg Laying Flocks, 2017 edition (“2017 UEP Guidelines”) and all eggs
20 sold in Arizona had to come from egg-laying hens that were “raised according to the” 2017
21 UEP Guidelines. 28 A.A.R. 808, attached as Ex. A.

22 26. The 2017 UEP Guidelines provide for the housing of egg-laying hens either
23 in cages or in a cage-free manner.

24 27. Arizona egg producers wanted the state to impose a requirement that egg-
25 laying hens be raised in a cage-free manner.

26 28. The egg producers originally went to the Arizona Legislature seeking
27 legislation to mandate a transition to cage-free housing. But the legislative process was
28 disrupted by the COVID-19 pandemic.

1 29. Afterwards, the egg producers were told by members of the Arizona
2 Legislature to pursue imposition of a cage-free housing requirement for egg-laying hens
3 through AZDA regulation.

4 30. Arizona egg producers supporting the rule wanted the state to impose a cage-
5 free housing requirement for egg-laying hens partly to avoid the passage of an Arizona
6 ballot initiative that would have imposed such a requirement on a timeline that Arizona egg
7 producers did not believe was feasible.

8 31. Arizona egg producers and industry groups collaborated with the Governor
9 of Arizona and the Arizona Attorney General to develop the Cage-Free Egg Rule on terms
10 favorable to the industry and to thwart voters' efforts to pass the ballot initiative.

11 **Cage-Free Egg Rule**

12 32. On April 22, 2022, the Arizona Secretary of State published a Notice of Final
13 Rulemaking amending Title 3, Chapter 2, Article 9 (Egg and Egg Products Control) of the
14 Arizona Administrative Code to require that egg-laying hens raised in Arizona be housed in
15 a cage-free manner (“Hen Rule”) and that all eggs and egg products sold in Arizona come
16 from hens raised in the same way (“Sale Rule”)—the Cage-Free Egg Rule. 28 A.A.R. 802–
17 08, attached as Ex. A.

18 33. Egg products are “eggs, in raw or pasteurized form, that are removed from
19 the shell in a liquid, frozen, dried, or freeze-dried state, but are not fully cooked.” *Id.* at
20 806.

21 34. The Cage-Free Egg Rule imposed the cage-free housing requirement on egg
22 producers in two phases.

23 35. Since October 1, 2022, each egg-laying hen in Arizona must be housed such
24 that they each have “no less than one square foot of usable floor space.” *Id.* at 808.

25 36. Also, since October 1, 2022, all eggs and egg products sold in Arizona —
26 regardless of their state of origin—must come from hens housed in the same manner. *Id.*

27 37. By January 1, 2025, all egg-laying hens in Arizona and those hens producing
28 eggs and egg products for sale in Arizona have to be “housed in a cage-free manner.” *Id.*

1 38. To house hens in a cage-free manner, the housing system must (1) contain the
2 floor space required by the 2017 edition of the United Egg Producers' Animal Husbandry
3 Guidelines for U.S. Egg-Laying Flocks: Guidelines for Cage-Free Housing, (2) allow the
4 hens "unrestricted freedom to roam," (3) provide "an environment that allows [the hens] to
5 exhibit natural behaviors," and (4) allow "farm employees [to] provide care while standing
6 within the hens' usable floor space." *Id.* at 806.

7 39. All eggs and egg products sold in Arizona must be certified as compliant with
8 the Cage-Free Egg Rule and be stored in containers marked with "ARS 710J." *Id.* at 808.

9 40. Egg producers that have "fewer than 20,000 egg-laying hens producing eggs"
10 are exempt from the cage-free housing requirement, but not the certification requirement.
11 *Id.*

12 **AZDA's Justifications for the Cage-Free Egg Rule**

13 41. AZDA's primary justification for the adoption of the Cage-Free Egg Rule is
14 to address "the public's growing concerns about animal welfare, including the hens' ability
15 to move freely and express their natural behaviors." *Id.* at 803.

16 42. AZDA also identified three other justifications for the adoption of the Cage-
17 Free Egg Rule:

- 18 a. Cage-free egg production "reflect[s] market trends;"
- 19 b. It would "minimize [AZDA's] regulatory burden;" and
- 20 c. It "[is] intended to represent the best management practices in the shell
21 egg industry that ensure the production of high-quality, cruelty-free
22 eggs."

23 *Id.*

24 43. AZDA reiterated the public's concern for hen welfare as the justification for
25 the rule in its discussion of the economic, small business, and consumer impact of the rule.

26 44. AZDA explained that the commercial egg-production industry was shifting
27 towards cage-free production "primar[ily] drive[n]" by "consumers and retailers concerned
28

1 about the welfare of the laying hens in caged housing environments, including the inability
2 to move around and express natural behaviors.” *Id.*

3 45. Citing the concerns of egg producers, AZDA also justified the rule as a means
4 of avoiding the passage of a ballot initiative proposing a similar requirement for housing
5 egg-laying hens in a cage-free manner. AZDA observed that “[i]nterest groups also filed a
6 ballot initiative in Arizona ... requiring (among other things) that all eggs produced or sold
7 in Arizona after May 1, 2023, come from hens housed in cage-free production
8 environments.” *Id.* at 804.

9 46. AZDA reported that the relatively accelerated timeline of the ballot initiative
10 “create[d] significant concerns about the adequacy of the cage-free egg supply.” *Id.*

11 47. The ballot initiative also purportedly would have imposed higher regulatory
12 costs on AZDA because it required Arizona inspectors to inspect the housing facilities of
13 out-of-state egg producers as opposed to the third-party certification process required by
14 the Cage-Free Egg Rule. *Id.*

15 **Adoption of the Cage-Free Egg Rule**

16 48. After notice and comment Rulemaking, AZDA adopted the Cage-Free Egg
17 Rule. *See* R3-2-901–07.

18 49. The Hen Rule is set out at R3-2-907(C) and (E).

19 50. The Sale Rule is set out at R3-2-907(D) and (F).

20 **Economic Impact of Cage-Free Egg Rule**

21 51. The Cage-Free Egg Rule will have substantial economic impacts on both egg
22 consumers and producers, as AZDA itself has acknowledged.

23 52. AZDA anticipates that the cage-free housing of egg-laying hens will increase
24 egg production costs relative to caged systems, including a 41% increase in labor inputs. 28
25 A.A.R. 804, attached as Ex. A.

26 53. The Cage-Free Egg Rule will increase inspection costs for out-of-state egg
27 producers that will have to provide certifications from third-party inspectors that their egg
28 production facilities are in compliance with the Cage-Free Egg Rule. *Id.*

1 54. Experts consulted by AZDA expect the wholesale price of eggs to increase by
2 \$0.39 per dozen as a result of the Cage-Free Egg Rule. *Id.*

3 55. Additionally, AZDA expects that the Cage-Free Egg Rule will increase the
4 amount consumers spend on eggs per year between \$2.71 and \$8.79 per person. *Id.*

5 56. The transition to cage-free egg production will also result in enormous capital
6 expenditures. *Id.*

7 57. One Arizona egg producer estimated that hundreds of millions of dollars of
8 capital investment would be required to convert its production facilities to cage-free
9 housing. *Id.*

10 **Harm to Plaintiffs**

11 58. Union Hospitality Group is based in Tucson, Arizona and operates three
12 restaurants: Union Public House, Reforma Modern Mexican Mezcal + Tequila, and Proof
13 Artisanal Pizza and Pasta.

14 59. Union Hospitality Group currently employs approximately 225 people.

15 60. Union Hospitality Group purchases eggs as ingredients for the menu items it
16 offers its customers.

17 61. Union Hospitality Group has also purchased egg products as a substitute for
18 eggs.

19 62. Union Hospitality Group's restaurants do a significant amount of brunch
20 business, which requires large quantities of eggs for their menu items.

21 63. From November 2022 through October 2023, Union Hospitality Group
22 purchased 578 cases or 104,040 eggs for its restaurants.

23 64. When purchasing eggs or egg products, Union Hospitality Group does not
24 specifically seek out eggs produced in a cage-free manner.

25 65. The Cage-Free Egg Rule will increase the amount Union Hospitality Group
26 must spend on eggs or egg products over what its egg costs would be without the Cage-Free
27 Egg Rule, according to AZDA. *Id.*

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1 66. Union Hospitality Group—like most restaurant businesses—runs on small
2 margins, with the bulk of its revenue going to pay for the overhead of running a full-service
3 restaurant.

4 67. Like all Arizonans, Union Hospitality Group has already been impacted by
5 the inflationary pressure on food prices.

6 68. Any relative price increase as a result of the Cage-Free Egg Rule will
7 negatively impact the finances of Union Hospitality Group.

8 69. In addition to the economic effects on Union Hospitality Group, the Cage-
9 Free Egg Rule directly injures Union Hospitality Group by restricting its right to buy and
10 sell eggs or egg products it would otherwise buy and sell, and to do business with egg or
11 egg product suppliers with whom it would otherwise do business.

12 70. Grant Krueger is a Tucson restaurateur and the manager of Union Hospitality
13 Group.

14 71. Mr. Krueger has been in the restaurant business for 34 years, having begun
15 his career as a dishwasher and bus boy and working his way up to an owner.

16 72. Mr. Krueger regularly purchases eggs for personal consumption, and in doing
17 so he does not specifically seek out eggs produced in a cage-free manner.

18 73. The Cage-Free Egg Rule will increase the price of the eggs Mr. Krueger
19 purchases for personal consumption over what the price would be without the rule,
20 according to AZDA. *Id.*

21 74. Mr. Krueger will also be prevented by the Cage-Free Egg Rule from choosing
22 the type of egg for his personal consumption that best suits his needs because only those
23 eggs produced in a cage-free manner will be available.

24 75. As a result, Union Hospitality Group and Mr. Krueger seek declaratory
25 relief pursuant to A.R.S. §§ 12-1831 and 41-1034(A), and injunctive relief pursuant to
26 A.R.S. § 12-1801 to stop the implementation of the Cage Free Egg Rule, prevent the
27 harms that would be caused by it going into effect, and protect the statutory and
28 constitutional requirement that lawmaking must be done by the Arizona Legislature.

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Count I

**The Hen Rule is not Specifically Authorized By Statute
(A.R.S. § 41-1030(D)(3))**

76. Plaintiffs incorporate the allegations in Paragraphs 1–75.

77. An agency is not permitted to “[m]ake a rule that is not specifically authorized by statute.” A.R.S. § 41-1030(D)(3).

78. AZDA relied on two statutes as its authority for promulgating the Hen Rule, neither of which provides specific authorization to regulate the housing of egg-laying hens:

79. The first statute authorizes the AZDA director to “adopt administrative rules to effect its program and policies.” A.R.S. § 3-107(A)(1).

80. The second statute authorizes the AZDA director to “adopt rules for poultry husbandry and the production of eggs sold in” Arizona. A.R.S. § 3-710(J).

81. A.R.S. § 3-107(A)(1) and A.R.S. § 3-710(J) are the only two statutes AZDA relied on as its authority for promulgating the Hen Rule in the notice of final rulemaking. 28 A.A.R. 802, attached as Ex. A.

82. The general authorization of rulemaking authority granted to AZDA in A.R.S. § 3-107(A)(1) does not and cannot specifically authorize AZDA to promulgate the Hen Rule.

83. The Hen Rule violates A.R.S. § 41-1030(D)(3) because neither § 3-710(J), nor any other statute, *specifically* authorizes AZDA to impose hen housing standards.

84. Union Hospitality Group and Mr. Krueger will suffer the harms described in Paragraphs 58–75 as a result of the unlawful promulgation of the Cage Free Egg Rule.

Count II

**The Sale Rule is not Specifically Authorized By Statute
(A.R.S. § 41-1030(D)(3))**

85. Plaintiffs incorporate the allegations in Paragraphs 1–84.

86. An agency is not permitted to “[m]ake a rule that is not specifically authorized by statute.” A.R.S. § 41-1030(D)(3).

1 87. AZDA relied on two statutes as its authority for promulgating the Sale Rule,
2 neither of which provides specific authorization to regulate the housing of egg-laying hens
3 producing eggs for sale in Arizona:

4 88. The first statute authorizes the AZDA director to “adopt administrative rules
5 to effect its program and policies.” A.R.S. § 3-107(A)(1).

6 89. The second statute authorizes the AZDA director to “adopt rules for poultry
7 husbandry and the production of eggs sold in” Arizona. A.R.S. §3-710(J).

8 90. A.R.S. § 3-107(A)(1) and A.R.S. § 3-710(J) are the only two statutes AZDA
9 relied on as its authority for promulgating the Sale Rule in the notice of final rulemaking.
10 28 A.A.R. 802, attached as Ex. A.

11 91. The general authorization of rulemaking authority granted to AZDA in A.R.S.
12 § 3-107(A)(1) does not and cannot specifically authorize AZDA to promulgate the Sale
13 Rule.

14 92. The Sale Rule violates A.R.S. § 41-1030(D)(3) because neither Section 3-
15 710(J), nor any other statute, *specifically* authorizes AZDA to restrict the sale of eggs in
16 Arizona to those eggs laid by hens housed in a cage-free manner.

17 93. The Sale Rule also violates A.R.S. § 41-1030(D)(3) because neither Section
18 3-710(J), nor any other statute, *specifically* authorizes AZDA to impose any requirements
19 regarding the production of “egg products” sold in Arizona.

20 94. Union Hospitality Group and Mr. Krueger will suffer the harms described in
21 Paragraphs 58–75 as a result of the unlawful promulgation of the Cage Free Egg Rule.

22 **Count III**

23 **The Hen Rule is Not Reasonably Necessary to**
24 **Carry Out the Purpose of the Statute.**
25 **(A.R.S. § 41-1030(A))**

26 95. Plaintiffs incorporate the allegations in Paragraphs 1–94.

27 96. “A rule is invalid unless it is ... reasonably necessary to carry out the purpose
28 of the statute.” A.R.S. § 41-1030(A).

1 107. Neither § 3-107(A)(1) and § 3-710(J) mention the regulation of egg products.

2 108. To the extent the necessity of the Sale Rule can be evaluated against the
3 general concept of “poultry husbandry” or the phrase “production of eggs sold in this state,”
4 the reasoning provided by the AZDA in the preamble of the notice of final rulemaking does
5 not demonstrate that the Sale Rule is reasonably necessary.

6 109. The primary impetus for the Sale Rule, according to AZDA, is the public’s
7 perception of the welfare of egg-laying hens and the egg producers’ opposition to a ballot
8 initiative that would have more quickly implemented a similar rule. 28 A.A.R. 803–04,
9 attached as Ex. A.

10 110. Neither of these justifications for the Sale Rule are reasonably related to
11 poultry husbandry or egg production.

12 111. Union Hospitality Group and Mr. Krueger will suffer the harms described in
13 ¶¶ 58–75 as a result of the unlawful promulgation of the Cage Free Egg Rule.

14 **Count V**

15 **The Cage-Free Egg Rule is the Product of an**
16 **Unconstitutional Delegation of Legislative Authority.**

17 112. Plaintiffs incorporate the allegations in Paragraphs 1–111.

18 113. The Arizona Constitution provides that “[t]he powers of the government of
19 the state of Arizona shall be divided into three separate departments, the legislative, the
20 executive, and the judicial; and except as provided in this constitution, such departments
21 shall be separate and distinct, and no one of such departments shall exercise the powers
22 properly belonging to either of the others.” Ariz. Const. art. III.

23 114. Arizona’s legislative authority is “vested in the legislature,” with the people
24 retaining the ability to legislate through a ballot initiative process. Ariz. Const. art. IV, Pt.
25 1 § 1.

26 115. Neither the legislature nor the people can delegate to an executive branch
27 agency the power to legislate.
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1 116. A statute must be definite and certain enough to enable every person, by
2 reading the law, to know what his rights and obligations are and how the law will operate
3 when put into execution.

4 117. To the extent that the legislature delegates any power, it may only delegate
5 power to implement a statute.

6 118. To avoid an unconstitutional delegation of legislative power, the powers given
7 to an administrative agency must, by provisions of a statute, be surrounded by standards,
8 limitations, and policies that establish the boundaries within which an agency may act.

9 119. A statute that fails to provide such boundaries to an agency unconstitutionally
10 delegates legislative power to the executive branch in violation of Article III of the Arizona
11 Constitution's separation of powers.

12 120. Section 3-710(J) provides no standards, limits, or boundaries or otherwise
13 makes any policy determinations with respect to poultry husbandry or the production of
14 eggs sold in Arizona that AZDA can implement in promulgating administrative rules on
15 those subjects.

16 121. Section 3-710(J) is simply an enabling act that delegates the legislative power
17 to the executive branch to make the laws for poultry husbandry and the production of eggs
18 for sale in Arizona.

19 122. Section 3-107(A)(1) also does not provide any standards, limits, boundaries,
20 or other policy determination to guide AZDA's rulemaking with respect to poultry
21 husbandry and the production of eggs for sale in Arizona.

22 123. Moreover, decisions on major policy questions are to be made by the
23 legislature alone.

24 124. The appropriate housing arrangement for egg-laying hens in Arizona and egg-
25 laying hens producing eggs for sale in Arizona is a major policy question that must be
26 decided by the legislature.

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1 125. Even if Section 3-710(J) could be said to provide some standard by which
2 AZDA regulates poultry husbandry and the production of eggs for sale in Arizona, it is
3 insufficient to avoid a delegation of legislative power.

4 126. Legislative standards must be sufficiently defined so that those charged with
5 their administration are amenable to the courts for failure to put them into effect, or for their
6 maladministration (i.e. judicially administrable).

7 127. Sufficient definition requires that the statute provide sufficient identification
8 of (1) the persons and activities potentially subject to regulations; (2) the harm sought to be
9 prevented; and (3) the general means intended to be available to the administrator to prevent
10 the identified harm.

11 128. Section 3-710(J) does not provide a judicially administrable standard for
12 AZDA to apply when creating rules for poultry husbandry and the production of eggs for
13 sale in Arizona.

14 129. The terms “poultry husbandry” and “production of eggs” are too
15 indeterminate to sufficiently identify the persons and activities potentially subject to
16 regulations.

17 130. Section 3-710(J) identifies no harm to be prevented.

18 131. Section 3-710(J) also does not sufficiently identify the general means by
19 which the AZDA can prevent an identified harm.

20 132. Section 3-107(A)(1) does not add any guidance such that Section 3-710(J)
21 becomes judicially administrable when the two statutory sections are read together.

22 133. Union Hospitality Group and Mr. Krueger will suffer the harms described in
23 ¶¶ 58–75 as a result of the delegation of legislative power to AZDA in violation of Article
24 III of the Arizona Constitution.

25 **REQUEST FOR RELIEF**

26 For their relief, Plaintiffs respectfully request that this Court take the following
27 actions:

28 A. Permanently enjoin Defendants from enforcing the Hen Rule;

- 1 B. Permanently enjoin Defendants from enforcing the Sale Rule;
- 2 C. Permanently enjoin Defendants from enforcing the Cage-Free Egg Rule in its
3 entirety;
- 4 D. Enter a judgment pursuant to A.R.S. §§ 12-1831 and 41-1034(A) declaring
5 that the Hen Rule violates A.R.S. § 41-1030(D)(3) because the Hen Rule is not specifically
6 authorized by statute;
- 7 E. Enter a judgment pursuant to A.R.S. §§ 12-1831 and 41-1034(A) declaring
8 that the Sale Rule violates A.R.S. § 41-1030(D)(3) because the Sale Rule is not specifically
9 authorized by statute;
- 10 F. Enter a judgment pursuant to A.R.S. §§ 12-1831 and 41-1034(A) declaring
11 that the Cage-Free Egg Rule violates A.R.S. § 41-1030(D)(3) because the Cage-Free Egg
12 Rule is not specifically authorized by statute;
- 13 G. Enter a judgment pursuant to A.R.S. §§ 12-1831 and 41-1034(A) declaring
14 that the Hen Rule violates A.R.S. § 41-1030(A) because the Hen Rule is not reasonably
15 necessary to carry out the purpose of A.R.S. §§ 3-107 and 3-710(J);
- 16 H. Enter a judgment pursuant to A.R.S. §§ 12-1831 and 41-1034(A) declaring
17 that the Sale Rule violates A.R.S. § 41-1030(A) because the Sale Rule is not reasonably
18 necessary to carry out the purpose of A.R.S. §§ 3-107 and 3-710(J);
- 19 I. Enter a judgment pursuant to A.R.S. §§ 12-1831 and 41-1034(A) declaring
20 that the Cage-Free Egg Rule violates A.R.S. § 41-1030(A) because the Cage-Free Egg Rule
21 is not reasonably necessary to carry out the purpose of A.R.S. §§ 3-107 and 3-710(J);
- 22 J. Enter a judgment pursuant to A.R.S. §§ 12-1831 and 41-1034(A) declaring
23 that the Cage Free Egg Rule was promulgated pursuant to an unconstitutional delegation of
24 legislative authority in A.R.S. § 3-710(J);
- 25 K. Award Plaintiff his costs pursuant to A.R.S. § 12-341, and attorney fees
26 pursuant to the private attorney general doctrine; *Arnold v. Ariz. Dep't of Health Services*,
27 160 Ariz. 593, 608–09 (1989); *Ansley v. Banner Health Network*, 248 Ariz. 143, 153 ¶ 39–
28 40 (2020); and

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L. Award such other and further relief as may be just and equitable.

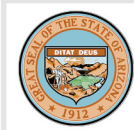
RESPECTFULLY SUBMITTED this 16th day of November 2023.

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Secretary
of State

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Arizona Administrative REGISTER

Published by the Department of State ~ Office of the Secretary of State

Volume 28, Issue 16

~ Administrative Register Contents ~

April 22, 2022

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Arizona Administrative Register
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Exhibit A

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.

Arizona Administrative REGISTER

April 22, 2022
Volume 28, Issue 16

PUBLISHER
SECRETARY OF STATE
Katie Hobbs

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Scott Cancelosi

RULES MANAGING EDITOR
Rhonda Paschal

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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(602) 364-3223

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

Participate in the Process

Look for the Agency Notice

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

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

Attend a public hearing/meeting

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

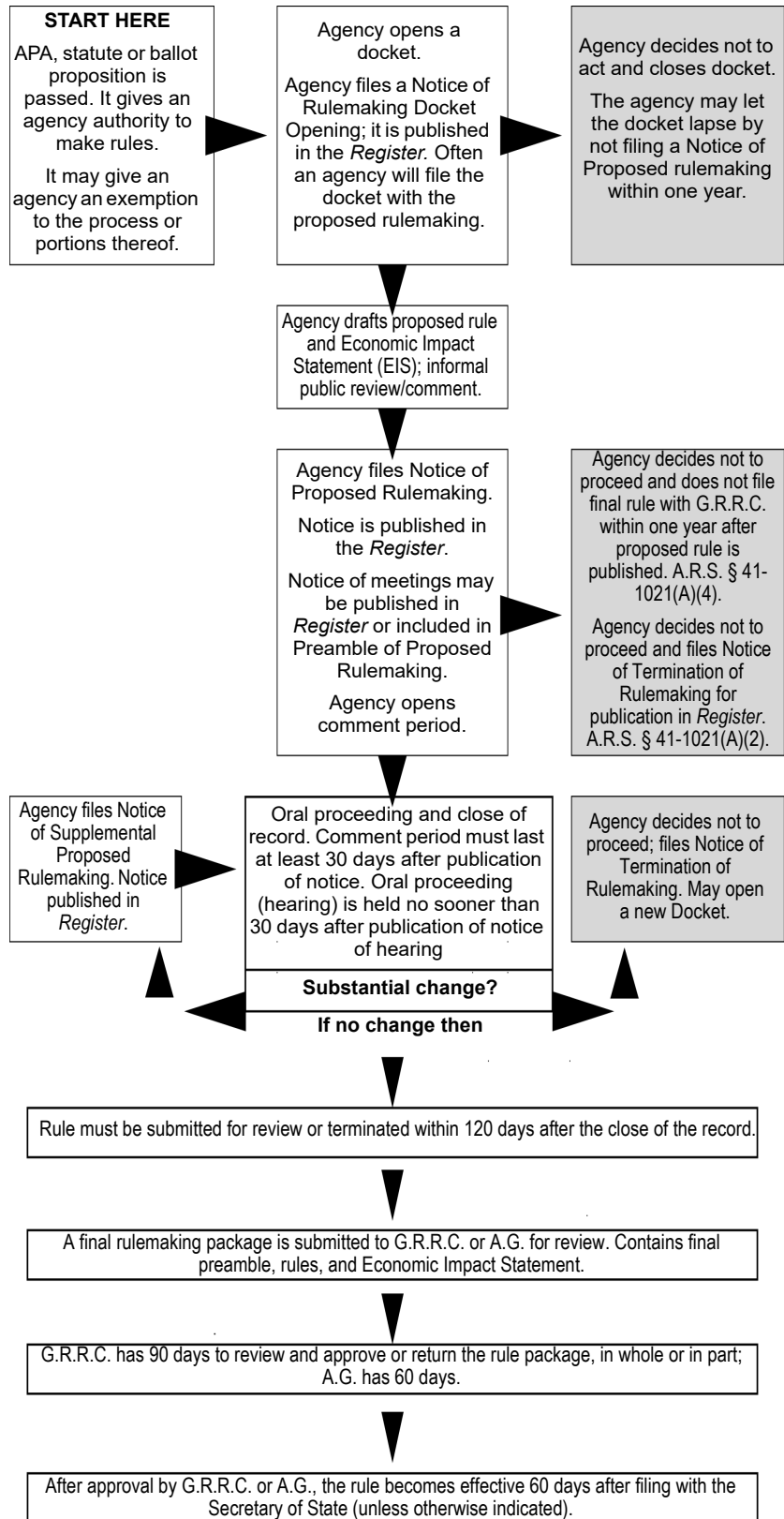
An agency may not have a public meeting scheduled on the Notice of Proposed Rulemaking. If not, you may request that the agency schedule a proceeding. This request must be put in writing within 30 days after the published Notice of Proposed Rulemaking.

Write the agency

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

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

Arizona Regular Rulemaking Process



Final rule is published in the *Register* and the quarterly *Code Supplement*.

Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Acronyms

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

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

APA – *Administrative Procedure Act*

A.R.S. – *Arizona Revised Statutes*

CFR – *Code of Federal Regulations*

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

FR – *Federal Register*

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

U.S.C. – *United States Code*

About Preambles

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

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

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

NOTICES OF PROPOSED RULEMAKING

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

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

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

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

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

NOTICE OF PROPOSED RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

[R22-60]

PREAMBLE

- | | |
|---|---------------------------------|
| <u>1. Article, Part, or Section Affected (as applicable)</u> | <u>Rulemaking Action</u> |
| R2-8-118 | Amend |
- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**
 Authorizing statute: A.R.S. § 38-714(E)(4)
 Implementing statute: A.R.S. §§ 38-711 et seq.
 - 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 rules:**
 Notice of Rulemaking Docket Opening: 28 A.A.R. 818, April 22, 2022 (*in this issue*)
 - 4. The agency's contact person who can answer questions about the rulemaking:**
 Name: Jessica A.R. Thomas, Rules Writer
 Address: Arizona State Retirement System
 3300 N. Central Ave., Suite 1400
 Phoenix, AZ 85012-0250
 Telephone: (602) 240-2039
 Email: JessicaT@azasrs.gov
 - 5. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:**
 The ASRS needs to amend its rules relating to interest rates in order to provide notice to the public of the new interest rate for the upcoming fiscal year. In 2021, the ASRS Board approved a new assumed rate of return and matching interest rate for FY2022-2023. These rules will increase understandability of what interest rate will be applied to various transactions.
 - 6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material.**
 None
 - 7. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**
 Not applicable
 - 8. The preliminary summary of the economic, small business, and consumer impact:**
 The ASRS promulgates rules that allow the agency to provide for the proper administration of the state retirement trust fund. ASRS rules affect ASRS members and ASRS employers regarding how they contribute to, and receive benefits from, the ASRS. The ASRS effectively administers how public-sector employers and employees participate in the ASRS. As such, the ASRS does not issue permits or licenses, or charge fees, and its rules have little to no economic impact on private-sector businesses, with the exception of some employer partner charter schools, which have voluntarily contracted to join the ASRS. Thus, there is little to no economic, small business, or consumer impact, other than the minimal cost to the ASRS to prepare the rule package. The rule will have minimal economic impact, if any, because it merely clarifies what interest rate is applied.

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

Name: Jessica A.R. Thomas, Rules Writer
 Address: Arizona State Retirement System
 3300 N. Central Ave., Suite 1400
 Phoenix, AZ 85012-0250
 Telephone: (602) 240-2039
 Email: JessicaT@azasrs.gov

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

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

Date: May 23, 2022
 Time: 9:00 a.m.
 Location: Virtual Meeting
 Dial: 423-806-0254
 Enter Pin: 197 097 389#

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

None

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

None of the rules requires a permit.

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

There are no federal laws applicable to these rules.

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

No analysis was submitted.

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

None

13. The full text of the rules follows:

**TITLE 2. ADMINISTRATION
 CHAPTER 8. STATE RETIREMENT SYSTEM BOARD**

ARTICLE 1. RETIREMENT SYSTEM

Section
 R2-8-118. Application of Interest Rates

ARTICLE 1. RETIREMENT SYSTEM

R2-8-118. Application of Interest Rates

A. Application of interest from inception of the ASRS Plan through the present is as follows:

Effective Date of Interest Rate Change	Assumed Actuarial Investment Earnings Rate	Interest Rate Used to Determine Return of Contributions Upon Termination of Membership by Separation from Service by Other Than Retirement or Death
7-1-1953	2.50%	2.50%
7-1-1959	3.00%	3.00%
7-1-1966	3.75%	3.75%
7-1-1969	4.25%	4.25%
7-1-1971	4.75%	4.75%
7-1-1975	5.50%	5.50%
7-1-1976	6.00%	5.50%

7-1-1981	7.00%	5.50%
7-1-1982	7.00%	7.00%
7-1-1984	8.00%	8.00%
7-1-2005	8.00%	4.00%
7-1-2013	8.00%	2.00%
7-1-2018	7.50%	2.00%
7-1-2022	7.00%	2.00%

- B. At the beginning of each fiscal year, interest is credited to the retirement account of each member on the June 30 that marks the end of the fiscal year based on the balance in the member’s account as of the previous June 30. The balance on which interest is credited includes:
 - 1. Employer and employee contributions;
 - 2. Voluntary additional contributions made by members pursuant to A.R.S. §§ 38-742, 38-743, 38-744, and 38-745, if applicable;
 - 3. Amounts credited by transfer under 2 A.A.C. 8, Article 11; and
 - 4. Interest credited in previous years.
- C. Notwithstanding subsection (B), the retirement account of each member stops accruing interest the last full month prior to the member’s retirement date.

NOTICE OF PROPOSED RULEMAKING
TITLE 6. ECONOMIC SECURITY
CHAPTER 6. DEPARTMENT OF ECONOMIC SECURITY
DEVELOPMENTAL DISABILITIES

[R22-61]

PREAMBLE

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

<u>Article, Part, or Section Affected (as applicable)</u>	<u>Rulemaking Action</u>
Article 14	New Article
R6-6-1401	New Section
R6-6-1402	New Section
R6-6-1403	New Section
R6-6-1404	New Section
R6-6-1405	New Section
R6-6-1406	New Section
R6-6-1407	New Section
R6-6-1408	New Section
2. **Citations to the agency’s statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**
 Authorizing statute: A.R.S. §§ 36-554 and 41-1954(A)(3)
 Implementing statute: A.R.S. § 36-568
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 rulemaking:**
 Notice of Rulemaking Docket Opening: 28 A.A.R. 818, April 22, 2022 (*in this issue*)
4. **The agency’s contact person who can answer questions about the rulemaking:**
 Name: Melissa Henry
 Address: Department of Economic Security
 P.O. Box 6123, Mail Drop 111G
 Phoenix, AZ 85005
 or
 Department of Economic Security
 1717 W. Jefferson, Mail Drop 111G
 Phoenix, AZ 85007
 Telephone: (480) 647-3110
 Fax: (602) 542-6000
 Email: rules@azdes.gov
 Website: <https://des.az.gov/documents-center/des-rules>
5. **An agency’s justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:**
 The Department made this rule in order to meet the requirements of A.R.S. § 36-568 (Group homes; intermediate care facilities; electronic monitoring; definition), which mandates the Department adopt rules for the use of electronic monitoring in group homes

and intermediate care facilities. A.R.S. § 36-568 was created when the Governor signed H.B. 2117 into law on May 14, 2019.

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

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

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

Not applicable

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

The economic impact of the rulemaking is expected to be minimal (less than \$1,000) for all persons involved in the rulemaking and application processes.

Consumers: The persons directly impacted by this rulemaking are individuals who are applicants to the Division of Developmental Disabilities (Division), Division members, and other responsible persons who voluntarily seek services through the Division. The rulemaking does not impose any obligation on the individual or responsible person to accept or participate in services without informed consent. Additionally, this rulemaking does not obligate group homes, nursing-supported group homes, or intermediate care facilities to install electronic monitoring in common areas. Consumers who apply to the Division will benefit from clear and updated information on the standards for electronic monitoring of group homes, nursing-supported group homes, and intermediate care facilities.

Small Business: There are no negative impacts on small businesses. Qualified Vendors, which may be small businesses, are not required to install or use Electronic Monitoring Devices. To the extent that a Qualified Vendor chooses to install and use Electronic Monitoring Devices, the Qualified Vendor will bear the cost of such voluntary installation and all ongoing compliance with this Article.

The Department and members of the public will benefit from the rulemaking because the proposed rulemaking will make the standards for optional electronic monitoring of private and state operated group homes, nursing-supported group homes, and intermediate care facilities more clear, concise, and understandable.

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

Name: Melissa Henry
 Address: Department of Economic Security
 P.O. Box 6123, Mail Drop 111G
 Phoenix, AZ 85005
 or
 Department of Economic Security
 1717 W. Jefferson, Mail Drop 111G
 Phoenix, AZ 85007
 Telephone: (480) 647-3110
 Fax: (602) 542-6000
 Email: rules@azdes.gov
 Website: <https://des.az.gov/documents-center/des-rules>

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

Date: Tuesday, May 31, 2022
 Time: 10:00 a.m. - Noon*
 Google Meet: <https://meet.google.com/sus-tgoc-yqt?authuser=0&hs=122>
 Join by Phone: (US) +1 219-515-4340 PIN: 848 712 358#
 Close of Record: Tuesday, May 31, 2022, 5:00 p.m.

*Note: If no one has appeared by Google Meet or phone by 11:00 a.m., the oral proceeding will be closed.

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

No other matters are prescribed.

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:

This rule does not require a permit.

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

The Health Insurance Portability and Accountability Act, or "HIPAA", and the implementing regulation at 45 CFR 164. This rule is not more stringent than federal law.

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

No analysis was submitted.

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

No materials are incorporated by reference.

13. The full text of the rules follows:

**TITLE 6. ECONOMIC SECURITY
CHAPTER 6. DEPARTMENT OF ECONOMIC SECURITY
DEVELOPMENTAL DISABILITIES**

**ARTICLE 14. ELECTRONIC MONITORING OF GROUP HOMES,
NURSING-SUPPORTED GROUP HOMES, AND INTERMEDIATE CARE FACILITIES**

Section

<u>R6-6-1401.</u>	<u>Definitions and Location of Definitions</u>
<u>R6-6-1402.</u>	<u>Applicability</u>
<u>R6-6-1403.</u>	<u>Permissibility</u>
<u>R6-6-1404.</u>	<u>Notification of Electronic Monitoring</u>
<u>R6-6-1405.</u>	<u>Disclosure and Confidentiality</u>
<u>R6-6-1406.</u>	<u>Maintenance of Records</u>
<u>R6-6-1407.</u>	<u>Monitoring and Training</u>
<u>R6-6-1408.</u>	<u>Financial Responsibility</u>

**ARTICLE 14. ELECTRONIC MONITORING OF GROUP HOMES,
NURSING-SUPPORTED GROUP HOMES, AND INTERMEDIATE CARE FACILITIES**

R6-6-1401. Definitions and Location of Definitions

A. Location of definitions. The following definitions applicable to this Article are found in the following Section or Citation:

<u>“Common Area”</u>	<u>R6-6-1401(B)</u>
<u>“Department”</u>	<u>A.R.S. § 36-551</u>
<u>“Division”</u>	<u>A.R.S. § 36-551</u>
<u>“Electronic Monitoring Device”</u>	<u>A.R.S. § 36-568(E)</u>
<u>“Group Home”</u>	<u>A.R.S. § 36-551</u>
<u>“Intermediate Care Facility”</u>	<u>R6-6-1401(B)</u>
<u>“Nursing-supported Group Home”</u>	<u>A.R.S. § 36-401</u>
<u>“Operator”</u>	<u>R6-6-1401(B)</u>
<u>“Resident’s Representative”</u>	<u>R6-6-1401(B)</u>
<u>“Service Provider”</u>	<u>A.R.S. § 36-551</u>

B. In addition to the terms defined in A.R.S. § 36-551 and A.R.S. § 36-568, the following definitions apply to this Article:

1. “Common Area” means a room, including a hallway, in a Group Home, Nursing-supported Group Home, or Intermediate Care Facility, that is designed for use by multiple individuals, including residents. Bedrooms, toileting areas, and bathing areas are excluded from this definition, regardless of the number of individuals for which the area is designed.
2. “Intermediate Care Facility” means the same as “Intermediate Care Facility for Persons with Intellectual Disabilities” as defined in A.R.S. § 36-551.
3. “Operator” means a Service Provider or the Department in the case of a state operated Group Home, state operated Nursing-supported Group Home, or state operated Intermediate Care Facility.
4. “Resident’s Representative” means either an individual who is the legal guardian of a resident of a Group Home, Nursing-supported Group Home, or Intermediate Care Facility, or who has otherwise been designated in writing by the resident to make requests on the resident’s behalf.

R6-6-1402. Applicability

This Article applies to all Operators of Group Homes, Nursing-supported Group Homes, or Intermediate Care Facilities.

R6-6-1403. Permissibility

- A.** An Operator may install Electronic Monitoring Devices in a Group Home, Nursing-supported Group Home, or Intermediate Care Facility. An Operator that has installed an Electronic Monitoring Device shall oversee and monitor that device.
- B.** An Operator shall only install and monitor Electronic Monitoring Devices in Common Areas of a Group Home, Nursing-supported Group Home, or Intermediate Care Facility.
- C.** An Operator shall require in all agreements with any third party engaged to install, oversee, or monitor Electronic Monitoring Devices that the third party comply with the requirements of this Article.
- D.** When a resident of a Group Home, Nursing-supported Group Home, or Intermediate Care Facility, or a Resident’s Representative, requests that Electronic Monitoring Devices be installed in the facility in which the resident resides, the Operator shall:
 1. Within 20 business days of receipt of the request, provide a written response to the resident or the Resident’s Representative as to whether the Operator will install Electronic Monitoring Devices.
 - a. If the Operator denies the request, the Operator shall provide the reason for denial to the resident or the Resident’s Representative.
 - b. If the Operator approves the request, the Operator shall provide a time frame for the installation and the extent of the installation, including the location of all Electronic Monitoring Devices to be installed.

2. The Operator shall not require or allow the resident or the Resident's Representative to provide compensation for installation or monitoring of Electronic Monitoring Devices.

R6-6-1404. Notification of Electronic Monitoring

- A.** All Electronic Monitoring Devices shall be clearly visible and identifiable as an Electronic Monitoring Device.
- B.** An Operator that chooses to install Electronic Monitoring Devices shall post signs at every entrance to the premises and structures associated with the Group Home, Nursing-supported Group Home, or Intermediate Care Facility. Each sign shall:
1. Reference A.R.S. § 36-568 and these rules or their successors;
 2. State that Electronic Monitoring Devices are in use on the premises;
 3. Be displayed in an unobscured manner; and
 4. Be printed with a size and font that is easily readable from a reasonable distance.
- C.** An Operator that uses Electronic Monitoring Devices shall notify all residents, Resident's Representatives, and assigned personnel in writing that the facility is using Electronic Monitoring Devices in Common Areas, the location of the Electronic Monitoring Devices, and specify the confidentiality and privacy requirements regarding the Electronic Monitoring Devices and any associated records, including 45 CFR 164, A.R.S. § 36-568.01, and exceptions to the confidentiality requirements in accordance with R6-6-1405.
1. The Operator shall request that this notification be signed by the resident or the Resident's Representative.
 2. The Operator shall maintain a copy of all signed notifications.
 3. This notification is not a method for the resident or Resident's Representative to approve or disapprove the use of Electronic Monitoring Devices.
 4. A resident's or a Resident's Representative's refusal to sign does not preclude the Operator from using an Electronic Monitoring Device.
- D.** When an Operator determines that an Electronic Monitoring Device will no longer be used the Operator shall:
1. Notify residents, Resident's Representatives, and assigned personnel in writing in advance of the planned discontinuation of use.
 - a. The Operator shall request that this notification be signed by the resident or the Resident's Representative.
 - b. The Operator shall maintain a copy of all signed notifications.
 - c. This notification is not a method for the resident or Resident's Representative to approve or disapprove discontinuing the use of Electronic Monitoring Devices.
 - d. A resident's or a Resident's Representative's refusal to sign does not preclude the Operator from discontinuing use of the Electronic Monitoring Device.
 3. Remove signage.
 4. Disable Electronic Monitoring Devices and either remove the Electronic Monitoring Device or ensure that a person is able to readily discern that the Electronic Monitoring Device has been disabled.

R6-6-1405. Disclosure and Confidentiality

- A.** An Operator shall:
1. Comply with Health Insurance Portability and Accountability Act ("HIPAA") and other applicable state and federal law addressing confidentiality; and
 2. Specify in policy how Electronic Monitoring Device recordings, regardless of format, shall be secured to protect the confidentiality of residents, including:
 - a. Which personnel may have access to the Electronic Monitoring Device recordings; and
 - b. Under what circumstances access to the Electronic Monitoring Device recordings may be allowed.
- B.** Release of Recordings
1. Electronic Monitoring Device recordings of a resident shall be released to a resident or a Resident's Representative upon reasonable request only when expressly permitted by law.
 2. If the Electronic Monitoring Device recordings contain images of more than one resident, the Electronic Monitoring Device recordings shall not be released to the resident or Resident's Representative unless:
 - a. The images of the non-requesting residents are de-identified; or
 - b. A signed, informed consent for the release of the recording from all other residents or the Resident's Representative who appear in the Electronic Monitoring Device recordings is received.

R6-6-1406. Maintenance of Records

- A.** An Operator that uses Electronic Monitoring Devices subject to this Article shall retain and have accessible any Electronic Monitoring Device recordings, regardless of format, generated by the Electronic Monitoring Devices for a minimum of 14 calendar days.
- B.** An Operator shall retain the records in R6-6-1406(A) longer than 14 calendar days if:
1. The Operator is required to do so by a contractual obligation;
 2. The Operator's policy specifies that the Operator shall maintain the records beyond 14 calendar days;
 3. The Operator reasonably anticipates that litigation may be pursued for which the records may be relevant;
 4. A court order or other legal process requires the retention of all or some of the records for a longer period of time; or
 5. A law or regulation that supersedes this Article requires a longer period of record maintenance.

R6-6-1407. Monitoring, Training, and Policy

- A.** An Operator who installs or engages for the installation of an Electronic Monitoring Device in a Group Home, Nursing-supported Group Home, or Intermediate Care Facility operated by the Operator shall:
1. Evaluate all Electronic Monitoring Devices at least quarterly to ensure the Electronic Monitoring Devices are properly functioning, secure from access by unauthorized personnel, and are being used in compliance with this Article.
 2. Monitor adherence to policies and promptly address non-compliance.
 3. Maintain a log of all monitoring of Electronic Monitoring Devices that includes:
 - a. The date of the monitoring;

- b. The name of the individual who performed the monitoring;
- c. Any deficiencies identified during the monitoring; and
- d. The method and date by which identified deficiencies were remedied and by whom the deficiencies were remedied if deficiencies were identified during monitoring.
- 4. Develop and provide training to all personnel who have access to the record outlined in R6-6-1406(A) that details:
 - a. The requirements of this Article related to disclosure of the record;
 - b. The requirements of HIPAA and all other applicable laws related to confidentiality and privacy as related to the record;
 - c. The maintenance and operation of the Electronic Monitoring Devices and any associated storage devices;
 - d. The methods that shall be used to secure the record;
 - e. A list of all individuals allowed access to the records by the Operator;
 - f. The reporting method required in the event of any breach in the security of the record or misuse of the Electronic Monitoring Device; and
 - g. All policy related to the installation and use of Electronic Monitoring Devices.
- 5. Provide the training described in subsection (4) to all personnel who have access to the record created by the Electronic Monitoring Devices:
 - a. Prior to the personnel being provided access to the record; and
 - b. Annually following the initial training.
- 6. Require all personnel who receive the training described in subsection (4) to sign an acknowledgment of completion of each training. This acknowledgment shall be maintained as a portion of the personnel's official training file.
- 7. Develop and implement policies for the Operator's personnel that:
 - a. Implement the disclosure, confidentiality, maintenance, monitoring, and training provisions of this Article;
 - b. Detail training that shall be provided to ensure that personnel use Electronic Monitoring Devices appropriately;
 - c. Detail how the maintenance and distribution of records shall comply with this Article; and
 - d. Detail how, on a minimum of quarterly basis, the Operator or the Operator's designee shall evaluate the Electronic Monitoring Devices.
- 8. Make policies, training records, training acknowledgments, evaluations, and monitoring logs available to the Division in compliance with the Operator's contracts and regular Division monitoring schedules.
- B.** The Division shall ensure that an Operator that uses Electronic Monitoring Devices is in compliance with all requirements of this Article during all routine compliance monitoring.

R6-6-1408. Financial Responsibility

An Operator shall not be financially responsible for purchasing, installing, maintaining, or monitoring an Electronic Monitoring Device that is not voluntarily installed by the Operator.

NOTICES OF FINAL RULEMAKING

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

The final published notice includes a preamble and text of the rules as filed by the agency.

Economic Impact Statements are not published but are filed by the agency with their final notice.

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the interpretation of the final rules should be addressed to the agency that promulgated them. Refer to item #5 to contact the person charged with the rulemaking.

The codified version of these rules will be published in the *Arizona Administrative Code*.

NOTICE OF FINAL RULEMAKING

TITLE 3. AGRICULTURE

**CHAPTER 2. DEPARTMENT OF AGRICULTURE
ANIMAL SERVICES DIVISION**

[R22-62]

PREAMBLE

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

	<u>Rulemaking Action</u>
R3-2-901	Amend
R3-2-903	Amend
R3-2-905	Amend
R3-2-906	Amend
R3-2-907	Amend

- 2. Citations to the agency’s statutory rulemaking authority to include both the authorizing statute (general) and the implementing statute (specific):**
 Authorizing statute: A.R.S. § 3-107
 Implementing statute: A.R.S. § 3-710

- 3. The effective date of the rule:**
 October 1, 2022
 - a. If the agency selected a date earlier than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):**
 Not applicable

 - b. If the agency selected a date later than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):**
 The effective date is October 1, 2022 to allow sufficient time for companies to comply with the rule.

- 4. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:**
 Notice of Rulemaking Docket Opening: 28 A.A.R. 123, January 7, 2022
 Notice of Proposed Rulemaking: 28 A.A.R. 5, January 7, 2022

- 5. The agency’s contact person who can answer questions about the rulemaking:**
 Name: Roland Mader
 Address: Department of Agriculture
 1688 W. Adams St.
 Phoenix, AZ 85007
 Telephone: (602) 542-0884
 Fax: (602) 542-4194
 Email: rmader@azda.gov

- 6. An agency’s justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**
 Arizona Revised Statutes § 3-710(J) gives the Arizona Department of Agriculture (the “Department”) the express authority to regulate “poultry husbandry” for eggs produced and sold in Arizona. See A.R.S. § 3-710(J). “Poultry husbandry” includes the facility systems and spacing requirements. The Department previously adopted the United Egg Producers (UEP) Animal Husbandry Guidelines as the production standards in Arizona. See Notice of Final Rulemaking, Vol. 15, Issue 22 A.A.R., Pg. 863, May 29, 2009. The amendments establish updated poultry husbandry standards, including increased minimum floor space requirements for

laying hens reducing stocking densities. Additionally, and in light of the public's growing concerns about animal welfare, including the hens' ability to move freely and express their natural behaviors, the amendments establish a transition from traditional caged production methods to cage-free production.

Under the proposed amendments, all caged egg-laying hens in the state shall be required to be raised according to the United Egg Producers ("UEP") Animal Husbandry Guidelines until September 30, 2022. From October 1, 2022, until December 31, 2024, all eggs sold in the state must come from laying hens raised according to the UEP Animal Husbandry Guidelines and housed in a cage with at least one square foot of usable floor space per laying hen. From January 1, 2025, forward, all laying hens in the state must be housed in a cage-free manner, and all eggs sold in the state must come from hens housed in a cage-free manner. An exemption would be made for egg producers whose operation has fewer than 20,000 egg-producing hens. The amendments are intended to represent the best management practices in the shell egg industry that ensure the production of high-quality, cruelty-free eggs. The amendments also reflect market trends, which producers anticipate will shift to cage-free eggs by 2025. The Department crafted this regulation to minimize its regulatory burden. The rule anticipates using specific certifications to ensure that out-of-state producers have no additional burden or advantage over in-state producers.

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

- A. Augustine, C. and Peterson S., "An Assessment of the Economic Impacts of the Prevention of Farm Animal Cruelty Act." (January 31, 2016) (Available at: <https://www.humanesociety.org/sites/default/files/docs/2016-cl-white-paper-cfap.pdf>).
- B. Brannan, K.E. and Anderson, K.E., "Examination of the impact of range, cage-free, modified systems, and conventional cage environments on the labor inputs committed to bird care for three brown egg layer strains." *Journal of Applied Poultry Research*, Volume 30, Issue 1 (2021).
- C. Bell, D.(2006). *A Review of Recent Publications on Animal Welfare Issues for Table Egg Laying Hens*. University of California, Riverside.
- D. Carman, H, (2012). "Economic Aspects of Alternative California Egg Production Systems." Paper prepared for The Association of California Egg Farmers, August 30, 2012.
- E. Carter, CA, Schaefer, KA, and Scheitrum, D, (2020). "Piecemeal Farm Regulation and the U.S. Commerce Clause." *American Journal of Agricultural Economics*, Vol. 103(3), pp 1141-1163.
- F. Chang, Jae Bong, et al. (2010). "The Price of Happy Hens: A Hedonic Analysis of Retail Egg Prices." *Journal of Agricultural and Resource Economics*, vol. 35, no. 3, Western Agricultural Economics Association, 2010, pp. 406-23, <http://www.jstor.org/stable/23243063>.
- G. Clements, Mark (2022). "The World's Top 10 Egg Producers." *WATTPoultry International*, Volume 61, Number 2, page 5 (available at https://www.poultryinternationaldigital.com/poultryinternational/february_2022/MobilePagedReplica.action?pm=2&folio=4#pg8).
- H. Declaration Of Devrim Ikizler.
- I. European Food Safety Authority. 2007. Report of the Task Force on Zoonoses Data Collection on the Analysis of the baseline study on the prevalence of Salmonella in holdings of laying hen flocks of Gallus gallus. *The EFSA Journal* 97. Available at <https://efsa.onlinelibrary.wiley.com/doi/epdf/10.2903/j.efsa.2007.97r>. Last accessed February 14, 2022.
- J. Geng, A. L., Liu, H. G., Zhang, Y., Zhang, J., Wang, H. H., Chu, Q., & Yan, Z. X. (2020). Effects of indoor stocking density on performance, egg quality, and welfare status of a native chicken during 22 to 38 weeks. *Poultry Science*, 99(1),163-171.
- K. Matthews, WA., and Sumner, DA, (2015). "Effects of Housing System on the Costs of Commercial Egg Production." *Poultry Science* Volume 94, Number 3 (2015): 552-557.
- L. O'Keefe, Terrence (2021). "Ranking the largest US egg-producing companies in 2021." *Egg Industry*, Volume 126, Number 1, page 6 (available at https://www.eggindustrydigital.com/eggindustry/january_2021/MobilePagedReplica.action?utm_source=Omeda&utm_medium=Email&utm_content=DE-Egg+Industry&utm_campaign=DE+Egg+Industry_20210129_1300&oly_enc_id=4891F5381367F2Y&pm=2&folio=8#pg10).
- M. O'Keefe, T, (2019). "US Consumers Not Sold on Cage-Free Eggs." *WattPoultry.com*. (available at <https://www.wattagnet.com/blogs/14-food-safety-and-processing-perspective/post/38931-us-consumers-not-sold-on-cage-free-eggs>).
- N. Siedman Research Institute. *Economic Insights on the Move to Cage Free Egg Production in Arizona* (February 7, 2022).
- O. Summary Research Results, Coalition for Sustainable Egg Supply, accessed February 2, 2022, from https://www2.sustainableeggcoalition.org/document_center/download/final-results/SummaryResearchResultsReport.pdf ("Physiological data did not demonstrate the presence of acute or chronic stress in any housing system.").
- P. Sumner, DA, et al., (2011). "Economic and Market Issues on the Sustainability of Egg Production in the United States: Analysis of Alternative Production Systems." *Poultry Science* Volume 90, Number 1 (2011): 241-250.
- Q. Sumner, D. A., J. T. Rosen-Molina, W. A. Matthews, J. A. Mench, and K. R. Richter. "Economic Effects of Proposed Restrictions on Egg-Laying Hen Housing in California." *University of California Agricultural Issues Center Report*, July 2008.
- R. USDA World Agricultural Supply and Demand Estimates (WASDE) available at < <https://www.usda.gov/oce/commodity/wasde>>.
- S. Vanhonacker, F. and Verbeke, W. (2009) "Buying higher welfare poultry products? Profiling Flemish consumers who do and do not." *Poultry Science*, 88(12): 2702-2711.

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

The rulemaking does not diminish any previous authority of a political subdivision of this state.

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

Over the past decade, alternative production systems have increased in the commercial table egg industry. Increased pressure from consumers and retailers concerned about the welfare of the laying hens in caged housing environments, including the inability to move around and express natural behaviors, are the primary drivers of this change. These animal welfare concerns have prompted most food retailers and restaurants to pledge that, by 2025, they will only purchase and sell cage-free eggs. Similarly, surrounding states, including California, Utah, Colorado, Nevada, Oregon, and Washington, have passed legislation requiring that all eggs pro-

duced or sold in their states come from chickens raised using cage-free production methods in the next 1-5 years.

Interest groups also filed a ballot initiative in Arizona, Ballot Initiative I-01-2022 (the “Initiative”), requiring (among other things) that all eggs produced or sold in Arizona after May 1, 2023, come from hens housed in cage-free production environments. Given the success of recent animal welfare ballot initiatives in Arizona and elsewhere, this Initiative presents a probably regulatory alternative. Thus, when deciding whether to pursue the rulemaking, the Department considered – among the many other relevant factors – the Initiative’s potential economic effects on the state.

The transition to cage-free housing will increase the costs of production as compared to conventional caged production systems. Labor inputs, which comprise about five to seven percent of the costs of egg production, could increase as much as 41%. The economic studies forecast that the cost differential between cage free and conventional production is somewhere between \$.01 per egg, to just over \$.02 per egg. Experts also forecast that the cage free conversion will result in a long-run wholesale price increase of \$.39 per dozen, or \$.0325 per egg. Thus, producers can expect to recoup some of their costs through increased wholesale prices to retailers, etc. Retailers will likely pass some of the increased costs to consumers.

The transition to cage-free will increase producer’s capital expenditures and the costs of facilities and equipment. One in-state producer estimates that it will have to invest hundreds of millions of dollars into converting its existing production facilities to cage-free. These construction activities will create jobs and benefit the local economy. Importantly, because the transition from conventional caged egg production to cage-free production requires the investment of significant capital, to minimize the burden on small businesses, the Department excluded from the rulemaking all operations that house under 20,000 laying hens. Therefore, the proposed rulemaking will have little, if any, impact on small businesses within Arizona.

The Department estimates that the rulemaking will increase consumer egg costs between \$2.71 and \$8.79 per-person, per year. According to USDA WASDE data, the average yearly egg consumption for the years 2010-2021 is 270.675 eggs per year per person. If the average person eats 270.675 eggs per year, and the increased costs of cage-free eggs are between 1 and 3.25 cents per egg, then the estimated annual economic impact per consumer is between \$2.71 and \$8.79 per year. Economists further predict that the Rulemaking will reduce consumer surplus by \$4.81 to \$11.05 per Arizona household (2.2 persons), per year. Considering that the average U.S. consumer spent \$7,316.00 on food per year in 2019-2020, that is less than a one-tenth of a percent increase in the costs of their overall food expenditures.

Recent economic reports also indicate that eggs at retail outlets are currently trending 29% higher than the previous year. This suggests that retailers and brokers have a greater impact on the cost of eggs to consumers than the actual costs of producing the eggs. It further suggests that retailers may be able to absorb some of the costs to maintain demand. Thus, the transition from conventional to cage-free egg production will have little effect on Arizona consumers.

Another important difference between the proposed rulemaking and the Initiative is timing. Forcing Arizona to transition to cage-free eggs by May 1, 2023, creates significant concerns about the adequacy of the cage-free egg supply. For example, Hickman’s Egg Ranch informs the Department that it cannot convert the remainder of its production facilities to cage-free housing by May 31, 2023, as required by the Initiative, and may have to euthanize a portion of its flock to avoid criminal penalties if the Initiative passes. Moreover, as noted above, other states that are “net importers” of shell eggs are converting to cage free in the next three to four years, and Arizona will be competing with consumers from those states. Accordingly, the Department believes it is important to work with producers and give them sufficient time to convert their production and meet the consumer demands for cage-free eggs. The proposed rulemaking gives egg producers additional time to convert their operations to cage-free production.

As compared to the Initiative, the rulemaking’s regulatory scheme will significantly reduce the Department’s regulatory costs. The Initiative charges the Department with enforcing cage-free requirements but precludes the use of any third-party inspection processes. Thus, the Department would need to send inspectors to inspect producers outside Arizona, requiring the Department to hire additional egg inspectors and significantly increasing inspection costs. On the other hand, the rulemaking enables the Department to rely on third party certifications, including USDA certifications, to ensure producers are compliant. This will modestly increase inspection costs for producers, but will reduce the Department’s regulatory burden.

On balance, the Department believes the benefits to public and animal welfare, outweigh the potential economic costs of the rule. The increased costs per consumer represent a small portion of their food budget. Moreover, there is a distinct possibility that voters could pass an initiative either through customer demands or the Initiative, the costs to the producers and the public are driven by the market, not by the regulatory process. The proposed rulemaking gives producers the certainty and time to plan for and execute the transition at less cost. There are no less intrusive or less costly methods of achieving the rulemaking’s objectives, and its benefits to Arizona agriculture outweigh any costs.

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

The Department made three substantive changes to the text of the rule published in the Notice of Proposed Rulemaking. All of the changes are minor and the final rule is not substantially different from the proposed rule contained in the Notice of Proposed Rule Making. The changes are:

- A. Based on the feedback from the public comments the Department has modified R3-2-901 to include a definition for egg products to clarify what is covered by this rule. The definition clarifies that the rule does not apply to cooked eggs.
- B. R3-2-907(A) and (B) was modified to cover an unintended gap in dates changed from June 30 to September 30, 2022.
- C. The Department modified R3-2-907(H) to allow egg producers more flexibility in evidencing compliance with the rule by allowing alternative language for labeling. The Department believes this small change alleviates some of the burden placed on producers without resulting in greater or additional penalties for violation.

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

The Department received over 1,700 written comments and fourteen oral comments regarding this rulemaking. The comment in favor outweighs the comment opposing the rulemaking greatly. We received 114 comments opposing and 1659 comments in favor of this rulemaking, for any one comment against the rulemaking we received over 16 comment in favor of the rulemaking. Due to the large number of comments, the Department has chosen to categorize and group identical and similar comments for response.

Neutral comments with suggestions to the text of the rule:

The Department received two oral comments from distributors. Both companies were commenting with the identical two concerns. Both distributors asked for clarification for a further definition for egg products to get a clear understanding of what the rule covers. The second concern from both companies addressed the labeling requirement, they would like more flexibility in labeling of eggs and egg products and for the rule to allow alternate labeling options.

Agency Response: Both concerns were addressed and additional text was added to the rule as described in item 10.

Comments Supporting the Rulemaking:

The Department received an overwhelming support from several egg producers, egg association and supplier companies as well as other Arizona agricultural operations, Arizona's biggest dairy coop, and Cattle association. The Department also received support from Senators that express support and approval of your Proposed Rulemaking for R3-2-907. These regulatory amendments, which build on the Department's existing regulations regarding the poultry husbandry requirements for eggs produced and sold in Arizona, provide an orderly transition from conventional to cage-free egg production for all eggs produced or sold in Arizona. This regulation ensures an adequate and affordable supply of shell eggs and egg products for Arizona consumers into the foreseeable future. The Department received comments from individuals and animal rights groups in support of this rulemaking. The comments addressed, the support for animal welfare and the relative small cost for the producers. The benefit of this rule outweighs the cost to the public and the producers.

Agency Response: The Department appreciates the support given by these companies, organizations, and individuals and agrees that prescribing guidelines for eggs produced and sold in the state takes steps to ensure the welfare of egg-laying hens and ensures that local producers are competitive in the marketplace as well.

Comments Opposing the Rulemaking:

The prevailing sentiment in comments of opposition is statutory. Let the market decide.

Comments were received that the Department doesn't have the authority to promulgate rules for animal husbandry standards. One comment by an animal right group stated the exemptions for producers with less than twenty thousand hens are too broad and the rule should not exempt those producers. Statute exempts producers with less than twenty thousand hens.

One organization raised the concern about the availability of eggs in the state when this rule would be in effect.

Agency Response:

The Department has a brought responsibility to set and implement animal husbandry standards A.R.S. 3-710J. The director shall adopt rules for poultry husbandry and the production of eggs sold in this state.

This rule ensures that enough time is provided to producers to make changes to their operations and to convert to cage free production.

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

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

Not applicable

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

Not applicable

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

No analysis was conducted.

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

The rule incorporates the following standards:

- A. "United Egg Producers Animal Husbandry Guidelines" means the United Egg Producers Animal Husbandry Guidelines for U.S. Egg Laying Flocks, 2017 Edition, defined in R3-2-901, and referred to in R3-2-907.
- B. The 2017 edition of the United Egg Producers' Animal Husbandry Guidelines for U.S. Egg-Laying Flocks: Guidelines for Cage-Free Housing, referred to in R3-2-907.

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

Not applicable

15. The full text of the rules follows:

TITLE 3. AGRICULTURE
CHAPTER 2. DEPARTMENT OF AGRICULTURE
ANIMAL SERVICES DIVISION

ARTICLE 9. EGG AND EGG PRODUCTS CONTROL

Section	
R3-2-901.	Definitions
R3-2-903.	Sampling: Schedule and Methods for Evidence
R3-2-905.	Inspection Fee Rate
R3-2-906.	Violations and Penalties
R3-2-907.	Poultry Husbandry; Standards for Production of Eggs and Biosecurity Requirements

ARTICLE 9. EGG AND EGG PRODUCTS CONTROL

R3-2-901. Definitions and Interpretation Guidance

- A.** In addition to the definitions provided in A.R.S. §§ 3-701, 3-703 and 3-704, the following shall apply to this Article:
1. “Business owner or operator” means any person who owns ten percent or more of a business, or a person who controls the operations of a business.
 2. “Check” means an individual egg that has a broken shell or crack in the shell but with its shell membranes intact and its contents do not leak. A “check” is considered to be lower in quality than a “dirty.”
 3. “Dirty” means a shell that is unbroken and that has dirt or foreign material adhering to its surface, which has prominent stains, or moderate stains covering more than 1/32 of the shell surface if localized, or 1/16 of the shell surface if scattered.
 4. “Egg-laying hen” means any hen that produces eggs for human consumption.
 5. “Egg products”:
 - a. Means eggs, in raw or pasteurized form, that are removed from the shell in a liquid, frozen, dried, or freeze-dried state, but are not fully cooked.
 - b. May consist of whole eggs, yolks, whites, or any blend of yolk and white, with or without additives, if eggs are the main ingredient.
 6. “Housed in a cage-free manner” means confined in a housing system that provides egg-laying hens with all of the following:
 - a. The amount of usable floor space per egg-laying hen equal to or greater than that required by the 2017 edition of the United Egg Producers’ Animal Husbandry Guidelines for U.S. Egg-Laying Flocks: Guidelines for Cage-Free Housing.
 - b. An indoor or outdoor controlled environment, which can consist of multi-tiered aviaries, partially-slatted systems, single-level all litter floor systems, or other systems, and which allows egg-laying hens to have:
 - i. unrestricted freedom to roam;
 - ii. an environment that allows them to exhibit natural behaviors, including, at a minimum, scratch areas, perches, nest boxes, and dust bathing areas; and
 - iii. an environment in which farm employees can provide care while standing within the hens’ usable floor space.
 7. “Leaker” means an individual egg that has a crack or break in the shell and shell membranes to the extent that the egg contents are exuding or free to exude through the shell.
 8. “Lot” means any quantity of two or more eggs.
 9. “Lot Consolidation” means the removal of damaged eggs from cartons labeled by a producer or producer dealer and replacement of the damaged eggs with eggs of the same grade, size, brand, expiration date and source.
 10. “Multi-tiered aviaries” means cage-free housing systems in which egg-laying hens have unfettered access to multiple elevated flat platforms that provide the egg-laying hens with usable floor space both on top of and underneath the platforms.
 11. “Partially-slatted systems” means cage-free housing systems in which egg-laying hens have unfettered access to elevated flat platforms under which manure drops through the flooring to a pit or litter removal belt below.
 12. “Pasteurized in-shell eggs” means eggs that have been pasteurized with the shell intact by any method approved by the Federal Food and Drug Administration or the department.
 13. “Repacking” means changing the identity of a lot of eggs by removing them from the original container labeled by a packer and placing them into another container not labeled by the packer at the point of origin with the same grade, size, lot number, source and/or brand.
 14. “Single-level all-litter floor systems” means cage-free housing systems bedded with litter, in which egg-laying hens have limited or no access to elevated flat platforms.
 15. “Spot-check” sample means any sample less than a representative sample described in the chart in R3-2-903(B).
 16. “Ultimate consumer” means a person consuming eggs or egg products and a restaurant using eggs in the preparation of a meal.
 17. “Usable floor space” means the total square footage of floor space provided to each egg-laying hen, as calculated by dividing the total square footage of floor space provided to the egg-laying hens in an enclosure by the number of egg-laying hens in that enclosure. “Usable floor space” shall include both ground space and elevated level flat platforms upon which hens can roost, but shall not include perches or ramps.
 18. “UEP” means United Egg Producers.
 19. “United Egg Producers Animal Husbandry Guidelines” means the United Egg Producers Animal Husbandry Guidelines for U.S. Egg Laying Flocks, 2017 Edition. This material is incorporated by reference, does not include any later amendments or editions, and is available for inspection at the Department of Agriculture, 1688 W. Adams St., Phoenix, AZ 85007, or the United Egg Producers at 1720 Windward Concourse, Ste. 230, Alpharetta, GA 30005.

20. “United Egg Producers Certified” means a company that has achieved United Egg Producers Certified status pursuant to the requirements prescribed by the United Egg Producers Animal Husbandry Guidelines.
21. “United Egg Producers Certified logo” means the official symbol and accompanying language used to identify eggs produced by United Egg Producers Certified companies.
22. “United Egg Producers Cage Free Certified logo” means the official symbol and accompanying language used to identify cage-free eggs produced by United Egg Producers Certified companies.

- B.** Wherever appropriate, and if not expressly indicated, words in the singular form shall be construed to include the plural and vice versa. Nouns and pronouns in masculine, feminine and neuter genders shall be construed to include any other gender.
- C.** Examples shall not be construed to limit, expressly or by implication, the matter they illustrate.
- D.** The word “includes” and its derivatives means “includes, but is not limited to” and corresponding derivative expressions.

R3-2-903. Sampling: Schedule and Methods for Evidence

- A.** An inspector may conduct random spot-check sampling of a lot of eggs to determine whether the lot meets minimum quality and weight standards and is in compliance with R3-2-907(~~B~~).
- B.** Representative egg sampling, under A.R.S. § 3-710(G), shall be based on Table II. A lot that does not meet minimum quality or weight standards or is not in compliance with R3-2-907(~~B~~) shall receive a warning notice hold tag.
1. An inspector may draw additional samples to determine whether the lot meets the minimum requirements.
 2. When loose eggs are out of the case, the sample shall be based on a carton.
 3. Eggs shall be sampled on a 30-dozen-case basis. When eggs are packed in other lot quantities, an inspector shall convert the quantity of eggs to the equivalent 30-dozen case basis to establish the official sample size.

R3-2-905. Inspection Fee Rate

- A.** All dealers, producer-dealers, manufacturers, and producers shall pay an inspection fee at the rate of 3.0 mills (.00300) per dozen on all shell eggs sold as prescribed in A.R.S. § 3-716(A).
- B.** All dealers, producer-dealers, manufacturers, and producers shall pay an inspection fee at the rate of 3.0 mills (.00300) per pound on all egg products sold as prescribed in A.R.S. § 3-716(A).
- C.** For scheduled continuous grading, certification, and inspection services. The following rates apply to continuous grading service on a resident basis and continuous grading service on a nonresident basis per grader:
1. Regular rate: \$38.00/hour
 2. Overtime rate: \$57.00/hour
 3. Holiday rate: \$58.00/hour
- D.** For plant survey, unscheduled temporary, certification, auditing and appeal grading services. The following rates apply to temporary and auditing service per grader:
1. Regular rate: \$57.00/hour
 2. Overtime rate: \$85.00/hour
 3. Holiday rate: \$87.00/hour

R3-2-906. Violations and Penalties

- A.** A dealer, producer-dealer, manufacturer, producer, or retailer, at each individual location, is subject to the penalties in subsection (B) for any of the following violations:
1. Category A:
 - a. Making a false or misleading statement relating to advertising or selling eggs and egg products;
 - b. Acting as a dealer, producer-dealer, producer, or manufacturer without a valid license;
 - c. Selling shell eggs with an incorrect or incomplete expiration date, or without an expiration date;
 - d. Selling grade AA or grade A eggs after the expiration date on the carton, case, or container. Selling pasteurized in-shell eggs without or past the “Best By” or “Use by” date;
 - e. Failing to maintain records and reports required by this Article;
 - f. Failing to label a carton, case, or container with one size, one grade, one brand name, or, if applicable as required under R3-2-907(~~B~~), the United Egg Producer Certified logo;
 - g. Moving eggs or an egg case, carton, or container with a warning tag or notice, or removing a warning tag or notice without permission from the Director;
 - h. Refusing to submit egg or egg product, an egg case, carton, container, subcontainer, lot, load, or display of eggs to inspection; or
 - i. Refusing to stop, at the request of an authorized representative of the Department, any vehicle transporting eggs or egg products;
 - j. Selling eggs that have not been produced in accordance with the standards prescribed under R3-2-907(~~B~~);
 - k. Failing to raise egg-laying hens in this state in accordance with the standards prescribed under R3-2-907(~~A~~).
 2. Category B:
 - a. Extending the expiration date of shell eggs as defined in A.R.S. § 3-701(13); or
 - b. Advertising, representing, or selling out-of-state eggs as local eggs.
 3. Category C:
 - a. Failing to ensure that shell eggs for human consumption are kept refrigerated at an ambient temperature not higher than 45° F;
 - b. Failing to ensure that frozen egg products for human consumption, labeled for storage at 0° F or below, are kept under refrigeration at a temperature of 0° F or lower;

- c. Failing to ensure that liquid egg products for human consumption are kept refrigerated at a temperature not higher than 40° F; or
 - d. Failing to meet the sanitary standards egg processing of R3-2-908.
- B.** Any violation of this Article or of A.R.S. Title 3, Chapter 5, Article 1 not listed in subsection (A) is subject to a Category A civil penalty.
- C.** Under A.R.S. § 3-739, the civil penalty for a violation of subsection (A) is in Table III.

R3-2-907. Poultry Husbandry; Standards for Production of Eggs and Biosecurity Requirements

- A.** ~~Until September 30, 2022, all~~ egg-laying hens in this state shall be raised according to ~~United Egg Producers~~ UEP Animal Husbandry Guidelines.
- B.** ~~Until September 30, 2022, all~~ eggs sold in this state produced by hens shall be from hens raised according to the ~~United Egg Producers~~ UEP Animal Husbandry Guidelines. All eggs shall display the ~~United Egg Producers~~ UEP Certified logo on their cases, cartons, and containers, or the egg dealer shall annually provide the Department with a copy of a current independent third-party audit that demonstrates that the eggs were produced by hens raised according to UEP Animal Husbandry Guidelines.
- C.** Beginning October 1, 2022, all egg-laying hens in this state shall be housed in accordance with the UEP Animal Husbandry Guidelines and shall be provided with no less than one square foot of usable floor space per egg-laying hen.
- D.** Beginning October 1, 2022, all eggs and egg products sold in this state shall be from hens that are housed in accordance with the UEP Animal Husbandry Guidelines and provided with no less than one square foot of usable floor space per egg-laying hen.
- E.** Beginning no later than January 1, 2025, all egg-laying hens in this state shall be housed in a cage-free manner.
- F.** Beginning no later than January 1, 2025, all eggs and egg products sold in this state shall be from hens housed in a cage-free manner.
- G.** Subsections (A) ~~and (B) through (F)~~ of this rule do not apply to egg producers or business owners or operators operating or controlling the operation of one or more egg ranches each having fewer than 20,000 egg-laying hens producing eggs. Subsections (A) ~~and (B) through (E)~~ of this rule also do not apply to any hens that are raised cage-free or any eggs produced by hens that are raised cage-free.
- H.** Beginning no later than October 1, 2022, in order to sell eggs or egg products within the state, a business owner or operator must have a certificate from the Supervisor certifying that the eggs or egg products are produced in compliance with Subsections subsections (C) through (F), or are exempt under subsection (G). The Supervisor will certify that eggs and egg products are produced in compliance with subsections (C) through (G) if the eggs or egg products are accompanied by documentation from a government or private third-party inspection and continuous process verification service that the Supervisor deems acceptable establishing that the eggs or egg products were produced in compliance with this Section. The immediate container of eggs and egg products shall be plainly and conspicuously marked with the words "ARS 710J" in bold-faced type not less than one-eighth inch in height; or in another manner pre-approved by the department.
- I.** It shall be a defense to any action to enforce this Rule that a business owner or operator relied in good faith upon a written certification by the supplier that the eggs or egg products at issue were derived from an egg-laying hen which was housed in compliance with this Section.
- J.** All producers and producer dealers with operations within the state shall have a written biosecurity plan in place. At a minimum each producer and producer dealer shall:
1. Restrict access to all areas where poultry are housed or kept.
 2. Take steps to ensure that contaminated material is not transported into any poultry barns.
 3. Cover and secure feed in a manner that prevents wild bird, rodents or other animals from accessing the feed.
 4. Cover and properly contain poultry carcasses, used litter, or other disease-containing organic materials that prevents wild birds, rodents or other animals from accessing the material and movement of the materials by the wind.
 5. Keep houses in good repair and all areas to which the birds have access should be kept free of materials hazardous to the birds.
- K.** The biosecurity plan shall contain the following:
1. Methods for the disposal and handling of poultry manure.
 2. Procedures for prevention, control and eradication of vectors for poultry diseases.
 3. Procedures for the detection, control and treatment of poultry diseases.
 4. Methods for the disposal and handling of culled birds and entire flocks under normal cyclic operations and following emergency depletion as a result of disease.
 5. A facility poultry disease control and prevention plan which includes standard operating procedures with respect to specific measures to control and prevent disease including but not limited to structural and operational disease control and prevention provisions.
 6. Procedures to prevent cross contamination between nest run and in line eggs.
 7. Procedures to prevent the introduction and transmittal of diseases by vehicles and any other forms of transportation.
 8. Signed agreements with all employees containing biosecurity procedures regarding contact with outside poultry and wild birds.
- L.** A producer and producer dealer shall allow the Department to enter the premises during normal working hours to inspect the biosecurity plan documents and the biosecurity that is implemented.

NOTICE OF FINAL RULEMAKING
TITLE 21. CHILD SAFETY
CHAPTER 8. DEPARTMENT OF CHILD SAFETY
FOSTER HOME AND CHILD WELFARE AGENCY FACILITY SAFETY

[R22-63]

PREAMBLE

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

<u>Article, Part, or Section Affected (as applicable)</u>	<u>Rulemaking Action</u>
R21-8-101	Amend
R21-8-102	Amend
R21-8-103	Amend
R21-8-106	Amend
R21-8-107	Amend
R21-8-111	Amend
R21-8-112	Amend
R21-8-113	Renumber
R21-8-113	New Section
R21-8-114	Renumber
R21-8-114	Amend
- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**
 Authorizing statute: A.R.S. § 8-453(A)(5)
 Implementing statute: A.R.S. §§ 8-504, 8-505, and 8-509
- 3. The effective date of the rule:**
 June 6, 2022
 - a. If the agency selected a date earlier than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):**
 Not applicable
 - b. If the agency selected a date later than the 60 day effective date as specified in A.R.S. 41-1032(A), include the later date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. 41-1032(B):**
 Not applicable
- 4. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:**
 Notice of Rulemaking Docket Opening: 27 A.A.R. 1391, September 3, 2021
 Notice of Proposed Rulemaking: 27 A.A.R. 1361, September 3, 2021
- 5. The agency's contact person who can answer questions about the rulemaking:**
 Name: Angie Trevino, Rule Development Specialist
 Address: Department of Child Safety
 3003 N. Central Ave.
 Phoenix, AZ 85012
 Telephone: (602) 255-2569
 Fax: (602) 255-3262
 Email: Angelica.Trevino@azdcs.gov
 Website: <https://dcs.az.gov/about/dcs-rules-rulemaking>
- 6. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**
 The rules in this Article pertain to the inspection of foster homes and child welfare agencies for sanitation, fire, and other actual and potential hazards. In 2019, through the process of completing a Five-Year-Review Report per A.R.S. § 41-1056, the Department identified rules that need to be updated and amended. The proposed amendments identified in this rulemaking add, amend and update the rules in order to make them more effective, consistent with other rules and statutes, and clear, concise, and understandable.
- 7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did 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 of Child Safety (DCS) did not review or rely on any study relevant to the proposed amended rules.
- 8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**
 Not applicable

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

The Department of Child Safety is authorized by Arizona Revised Statutes to license foster homes and child welfare agencies. A component of licensing is the inspection of foster homes and the facilities under a child welfare agency. The Department conducts inspections at the time of licensing (initial and renewal), relocation of or new licensed settings, and for significant new construction. The Department anticipates that the economic impact of these rules to be minimal and does not anticipate that this rulemaking creates a significant increase in cost. In 2021 the 55th Legislature passed HB2399 requiring the Department to charge a licensing fee to residential group care facilities such as the Office of Refugee Resettlement program. While the life safety inspections is a criteria in the process of licensing, the fees will be addressed in a separate rulemaking under a different Chapter. The amendments to the rules in this package do not relate to the charge of fees. The benefits of this rulemaking include increased clarity, removal of redundancies, reduction in a regulatory burden, clarifies expectations, and potentially expands the pool of providers, while continuing to ensure that licensees provide as safe a home as possible to children in out-of-home care.

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

There are two technical changes between the proposed rulemaking and the final rulemaking. The first technical change is found in R21-8-106(B)(2) where “Section” is changed to “subsection”:

It read in the proposed rulemaking as follows:

- 2. Obtain documentation that the jurisdiction requires them to have their weapon stored in an official law enforcement vehicle, if applicable, which would prevent them from meeting the provisions of Section (A);

Changed in the final rulemaking as follows:

- 2. Obtain documentation that the jurisdiction requires them to have their weapon stored in an official law enforcement vehicle, if applicable, which would prevent them from meeting the provisions of subsection (A);

The second technical change is found in R21-8-113(A)(3) where the word “section” was not capitalized in the proposed rulemaking and is now capitalized in the final rulemaking:

- 3. An evacuation plan for the home, as detailed in this Section; and

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

No comments were received regarding this rulemaking. The record closed at 5:00 p.m., on October 19, 2021.

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

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

The rules pertain to the inspections of foster homes and child welfare agencies. A general permit is not used.

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

Federal laws 42 U.S.C. 671. The rules are not more stringent than federal law.

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

No analysis was submitted.

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

Not applicable

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

No rule in this rulemaking was previously made, amended or repealed as an emergency rule.

15. The full text of the rules follows:

**TITLE 21. CHILD SAFETY
CHAPTER 8. DEPARTMENT OF CHILD SAFETY
FOSTER HOME AND CHILD WELFARE AGENCY FACILITY SAFETY**

ARTICLE 1. LIFE SAFETY INSPECTIONS

Section

R21-8-101. Definitions

R21-8-102. Application

R21-8-103. Frequency of Inspection and Inspection Area

R21-8-106. Weapons and Firearms

R21-8-107. Animals

R21-8-111. Water and Plumbing Requirements

R21-8-112. Fire Safety and Evacuation Plan Requirements

R21-8-113. Emergency and Disaster Plan

R21-8-113, R21-8-114. Pool Safety

ARTICLE 1. LIFE SAFETY INSPECTIONS**R21-8-101. Definitions**

The definitions in R21-6-101 apply to this Article, except the following terms are defined as:

1. No change
2. No change
3. No change
 - a. No change
 - b. No change
 - c. No change
4. "Pool enclosure" means a fence or barrier surrounding a pool and meets the requirements of ~~R21-8-113(B)(2)~~ R21-8-114(B)(2).
5. No change
 - a. No change
 - b. No change
6. No change
7. "Structural modification" means:
 - a. Adding or removing walls, windows or doors; or
 - b. Converting a garage, attic, basement, or other similar space into a bedroom.

R21-8-102. Application

This Article applies to:

1. No change
2. A Child Welfare Agency operating a residential group care facility ~~or shelter care facility regulated under A.A.C. Title 6, Chapter 5, Article 74, but not a Child Welfare Agency operating an outdoor experience program.~~ licensed by the Department of Child Safety.

R21-8-103. Frequency of Inspection and Inspection Area

- A. Each provider shall have a Life Safety Inspection of the premises: completed by OLR.
- B. OLR shall ~~inspect the premises~~ conduct an inspection to verify compliance with Life Safety Inspection rules:
 - ~~1. At initial licensure;~~
 - ~~2. Every two years; and~~
 - ~~3. Within three months prior to the renewal date of a license.~~
 1. Before an initial license is issued;
 2. Before an amended license is issued for a new location;
 3. Before an amended license is issued for structural modifications;
 4. Before an amended license is issued for an addition of a pool; and
 5. Before a renewal license is issued.
- C. The Life Safety Inspection shall include all rooms and dwellings on the premises ~~in which a foster or child in a Child Welfare Agency residential group care facility resides or may have access to,~~ including ~~sheds, mobile homes, and trailers, and cottages.~~

R21-8-106. Weapons and Firearms

- A. The provider shall meet the following standards concerning weapons:
 1. The provider shall store the following weapons in an inoperable condition in a locked area inaccessible to children:
 - ~~a. Firearms;~~
 - ~~b.a. Air guns, including BB guns;~~
 - ~~e.b. Bows and cross-bows;~~
 - ~~d.c. Stun guns;~~
 - ~~e.d. Hunting slingshots;~~
 - ~~f.e. Any other projectile weapon; and~~
 - ~~g.f. Hunting knives.~~
 2. ~~Firearms, ammunition, and other weapons, including cross-bows, stun guns, air guns, and hunting knives are safeguarded to prevent unsafe or improper use. In addition:~~
 - a. ~~Firearms are unloaded, trigger locked, and kept in a tamper-proof, locked storage container made of unbreakable material; and~~
 - b. ~~Ammunition is maintained in locked storage that is separate from firearms. Locked storage may be in the same container as the firearms.~~
- B. OLR may approve a provider who is a foster parent applicant or foster parent who is also a law enforcement official, to ~~carry a firearm when the provider~~ maintain an assigned duty weapon when they:
 - ~~1. Obtains~~ Obtain documentation that the jurisdiction requires ~~him or her~~ them to have ready and immediate access to the weapons at all times;
 - ~~2. Supplies official documentation that he or she has been trained in the law enforcement protocols for the safe use and carrying of a firearm;~~
 - ~~3. Adopts and follows a safety plan approved by OLR and the licensing agency; and~~
 - ~~4. Stores the weapon according to the provisions of this Section when the weapon is not on their person.~~
 2. Obtain documentation that the jurisdiction requires them to have their weapon stored in an official law enforcement vehicle, if applicable, which would prevent them from meeting the provisions of subsection (A);
 3. Provide official documentation that they have been trained in the law enforcement protocols for the safe use and carrying of a firearm;
 4. Maintain the weapon according to the provisions of this Section when the weapon is not on their person;

5. Develop a safety plan with the guidance of the licensing agency; and
6. Obtain approval from OLR.

C. No change

R21-8-107. Animals

The ~~home~~ premises shall meet the following standards concerning animals:

1. No change
2. No change
3. No change
4. All dogs older than six months have current rabies vaccination or are otherwise in compliance with A.R.S. § 11-1010. ~~Vaccination records are maintained in the home.~~
5. Vaccination shall be administered by a veterinarian.
6. Vaccination records shall be maintained in the home.

R21-8-111. Water and Plumbing Requirements

A. No change

B. ~~The home must meet the following standards concerning water provider shall obtain a written water analysis report if the home uses a non-municipal water source that shall meet the following standards:~~

1. ~~If a home uses a non-municipal water source including private well water or another source of drinking water, the provider shall have the water tested for safety under subsection (B)(2).~~
2. ~~If the home's water is from any source other than an approved public water supply, the foster parent shall obtain a written water analysis report, showing that the water is within acceptable state and federal standards for drinking water for the age of the children in care. The provider shall obtain the analysis and report from a laboratory certified by the Arizona Department of Health Services as part of the initial licensing process and before each renewal.~~
 1. The analysis report shall be from a laboratory certified by the Arizona Department of Health Services;
 2. The analysis report shall be completed no more than 12 months prior to the date of the Life Safety Inspection completed by OLR;
 3. The analysis report shall be available in the home at all times and presented at the time of inspection; and
 4. If the analysis report details contaminants are found to exceed acceptable state and federal standards for drinking water the provider shall prepare a plan with the guidance of the licensing agency or OLR to include:
 - a. How the provider will ensure safe drinking water will be available in the home;
 - b. Efforts to reduce identified contaminants to meet state and federal standards for drinking water; and
 - c. Approval by OLR.

C. No change

D. No change

R21-8-112. Fire Safety and Evacuation Plan Requirements

The provider shall ensure:

1. No change
2. No change
3. No change
4. No change
5. No change
 - a. No change
 - b. No change
 - c. No change
6. ~~A written emergency evacuation plan is developed and maintained in the home, to provide guidance on the safe and rapid evacuation of the home. An emergency evacuation plan shall:~~
 - a. ~~Be reviewed with the child within 72 hours of placement in the home and posted in a prominent place in the home;~~
 - b. ~~Identify multiple exits from the home;~~
 - c. ~~Identify two routes of evacuation from each bedroom on every floor used by individuals residing in or receiving care in the home. At least one of the exit routes for these bedrooms shall lead directly to the outside of the home. If that exit leads into an area that serves as a pool enclosure, a child six years of age or less receiving care in the home shall not reside in that bedroom.~~
 - i. ~~If the exit is a window, it shall be secured with a latching device located a minimum of 54 inches above the floor; or~~
 - ii. ~~If the exit is a door, it shall be locked at all times with a latching device or lock located a minimum of 54 inches above the floor. If there is no quick release mechanism on the lock, it must comply with the provisions of R21-8-112(11), and a key for the deadbolt shall be located a minimum of 54 inches above the floor. Bedroom doors that lead into an area that serves as a pool enclosure shall comply with this Section and also be self-closing and self-latching. Such doors that are hinged shall also swing outward from the pool area.~~
 - d. ~~Identify the location of fire extinguishers and fire evacuation equipment, including rope or chain ladders, and emergency lighting, as applicable;~~
 - e. ~~Designate a safe central meeting place close to the home, known to the child, at a safe distance from potential danger;~~
 - f. ~~Be maintained in the home to review with individuals residing in or receiving care in the home; and~~
 - g. ~~Include the placement of equipment, such as a ladder, that can be safely used by the individuals residing in each upstairs bedroom that have been identified with fire exits.~~
7. ~~All windows identified as fire exits, must have enough space for an adult to move through.~~

8. Each bedroom used by a foster child or child in a residential group care facility receiving care or services has two exits to the outside.
- One exit shall be a path through the premises and leading to a door that opens to the outside. A garage door that opens either manually by lifting or with an automatic opener shall not be accepted as an exit.
 - Another exit shall be a window or door within the bedroom that opens directly to the outside.
9. Premises authorized to provide care or services to five or more children shall train staff and children in evacuation procedures and conduct emergency drills at least every three months as prescribed in this subsection.
- Practice drills shall include actual evacuation of children to safe areas, outside, and beyond the home.
 - Drills shall be held at random times and under varying conditions to simulate the possible conditions in case of fire or other disaster.
 - All persons in the home shall participate in the drill.
 - Records shall be maintained for each emergency drill and shall include:
 - Date and time of drill;
 - Total evacuation time;
 - Exits used;
 - Problems noted; and
 - Measures taken to ensure that a foster child or a child in a residential group home facility understand the purpose of a drill and his or her responsibilities during a drill.
- ~~10.6.~~ The exit routes for the home are clear of obstruction that could prevent safe and rapid evacuation.
- ~~11.7.~~ The locks on exterior doors and windows, including the front door, screen doors, and bars on windows, are equipped with a quick release mechanism. A quick release mechanism is a lock that can be opened from inside the setting without special knowledge (such as a combination) or equipment (such as a key). The Department may grant an exception to this requirement for a double-key deadbolt on a door if:
- There is breakable glass within 40 inches of the interior locking mechanism;
 - There is another exit with a quick release mechanism on the same level of the premises; and
 - The key for the deadbolt is permanently maintained in a location that is:
 - Within six feet of the locking mechanism;
 - Accessible to all household members;
 - Reviewed with persons residing in or receiving care in the home; and
 - Identified on the emergency evacuation plan, ~~specified in subsection (6).~~
- ~~12.8.~~ The address for the home is posted and visible from the street, or the local emergency response team, such as the local fire department, is notified of the location of the home in writing, with a copy of this notification maintained in the home.
- ~~13.~~ Providers must maintain a comprehensive list of emergency telephone numbers, including poison control, and post those numbers in a prominent place in the home.

R21-8-113. Emergency and Disaster Plan

- A.** A provider shall develop and maintain in the home a written emergency and disaster plan on a form provided by the Department that includes:
- Contact information for each foster child, including the name and telephone number of the primary care physician and legal guardian;
 - A comprehensive list of emergency telephone numbers;
 - An evacuation plan for the home, as detailed in this Section; and
 - A plan for relocation from the home in the event of displacement due to flood, fire, the breakdown of essential appliances, or other disasters.
- B.** A provider shall ensure:
- A written emergency evacuation plan is developed and maintained in the home, to provide guidance on the safe and rapid evacuation of the home. An emergency evacuation plan shall:
 - Be reviewed with the child within 72 hours of placement in the home and posted in a prominent place in the home;
 - Identify multiple exits from the home;
 - Identify two routes of evacuation from each bedroom on every floor used by individuals residing in or receiving care in the home. At least one of the exit routes for these bedrooms shall lead directly to the outside of the home. If that exit leads into an area that serves as a pool enclosure, a child six years of age or less receiving care in the home shall not reside in that bedroom.
 - If the exit is a window, it shall be secured with a latching device located a minimum of 54 inches above the floor; or
 - If the exit is a door, it shall be locked at all times with a latching device or lock located a minimum of 54 inches above the floor. If there is no quick release mechanism on the lock, it must comply with the provisions of R21-8-112(7), and a key for the deadbolt shall be located a minimum of 54 inches above the floor. Bedroom doors that lead into an area that serves as a pool enclosure shall comply with this Section and also be self-closing and self-latching. Such doors that are hinged shall also swing outward from the pool area.
 - Identify the location of fire extinguishers and fire evacuation equipment, including rope or chain ladders, and emergency lighting, as applicable;
 - Designate a safe central meeting place close to the home, known to the child, at a safe distance from potential danger;
 - Be maintained in the home to review with individuals residing in or receiving care in the home; and
 - Include the placement of equipment, such as a ladder, that can be safely used by the individuals residing in each upstairs bedroom that have been identified with fire exits.

2. All windows identified as fire exits, must have enough space for an adult to move through.
3. Each bedroom used by a foster child or child in a residential group care facility receiving care or services has two exits to the outside.
 - a. One exit shall be a path through the premises and leading to a door that opens to the outside. A garage door that opens either manually by lifting or with an automatic opener shall not be accepted as an exit.
 - b. Another exit shall be a window or door within the bedroom that opens directly to the outside.
4. Premises authorized to provide care or services to five or more children shall train staff and children in evacuation procedures and conduct emergency drills at least every three months as prescribed in this subsection.
 - a. Practice drills shall include actual evacuation of children to safe areas, outside, and beyond the home.
 - b. Drills shall be held at random times and under varying conditions to simulate the possible conditions in case of fire or other disaster.
 - c. All persons in the home shall participate in the drill.
 - d. Records shall be maintained for each emergency drill and shall include:
 - i. Date and time of drill;
 - ii. Total evacuation time;
 - iii. Exits used;
 - iv. Problems noted; and
 - v. Measures taken to ensure that a foster child or a child in a residential group home facility understand the purpose of a drill and his or her responsibilities during a drill.

C. A provider shall submit a copy of the emergency and disaster plan to the licensing agency or placing entity, as applicable.

~~R21-8-113.~~R21-8-114. Pool Safety

- A. The provisions of this Section apply to:
 1. ~~each~~ Each Child Welfare Agency residential group care facility ~~and provider; and~~
 2. A foster home licensed to provide care to a child six years of age or less, or an individual with a developmental disability.
- B. ~~For a home that has a pool, and provides care to a child six years of age or less, or an individual with a Developmental Disability, If a provider listed in subsection (A) has a pool~~ the provider shall ensure the following:
 1. That the pool complies with A.R.S. § 36-1681 and all local municipal codes to the extent not inconsistent with this Section.
 2. A fence or barrier meeting the following requirements is maintained between the pool and the home, or any building used to provide care and supervision.
 - a. The exterior side of the fence or barrier is at least five feet high;
 - b. All openings shall measure less than four inches;
 - ~~b.c.~~ If the barrier is a chain link fence or lattice, each opening in the mesh measures less than 1 3/4 inches horizontally. Chicken wire and other light gauge wire are prohibited as a primary fencing material for the pool;
 - ~~e.~~ If the barrier is a fence constructed of vertical bars or wooden slats, the openings between bars or slats measure less than four inches;
 - d. The exterior side of the barrier is free of hand holds, or foot holds, or other means that could be used to climb over it and if it has a horizontal component spaced at least 45 inches, measured vertically;
 - e. The gate to the enclosure is locked, except when in use and there is an adult within the enclosure to supervise the pool and spa area;
 - f. The connection between the panels of the fence cannot be separated without a key or a tool;
 - g. The fence is secured to the ground or has sufficient tension to prevent the fence from being lifted more than four inches from the ground;
 - h. If the home or building to provide care or supervision constitutes part of the enclosure:
 - i. The enclosure does not interfere with safe egress from the home;
 - ii. A door from the home does not open within the pool enclosure, unless it is a bedroom door in a bedroom not occupied by an individual six years of age or less receiving care and such a door cannot be opened by a foster child six years of age or less or child in a residential group care facility because it is either locked as required in ~~R21-8-112(6)(e)(ii)~~ R21-8-113(B)(1)(c)(ii) or inoperable. Any key shall not be accessible to a foster child six years of age or less or child in a residential group care facility;
 - iii. A window located in a room that is designated as a bedroom for a foster child six years of age or less or child in a residential group care facility shall not open into the pool enclosure or shall be permanently locked and not used for egress; and
 - iv. Other windows that open into the pool enclosure are permanently secured to open no more than four inches; or as required in ~~R21-8-112(6)(e)(i)~~ R21-8-113(B)(1)(c)(i).
 - v. Animal or doggie doors shall not open directly into the pool enclosure.
 3. No change
 - a. No change
 - b. No change
 4. No change
 5. No change
 6. No change
- C. No change
- D. No change

- E.** No change
 - 1. No change
 - 2. No change
- F.** No change

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 a rulemaking process that does not increase the cost of regulatory compliance, or 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 Rulemakings 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 to the agency promulgating the rules.

Refer to item 4 to contact the person charged with the rulemaking.

NOTICE OF PROPOSED EXPEDITED RULEMAKING

TITLE 21. CHILD SAFETY

**CHAPTER 5. DEPARTMENT OF CHILD SAFETY
PERMANENCY AND SUPPORT SERVICES**

[R22-64]

PREAMBLE

- | | |
|---|---------------------------------|
| 1. <u>Article, Part, or Section Affected (as applicable)</u> | <u>Rulemaking Action</u> |
| R21-5-421 | Amend |
- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**
 Authorizing statute: A.R.S. § 8-453(A)(5)
 Implementing statute: A.R.S. §§ 8-105, 8-106, 8-112, 8-120, 8-121, 8-129, 8-130, 8-171, 8-172, 8-173
- 3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:**
 Notice of Rulemaking Docket Opening: 28 A.A.R. 819, April 22, 2022 (*in this issue*)
- 4. The agency's contact person who can answer questions about the rulemaking:**
 Name: Angie Trevino, Rule Development Specialist
 Address: Department of Child Safety
 3003 N. Central Ave.
 Phoenix, AZ 85012
 Telephone: (602) 619-3163
 Fax: (602) 255-3262
 Email: Angelica.Trevino@azdcs.gov
 Website: <https://dcs.az.gov/about/dcs-rules-rulemaking>
- 5. An agency's justification and reason why the proposed expedited rule should be made, amended, repealed or renumbered under A.R.S. 41-1027(A), to include an explanation about the rulemaking:**
 The proposed amendments are justified under A.R.S. § 41-1027(A)(7) because they will not increase the cost of regulatory compliance, increase a fee, or reduce procedural rights of persons regulated. The proposed amendments will implement, without material change, courses of action proposed in the Department's Five-Year-Review Report approved by the Governor's Regulatory Review Council on June 2, 2020.
 The rules in A.A.C. R21-5-421(1) states that a final written report shall be filed with the court at least 14 calendar days before the final adoption hearing, while A.R.S. § 8-112 states that a social study (report) shall be submitted ten days before the hearing on the petition to adopt. As written, the discrepancy between A.A.C. and A.R.S. manifests when there is a state holiday. The proposed amendment will align the timeframes in rule with the timeframes in statute in an effort to reduce potential confusion.
- 6. 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
- 7. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
 The Department of Child Safety (DCS) did not review or rely on any study for this rulemaking.
- 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. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**
Close of record: Friday, May 13, 2022, 5:00 p.m.
The Department does not intend to hold oral proceedings on these rules unless a written request for an oral proceeding is requested by the close of record. Written requests for an oral proceeding and written comments may be submitted via:
Email: DCSrulemaking@azdcs.gov
Mail: Arizona Department of Child Safety
Office of Legislative Affairs and Codification
P.O. Box 6030
Phoenix, AZ 85005
- 11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additional matters shall include but are not limited to:**
- a. Whether the rule requires a permit, license, or agency authorization under A.R.S. 41-1037(A) and whether a general permit is used and if not, the reasons why a general permit is not used:**
The rules in this Article do not require the issuance of a regulatory permit. A general permit is not applicable.
- b. 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 rule:**
None
- 13. The full text of the rules follows:**

TITLE 21. CHILD SAFETY

CHAPTER 5. DEPARTMENT OF CHILD SAFETY PERMANENCY AND SUPPORT SERVICES

ARTICLE 4. ADOPTION ENTITY SERVICES

Section
R21-5-421. Finalizing the Placement

ARTICLE 4. ADOPTION ENTITY SERVICES

R21-5-421. Finalizing the Placement

An adoption entity shall cooperate with the adoptive parent and the attorney, if any, retained by the adoptive parent, to finalize the adoption.

1. The entity shall provide all information and documents needed to finalize the adoption and shall file a final written report to the court at least ~~14 calendar~~ 10 days before the final adoption hearing, or at such other time as the Court may require. The report shall include the information listed in this subsection, unless the entity has already provided this information in an earlier report, and the information has not changed since the earlier report.
 - a. The name and age of each adoptive parent and the relationship, if any, of each adoptive parent to the child to be adopted;
 - b. The name, age, and birthplace of the child to be adopted, and whether any or all of this information is unknown to the adoptive parent;
 - c. The entity or other source from which the adoptive parent received the child to be adopted;
 - d. The circumstances surrounding the surrender of the child to the entity;
 - e. The results of the entity's evaluation of the child and of the adoptive parent, including:
 - i. A description of the care the child is receiving;
 - ii. The adjustment of the child and parent; and
 - iii. A summary statement of the entity's recommendation to the court regarding finalization;
 - f. A full description of any property belonging to the child to be adopted;
2. No change
3. No change

NOTICES OF RULEMAKING DOCKET OPENING

This section of the *Arizona Administrative Register* contains Notices of Rulemaking Docket Opening under A.R.S. § 41-1021.

A docket opening is the first part of the administrative rulemaking process. It is an “announcement” that an agency intends to work on its rules.

When an agency opens a rulemaking docket to consider rulemaking, the Administrative Procedure Act (APA) requires the publication of the Notice of Rulemaking Docket Opening.

Under the APA, effective January 1, 1995, agencies must submit a Notice of Rulemaking Docket Opening before beginning the formal rulemaking process. An agency may file the Notice of Rulemaking Docket Opening along with the Notice of Proposed Rulemaking.

The Office of the Secretary of State is the filing office and publisher of these notices. Questions about the interpretation of this information should be directed to the agency contact person listed in item #4 of this notice.

NOTICE OF RULEMAKING DOCKET OPENING

STATE RETIREMENT SYSTEM BOARD

[R22-65]

- 1. Title and its heading:** 2, Administration
Chapter and its heading: 8, State Retirement System Board
Article and its heading: 1, Retirement System
Section number: R2-8-118 (*Sections may be added, deleted, or further modified as necessary.*)
- 2. The subject matter of the proposed rule:**
 The ASRS needs to amend its rules relating to interest rates in order to provide notice to the public of the new interest rate for the upcoming fiscal year. In 2021, the ASRS Board approved a new assumed rate of return and matching interest rate for FY2022-2023. These rules will increase understandability of what interest rate will be applied to various transactions.
- 3. A citation to all published notices relating to the proceeding:**
 Notice of Proposed Rulemaking: 28 A.A.R. 795, April 22, 2022 (*in this issue*)
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
 Name: Jessica A.R. Thomas, Rules Writer
 Address: Arizona State Retirement System
 3300 N. Central Ave., Suite 1400
 Phoenix, AZ 85012-0250
 Telephone: (602) 240-2039
 Email: JessicaT@azasrs.gov
- 5. The time during which the agency will accept written comments and the time and place where oral comments may be made:**
 The Board will accept comments during business hours at the address listed in item 4. Information regarding an oral proceeding will be included in the Notice of Proposed Rulemaking.
- 6. A timetable for agency decisions or other action on the proceeding, if known:**
 To be determined.

NOTICE OF RULEMAKING DOCKET OPENING

**DEPARTMENT OF ECONOMIC SECURITY
 DEVELOPMENTAL DISABILITIES**

[R22-66]

- 1. Title and its heading:** 6, Economic Security
Chapter and its heading: 6, Department of Economic Security - Developmental Disabilities
Article and its heading: 14, Electronic Monitoring of Group Homes, Nursing-Supported Group Homes, and Intermediate Care Facilities
Section numbers: R6-6-1401 through R6-6-1408 (*Sections may be added, deleted, or modified as necessary.*)
- 2. The subject matter of the proposed rule:**
 The Governor signed H.B. 2117 into law on May 14, 2019 to create A.R.S. § 36-568 (Group homes; intermediate care facilities; electronic monitoring; definition), mandating the Department adopt rules for the use of electronic monitoring in group homes and intermediate care facilities. These new rules, as mandated by A.R.S. § 36-568, will allow, but not obligate, a service provider that operates a group home or an intermediate care facility for persons with an intellectual disability to install electronic monitoring devices in common areas of the group home or intermediate care facility.

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

Notice of Proposed Rulemaking: 28 A.A.R. 797, April 22, 2022 (*in this issue*)

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

Name: Melissa Henry
 Address: Department of Economic Security
 P.O. Box 6123, Mail Drop 111G
 Phoenix, AZ 85005
 or
 Department of Economic Security
 1717 W. Jefferson St., Mail Drop 111G
 Phoenix, AZ 85007
 Telephone: (480) 647-3110
 Fax: (602) 542-6000
 Email: rules@azdes.gov
 Website: <https://des.az.gov/documents-center/des-rules>

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

The Department will accept written comments for 30 days following the publication of the Notice of Proposed Rulemaking in the Arizona Administrative Register. Written comments may be submitted to the individual named in item 4. The Department has scheduled the following virtual oral proceeding for public comments:

Date: Tuesday, May 31, 2022
 Time: 10:00 a.m. - Noon*
 Google Meet: <https://meet.google.com/sus-tgoc-yqt?authuser=0&hs=122>
 Join by Phone: (US) +1 219-515-4340 PIN: 848 712 358#
 Close of Record: Tuesday, May 31, 2022, 5:00 p.m.

*Note: If no one has appeared by Google Meet or phone by 11:00 a.m., the oral proceeding will be closed.

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

None

NOTICE OF RULEMAKING DOCKET OPENING
DEPARTMENT OF CHILD SAFETY
PERMANENCY AND SUPPORT SERVICES

[R22-67]

- 1. Title and its heading:** 21, Child Safety
Chapter and its heading: 5, Department of Child Safety - Permanency and Support Services
Article and its heading: 4, Adoption Entity Services
Section numbers: R21-5-421 (*Sections may be added, deleted, or modified as necessary.*)

2. The subject matter of the proposed rule:

The rules in Title 21, Chapter 5, Article 4 pertain to the services provided by adoption entities. The rule amendments proposed in this rulemaking notice pertain to aligning timeframe in the rule with the timeframe given in statute. As currently written the timeframes in rule and statute appear to align; however, the discrepancy manifests when there is a state holiday to consider. The Five-Year-Review Report of Title 21, Chapter 5, Article 4 identified a necessary update to align the rule with statutory requirements resulting in a rule that is more clear, concise, and understandable.

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

Notice of Proposed Expedited Rulemaking: 28 A.A.R. 816, April 22, 2022 (*in this issue*)

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

Name: Angie Trevino, Rules Development Specialist
 Address: Department of Child Safety
 3003 N. Central Ave.
 Phoenix, AZ 85012
 Telephone: (602) 255-2569
 Fax: (602) 619-3163
 Email: Angelica.Trevino@azdcs.gov
 Website: <https://dcs.az.gov/about/dcs-rules-rulemaking>

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

The Department does not intend to hold oral proceedings on these rules unless a written request for an oral proceeding is requested by the close of record. Written requests for an oral proceeding and written comments may be submitted via:

Email: DCSrulemaking@azdcs.gov
Mail: Department of Child Safety
Office of Legislative Affairs and Codification
P.O. Box 6030
Phoenix, AZ 85005

Close of record: Friday, May 13, 2022, at 5:00 p.m.

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

NOTICES OF PUBLIC INFORMATION

Agencies use Notices of Public Information to notify stakeholders about other information that pertains to rulemaking notices under A.R.S. § 41-1013(B)(14). When required by law, agencies also use this notice to notify the public about information not related to rulemaking.

The most common use for this notice is to correct errors printed in a rulemaking notice or extend a public comment period.

The Administrative Rules Division of the Office does not provide a standard template for Notices of Public Information because the content of this type of notice varies.

An agency shall follow the Office's formatting standards when preparing this type of notice and use a numbered list of questions and answers. Additionally, an agency receipt shall be filed with a Notice of Public Information.

NOTICE OF PUBLIC INFORMATION DEPARTMENT OF HEALTH SERVICES HEALTH CARE INSTITUTIONS: LICENSING

[M22-27]

1. **Title and its heading:** 9, Health Services
Chapter and its heading: 10, Department of Health Services - Health Care Institutions: Licensing
2. **The public information relating to the listed Section:**
Arizona Revised Statutes (A.R.S.) §§ 36-132(A)(17) and 36-405 authorize the Department to license and regulate health care institutions. A.R.S. § 36-405 further authorizes the Department to classify and subclassify health care institutions. The Department has implemented A.R.S. §§ 36-132(A)(17) and 36-405 in Arizona Administrative Code (A.A.C.) Title 9, Chapter 10. Laws 2021, Ch. 60, has added a new class of health care institution, nursing-supported group homes, and requires them to be licensed under A.R.S. Title 36, Chapter 4. Laws 2021, Ch. 60, § 10 also exempts the Department from rulemaking requirements in A.R.S. Title 41, Chapters 6 and 6.1, for 18 months after the general effective date of the Legislative Session. Nursing-supported group homes contract with the Arizona Department of Economic Security to provide continuous nursing support to individuals with developmental disabilities in a community residential setting and, according to A.R.S. § 36-425.07, must be licensed on or before July 1, 2022, to continue operations. After receiving an exception from the rulemaking moratorium established by Executive Order 2022-01, the Department is revising the rules in Arizona 9 A.A.C. 10, through exempt rulemaking, to add requirements for the licensing of nursing-supported group homes in a new Article under 9 A.A.C. 10. This Notice of Public Information provides notice that the Department has posted draft rules on the Department website (<https://azdhs.gov/director/administrative-counsel-rules/rules/index.php#rulemakings-active-nursing-supported-group-homes>) and is soliciting comments from interested persons.
3. **The name, address, and telephone number of agency personnel to whom questions and comments on the rules may be addressed:**
Name: Thomas Salow, Interim Assistant Director
Address: Department of Health Services
Public Health Licensing Services
150 N. 18th Ave., Suite 400
Phoenix, AZ 85007
Telephone: (602) 364-1935
Fax: (602) 364-3808
Email: Thomas.Salow@azdhs.gov
or
Name: Robert Lane, Chief
Address: Arizona Department of Health Services
Office of Administrative Counsel and Rules
150 N. 18th Ave., Suite 200
Phoenix, AZ 85007
Telephone: (602) 542-1020
Fax: (602) 364-1150
Email: Robert.Lane@azdhs.gov
4. **The website where persons may obtain information about the rulemaking:**
<https://azdhs.gov/director/administrative-counsel-rules/rules/index.php#rulemakings-active-nursing-supported-group-homes>

GOVERNOR EXECUTIVE ORDER
RULEMAKING MORATORIUM

Executive Order 2022-01 is being reproduced in each issue of the *Arizona 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 2022-01

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

[M22-03]

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, 2020 and 2021; and

WHEREAS, the State of Arizona eliminated or improved 231 burdensome regulations in 2021 and for a total of 3,047 needless regulations eliminated or improved since 2015; and

WHEREAS, estimates show these eliminations saved job creators nearly \$11.6 million in operating costs in 2021 for a total of over \$169.1 million in savings since 2015; and

WHEREAS, in 2021, for every one new necessary rule added to the Administrative Code, 25 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 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. A State agency subject to this Order shall not publicize any directives, policy statements, documents or forms on its website unless such are explicitly authorized by the Arizona Revised Statutes or Arizona Administrative Code. Any material that is not specifically authorized must be removed immediately.
5. A State agency that issues occupational or professional licenses shall prominently post on the agency’s website landing page all current state policies that ease licensing burdens and the exact steps applicants must complete to receive their license using these policies. State agencies should provide information that applies to all applicants, but have a designated area on 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.
6. 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, 2022.
7. 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.
8. 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.
9. 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.
10. This Executive Order shall expire when the provisions of this executive order are adopted in statute and become law.

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 nineteenth day of January in the year Two Thousand and Twenty Two and of the Independence of the United States of America the Two Hundred and Forty-Sixth.

ATTEST:

Katie Hobbs
SECRETARY OF STATE

REGISTER INDEXES

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

Abbreviations for rulemaking activity in this Index include:

PROPOSED RULEMAKING

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

SUPPLEMENTAL PROPOSED RULEMAKING

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

FINAL RULEMAKING

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

SUMMARY RULEMAKING

PROPOSED SUMMARY

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

FINAL SUMMARY

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EXEMPT

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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	Date Filed	Effective Date	Date Filed	Effective Date	Date Filed	Effective Date	Date Filed	Effective Date	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	Date Filed	Effective Date	Date Filed	Effective Date	Date Filed	Effective Date	Date Filed	Effective Date	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
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
February 25, 2022	March 18, 2022	April 18, 2022
March 4, 2022	March 25, 2022	April 25, 2022
March 11, 2022	April 1, 2022	May 2, 2022
March 18, 2022	April 8, 2022	May 9, 2022
March 25, 2022	April 15, 2022	May 16, 2022
April 1, 2022	April 22, 2022	May 23, 2022
April 8, 2022	April 29, 2022	May 31, 2022
April 15, 2022	May 6, 2022	June 6, 2022
April 22, 2022	May 13, 2022	June 13, 2022
April 29, 2022	May 20, 2022	June 20, 2022
May 6, 2022	May 27, 2022	June 27, 2022
May 13, 2022	June 3, 2022	July 5, 2022
May 20, 2022	June 10, 2022	July 11, 2022
May 27, 2022	June 17, 2022	July 18, 2022
June 3, 2022	June 24, 2022	July 25, 2022
June 10, 2022	July 1, 2022	August 1, 2022
June 17, 2022	July 8, 2022	August 8, 2022
June 24, 2022	July 15, 2022	August 15, 2022
July 1, 2022	July 22, 2022	August 22, 2022
July 8, 2022	July 29, 2022	August 29, 2022
July 15, 2022	August 5, 2022	September 6, 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 2022

(MEETING DATES ARE SUBJECT TO CHANGE)

DEADLINE FOR PLACEMENT ON AGENDA*	FINAL MATERIALS SUBMITTED TO COUNCIL	DATE OF COUNCIL STUDY SESSION	DATE OF COUNCIL MEETING
<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.