

Arizona Administrative Register
Notices of Proposed Rulemaking

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business and consumer impact statement:

Name: Corinne Velasquez
Address: State Board of Education
1535 W. Jefferson
Phoenix, AZ 85007
Telephone: (602) 542-5057
Fax: (602) 542-3046

10. The time, place and nature of the proceedings for the adoption, amendment, or repeal of the rules, if no proceeding is scheduled, when, where, and how persons may request an oral proceeding on the proposed rules:

An oral proceeding on the proposed rulemaking is scheduled as follows:

Date: June 24, 2002
Time: 10:30 a.m.
Location: State Board of Education
1535 W. Jefferson, Room 417
Phoenix, AZ 85007

Written comments may be submitted on or before 5:00 p.m. on June 14, 2002, to the contact person listed above.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

12. Incorporations by reference and their location in the rules:

None

13. The full text of the rules follows:

TITLE 7. EDUCATION

CHAPTER 2. STATE BOARD OF EDUCATION

ARTICLE 3. CURRICULUM REQUIREMENTS AND SPECIAL PROGRAMS

Section

R7-2-312. ~~Repealed~~ Honorary High School Diploma

ARTICLE 3. CURRICULUM REQUIREMENTS AND SPECIAL PROGRAMS

R7-2-312. ~~Repealed~~ Honorary High School Diploma

A. An honorary high school diploma shall be provided to individuals who have never obtained a high school diploma and that meet each of the following requirements:

1. Is at least sixty-five years of age;
2. Currently resides in Arizona;
3. Provides documented evidence from the Arizona Department of Veterans' Services that they were enlisted in the armed forces of the United States before completing high school in a public or private school; and
4. Was honorably discharged from service with the armed forces of the United States.

B. All high schools shall provide for the presentation of an honorary high school diploma to an individual eligible pursuant to subsection (A). The individual shall not be required to reside within the school boundaries.

NOTICE OF PROPOSED RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 6. DEPARTMENT OF HEALTH SERVICES - COMMUNICABLE DISEASES

PREAMBLE

- | <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
|------------------------------------|---------------------------------|
| R9-6-107 | Repeal |
| R9-6-701 | Renumber |
| R9-6-701 | New Section |
| R9-6-702 | Renumber |
| R9-6-702 | Amend |
| R9-6-703 | Renumber |
| R9-6-703 | Amend |
| R9-6-704 | Renumber |
| R9-6-704 | Amend |
| R9-6-705 | Renumber |
| R9-6-705 | Amend |
| R9-6-706 | Renumber |
| R9-6-706 | Amend |
| Table 1 | Renumber |
| Table 2 | Renumber |
| R9-6-707 | Renumber |
| R9-6-707 | Amend |
| R9-6-708 | Renumber |
| R9-6-708 | Amend |
| Table 1 | Renumber |
| Table 1 | Amend |
| Table 2 | Renumber |
| Table 2 | Amend |
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statutes: A.R.S. §§ 36-136(A)(7) and 36-136(F)
Implementing statutes: A.R.S. §§ 15-872, 15-873, 36-136(H)(1), 36-672, and 36-883(C)
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**
Notice of Rulemaking Docket Opening: 8 A.A.R. 1976, April 26, 2002
- 4. The name and address of agency personnel with whom persons may communicate regarding the rule:**
- | | |
|------------|---|
| Name: | Linda Faris, Hepatitis Prevention Coordinator |
| Address: | Arizona Department of Health Services
Bureau of Epidemiology and Disease Control Services
3815 N. Black Canyon Highway
Phoenix, AZ 85015 |
| Telephone: | (602) 230-5858 |
| Fax: | (602) 263-4961 |
| E-mail: | lfaris@hs.state.az.us |
| or | |
| Name: | Kathleen Phillips, Rules Administrator |
| Address: | Arizona Department of Health Services
1740 W. Adams, Room 102
Phoenix, AZ 85007 |

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Telephone: (602) 542-1264
Fax: (602) 364-1150
E-mail: kphilli@hs.state.az.us

5. An explanation of the rule, including the agency's reasons for initiating the rule:

In December 1999, the Department completed a five-year review report for 9 A.A.C. 6. The five-year review report was approved by the Governor's Regulatory Review Council in March 2000. As a result of the review process, the Department identified a number of changes that needed to be made in 9 A.A.C. 6. The Department also determined that those changes should be made in three separate rule packages. This is the second of those rule packages.

This rule package repeals the definitions Section for Article 7 that is currently located in Article 1 and replaces it with a new definitions Section within Article 7. The rules in Article 7 concerning vaccine preventable diseases are amended to:

- a. Authorize the Department to temporarily suspend the requirement of a vaccine if the Centers for Disease Control and Prevention (CDC) sends written notification of a shortage of vaccine or if the CDC limits the amount of a vaccine;
- b. Authorize the Department to discontinue the requirement of a vaccine for a disease that is declared eradicated by the World Health Organization;
- c. Authorize the Department to release the immunization information to the following persons:
 - i. An authorized representative of Women, Infant, and Children (WIC), to determine the immunization status of children enrolled in WIC;
 - ii. An individual or organization authorized by the Department, to conduct medical research; or
 - iii. An authorized representative of an out-of-state agency requesting immunization records for Arizona residents residing in that state; and
- d. Update information, clarify the rules, and conform the rules to current rulemaking format and style changes.

6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting materials:

Not applicable

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

Not applicable

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

Annual costs/revenues changes are designated as minimal when less than \$1,000, moderate when between \$1,000 and \$10,000, and substantial when \$10,000 or greater in additional costs or revenues.

The Department will bear moderate costs for promulgating and enforcing the rules. Costs for promulgating the rules include staff time to write, review, and direct the rules through the rulemaking process.

The general public will benefit from the updated rules that are more clear, concise, and understandable. Schools and child care will benefit from the fact that they will no longer be required to track, provide information about, and deny entry to children who have not been vaccinated against diseases that have been declared eradicated by the World Health Organization and the Advisory Committee on Immunization Practices, and that the Department no longer recommends immunization against. The addition of persons authorized to access immunization records will benefit persons in various ways:

- a. The WIC will benefit by being able to determine the immunization status of children enrolled in WIC,
- b. An individual or organization authorized by the Department will benefit by being able to conduct medical research, and
- c. An out-of-state agency will benefit by being able to determine the immunization status of Arizona residents residing in that state.

The general public will benefit by receiving better health care because of the results of studies and tests conducted by those persons authorized to access immunization data.

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9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Linda Faris, Hepatitis Prevention Coordinator
Address: Arizona Department of Health Services
Bureau of Epidemiology and Disease Control Services
3815 N. Black Canyon Highway
Phoenix, AZ 85015
Telephone: (602) 230-5858
Fax: (602) 263-4961
E-mail: lfaris@hs.state.az.us

or

Name: Kathleen Phillips, Rules Administrator
Address: Arizona Department of Health Services
1740 W. Adams, Room 102
Phoenix, AZ 85007
Telephone: (602) 542-1264
Fax: (602) 364-1150
E-mail: kphilli@hs.state.az.us

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

Date: June 24, 2002
Time: 9:00 a.m.
Location: Room 411, 1740 W. Adams, Phoenix, AZ 85007
Nature: Oral proceeding

A person may submit written comments on the proposed rules no later than 5:00 p.m., Monday, June 24, 2002 to the individuals listed in items #4 and #9.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

12. Incorporation by reference and their location in the rules:

The following is incorporated by reference in R9-6-701(48):

21 CFR 600.3h (April 1, 2000), published by the Office of the Federal Register, National Archives and Records Administration, 800 N. Capitol, Suite 700, Washington D.C. 20408, available from the U.S. Government Printing Office, Superintendent of Documents, Mail Stop: SSOP, Washington D.C. 20402-9328.

13. The full text of the rule follows:

TITLE 9. HEALTH SERVICES

CHAPTER 6. DEPARTMENT OF HEALTH SERVICES - COMMUNICABLE DISEASES

ARTICLE 1. DEFINITIONS

Section

R9-6-107. ~~Vaccine Preventable Diseases~~ Repealed

ARTICLE 7. VACCINE PREVENTABLE DISEASES

Section

R9-6-701. Definitions

~~R9-6-701-R9-6-702.~~ Required Immunizations for Child Care or School Entry

~~R9-6-702-R9-6-703.~~ Responsibilities of Physicians Individuals and Local Health Agencies for Administering ~~Immunizations~~
Vaccines

~~R9-6-703-R9-6-704.~~ Standards for Documentary Proof of Immunity

~~R9-6-704-R9-6-705.~~ Responsibilities of Schools and Child Care

~~R9-6-705-R9-6-706.~~ Exemptions to Immunizations

~~R9-6-706-R9-6-707.~~ Required Reports

Table 1. ~~Immunization Requirements for Child Care and School Enrollment~~

Table 2. ~~Recommended Schedule for Pupils Starting Immunization after School~~

~~R9-6-708.~~ Renumbered

~~R9-6-707-R9-6-708.~~ Release of Immunization Information

Table 1. Immunization Requirements for Child Care and School Enrollment

Table 2. Recommended Schedule for Pupils Starting Immunization after School

ARTICLE 1. DEFINITIONS

R9-6-107. Vaccine Preventable Diseases Repealed

In Article 7, unless otherwise specified:

1. "ASHS" means the Arizona State Immunization Information System, an immunization reporting system that collects, stores, analyzes, releases, and reports immunization data.
2. "Catch-up immunization schedule" means set times in Table 2 for immunizations for a child, an individual more than 18 years of age, or an emancipated person who has not completed the vaccine series required in Table 1 before child care or school entry.
3. "Child" means an individual 18 years of age or less.
4. "Child care" means:
 - a. A child care facility as defined in A.R.S. § 36-881;
 - b. A child care home as defined in A.R.S. § 46-807;
 - c. A child care group home as defined in A.R.S. § 36-897;
 - d. A child care home receiving monies under A.R.S. § 46-321; or
 - e. A Head Start program operating under the Head Start Act, 42 U.S.C. 9801, et seq.
5. "DT" means diphtheria and tetanus vaccine for a child less than 7 years of age.
6. "DTaP" means diphtheria, tetanus, and acellular pertussis vaccine.
7. "DTP" means diphtheria, tetanus, and pertussis vaccine.
8. "Emancipated person" means the same as the definition in A.R.S. § 15-1801.
9. "Entry" means 1st day of attendance at a child care or at a specific grade level in a school.
10. "Guardian" means an individual appointed by a court of competent jurisdiction to care for the person or property of a child.
11. "Hep A" means hepatitis A vaccine.
12. "Hep B" means hepatitis B vaccine.
13. "Hib" means *Haemophilus influenzae* type b vaccine.
14. "IPV" means inactivated polio vaccine.
15. "Kindergarten" means the grade level in a school that precedes 1st grade.
16. "MMR" means measles, mumps, and rubella vaccine.
17. "OPV" means oral polio vaccine.
18. "Parochial" means supported by a church or religious order.
19. "*Person in loco parentis*" means an individual acting in the place of a parent or guardian and exercising parental duties, rights or responsibilities.
20. "Responsible person" means:
 - a. A parent, guardian, or *person in loco parentis* of a child;
 - b. An individual more than 18 years of age; or
 - c. An emancipated person.
21. "School" means the same as the definition in A.R.S. § 36-671.
22. "Td" means tetanus and diphtheria vaccine, for an individual aged 7 years and older.
23. "Vaccine" means any immunizing agent approved and licensed by the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, for the prevention and control of vaccine preventable diseases as set forth in "Establishments and Products Licensed Under Section 351 of the Public Health Service Act,"

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HHS Publication No. (FDA) 89-9003, September 30, 1989, pp. 111-150, Center for Biologics Evaluation and Research, 8800 Rockville Pike, Bethesda, Maryland 20892, incorporated by reference, and on file with the Department and the Office of the Secretary of State. This incorporation by reference includes no future editions or amendments.

ARTICLE 7. VACCINE PREVENTABLE DISEASES

R9-6-701. Definitions

In this Article, unless otherwise specified:

1. "AHCCCS" means the Arizona Health Care Cost Containment System.
2. "Administration of vaccine" means the inoculation of a child with an immunizing agent by an individual authorized by federal or state law.
3. "ASIIS" means the Arizona State Immunization Information System, an immunization reporting system that collects, stores, analyzes, releases, and reports immunization data.
4. "Case" has the same meaning as in R9-6-101.
5. "Catch-up immunization schedule" means the times established in Table 2 for the immunization of a child who has not completed the vaccine series required in Table 1 before entry into a child care or school.
6. "CDC" means the Centers for Disease Control and Prevention.
7. "Charter school" has the same meaning as in A.R.S. § 15-101.
8. "Child" means:
 - a. An individual 18 years of age or less, or
 - b. An individual more than 18 years of age attending school.
9. "Child care" means:
 - a. A child care facility as defined in A.R.S. § 36-881; or
 - b. A child care group home as defined in A.R.S. § 36-897.
10. "Child care administrator" means an individual or the individual's designee, having daily control and supervision of a child care.
11. "Contact person" means an individual who, on behalf of a school or child care and upon request of the Department, provides information to the Department.
12. "Day" means a calendar day, and excludes the:
 - a. Day of the act, or event, from which a designated period of time begins to run, and
 - b. Last day of the period if a Saturday, Sunday, or official state holiday, in which case the next business day is the last day.
13. "DTaP" means diphtheria, tetanus, and acellular pertussis vaccine.
14. "DTP" means diphtheria, tetanus, and pertussis vaccine.
15. "Enroll" means accept into a school by the school or into a child care by the child care.
16. "Entry" means the first day of attendance at a child care or at a specific grade level in a school.
17. "Guardian" means an individual appointed by a court of competent jurisdiction to care for the child or the child's property.
18. "Head Start program" means a federally funded program administered under 42 U.S.C. 9831.
19. "Hep A" means hepatitis A vaccine.
20. "Hep B" means hepatitis B vaccine.
21. "Hib" means *Haemophilus influenzae* type b vaccine.
22. "Immunization" has the same meaning as in A.R.S. § 36-671.
23. "Immunization registry" means storage of immunization data for vaccines.
24. "Immunization registry administrator" means an individual or the individual's designee having daily control and supervision of an immunization registry.
25. "IRMS number" means a numeric identifier that the Department issues to a person in ASIIS.
26. "KidsCare" means a federally funded program administered by AHCCCS under A.R.S. § 36-2982.
27. "Kindergarten" means the grade level in a school that precedes first grade.
28. "Local health agency" has the same meaning as "health agency" in A.R.S. § 36-671.
29. "Local health officer" means an individual or the individual's designee having daily control and supervision of a local health agency.
30. "Medical services" has the same meaning as in A.R.S. § 36-401.
31. "MMR" means measles, mumps, and rubella vaccine.
32. "Outbreak" has the same meaning as in R9-6-101.
33. "Parent" means a biological or legally adoptive mother or father of a child.
34. "Person in loco parentis" means an individual acting in the place of a parent or guardian and exercising the duties, rights, or responsibilities of a parent or guardian.

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35. "Polio" means poliomyelitis vaccine.
36. "Private school" has the same meaning as in A.R.S. § 15-101.
37. "Provider" means an individual who administers a vaccine, or an entity that is responsible for administering a vaccine.
38. "Registered nurse practitioner" has the same meaning as in A.R.S. § 32-1601.
39. "Responsible person" means a parent, guardian, or *person in loco parentis* of a child.
40. "Route of administration" means a method of inoculation of a vaccine.
41. "School" has the same meaning as in A.R.S. § 36-671.
42. "School administrator" has the same meaning as in A.R.S. § 36-671.
43. "Suspect case" has the same meaning as in R9-6-101.
44. "Td" means tetanus and diphtheria vaccine.
45. "Underinsured" means having insurance that does not cover all or part of the cost of a vaccination.
46. "Uninsured" means not having insurance.
47. "Vaccine" has the same meaning as "biological product" defined in 21 CFR 600.3h (April 1, 2000), published by the Office of the Federal Register, National Archives and Records Administration, 800 N. Capitol, Suite 700, Washington D.C. 20408, available from the U.S. Government Printing Office, Superintendent of Documents, Mail Stop: SSOP, Washington D.C. 20402-9328, incorporated by reference, and on file with the Department and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments.
48. "VFC" means Vaccines for Children, a federal program administered by the Department.
49. "VFC PIN number" means a numeric identifier that the VFC issues to a person participating in the VFC.
50. "WIC" means Women, Infants, and Children, a federal program administered by the Department.
51. "WIC administrator" means an individual or the individual's designee, having daily control and supervision of a WIC.

~~R9-6-701~~R9-6-702. Required Immunizations for Child Care or School Entry

- A. Except as permitted in ~~R9-6-705~~:
1. ~~Before entry in a school, or no later than 15 days following entry in a child care, a child, an individual more than 18 years of age, or an emancipated person shall be immunized against each of the following diseases provided in R9-6-706, a school administrator or child care administrator shall:~~
 1. Ensure that a child attending a school or child care has been immunized against each of the following diseases according to Table 1 or Table 2:
 - a. Diphtheria;₂
 - b. Tetanus;₂
 - c. Hepatitis A, for a child aged two through five years of age in child care in Maricopa County;
 - ~~e.~~d. Hepatitis B;₂
 - ~~d.~~e. Pertussis;₂
 - e.f. Poliomyelitis;₂
 - f.g. Measles (rubeola);₂
 - ~~g.~~h. Mumps;₂
 - h.i. Rubella (German Measles);₂ and
 - i.j. *Haemophilus influenzae* type b;₂ and
 2. If a child does not have proof of immunization according to Table 1 or Table 2, exclude the child from:
 - a. School entry; or
 - b. Child care, unless the child is immunized against the diseases listed in subsection (A)(1) within 15 days following entry.
 2. ~~A child aged 2 through 5 years old in child care in Maricopa County shall be immunized against the hepatitis A virus.~~
- B. ~~A child, an individual more than 18 years of age, or an emancipated person shall be immunized in accordance with the schedule in Tables 1 or 2. The Department, or a school administrator may exempt a child, an individual more than 18 years of age, or an emancipated person from immunizations as authorized by A.R.S. § 15-873 or A.R.S. § 36-883(C).~~
- ~~C.~~B. A child, an individual more than 18 years of age, or an emancipated person who is entering a school has not received a second dose of MMR or has not finished the 3-dose Hep B series specified in Table 1 or Table 2, shall be is immunized with a 2nd dose of MMR and the remaining doses of Hep B series, as applicable, according to the following: Unless exempt according to R9-6-706, a child who has received a first dose of MMR but has not received a second dose of MMR shall:
1. Receive the second dose according to Table 2 and the following:
 1. ~~Kindergarten through 2nd grade and 7th grade, by September 1, 2000;~~
 2. ~~Kindergarten through 3rd grade and 7th and 8th grades, by September 1, 2001;~~
 3. a. Kindergarten For a child attending kindergarten through 4th grade and or 7th through 9th grades grade, by September 1, 2002;

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4. ~~b. Kindergarten~~ For a child attending kindergarten through 5th grade ~~and~~ or 7th through 10th grades ~~grade~~, by September 1, 2003;
 5. ~~c. Kindergarten~~ For a child attending kindergarten through 11th grade, by September 1, 2004; and
 6. ~~d. Kindergarten~~ For a child attending kindergarten through 12th grade, by September 1, 2005-, ~~and~~
 2. Be excluded from school entry by a school administrator until the requirements in Table 2 are met.
- C.** Unless exempt according to R9-6-706, a child who has not completed the three-dose Hep B series specified in Table 1 or 2 shall:
1. Receive the remaining doses according to Table 2 and the schedule in subsection (B)(1)(a) through (B)(1)(d), and
 2. Be excluded from school entry by a school administrator until the requirements in Table 2 are met.
- D.** If the Department receives written notification from the CDC that there is a shortage of a vaccine for a disease listed in subsection (A)(1), or that the CDC is limiting the amount of a vaccine for a disease listed in subsection (A)(1), the Department shall:
1. Provide written notification to each Arizona school and child care of the shortage or limitation of the vaccine;
 2. Extend the time for compliance with subsections (A), (B), and (C); and
 3. Upon receiving written notification from the CDC that the vaccine is available, notify each Arizona school and child care:
 - a. That the vaccine is available, and
 - b. The time by which an individual is required to comply with subsections (A), (B), and (C).
- E.** The Department shall notify each Arizona school and child care that the Department no longer requires compliance with subsections (A), (B), and (C) for a disease listed in subsection (A)(1) if:
1. The disease is declared eradicated by:
 - a. The World Health Organization, and
 - b. The Advisory Committee on Immunization Practices, and
 2. The Department no longer recommends immunization against the disease.

~~R9-6-702, R9-6-703.~~ Responsibilities of ~~Physicians~~ Individuals and Local Health Agencies for Administering ~~Immuni-~~ Vaccines

- A.** ~~Upon request of the a responsible person, each county health department a local health agency shall provide for the immunization of any a child against one or more of the diseases listed in R9-6-701(A) R9-6-702(A).~~
- B.** ~~An individual administering a vaccine shall ensure that The the dosage and route of administration of each vaccine or immunizing agent shall be in accordance with is according to the manufacturer's recommendations.~~
- C.** ~~Prior to the immunization of any child, the physician, county health officer, or other authorized representative, Before administering a vaccine to a child, an individual administering the vaccine shall:~~
1. ~~provide Provide~~ the responsible person with ~~an the following written information statement which includes the following:~~
 - 1-a. ~~A description of the disease,~~
 - 2-b. ~~A description of the vaccine,~~
 - 3-c. ~~A statement of the risks of the disease and the risks and benefits of immunization, and~~
 - 4-d. ~~Contraindications for administration of administering the vaccine; and~~
- D.** ~~Prior to the administration of immunization to any child, the physician, county health officer, or person authorized to administer vaccines, shall obtain~~
2. Obtain a signed statement signed by the responsible person confirming that the responsible person:
 - 1-a. Has read and understands the information furnished Was provided the written information described in subsection (C)(1), about the risks and benefits of the vaccine or immunizing agent to be administered
 - b. Was provided an opportunity to read the written information.
 - 2-c. Has had the Was provided an opportunity to ask questions, and
 - 3-d. Requests that the designated vaccines or immunizing agents vaccine be administered to the child.
- E.D.** ~~Following the administration of vaccines or immunizing agents to any child, the physician or authorized representative of a local health agency authorized to perform the immunizations a vaccine, the individual administering the vaccine shall furnish provide written information to the responsible person regarding; or, if a child is immunized at school, to the child to give to the responsible person, that includes:~~
1. The vaccines or immunizing agents given vaccine administered,
 2. The reactions to the vaccine that might be expected, and
 3. The course of action if an unusually a severe reaction occurs. If the child receives the vaccine or immunizing agent at school, the information shall be given to the child with instructions to give it to the responsible person.
- F.E.** ~~The physician or authorized representative of the local health agency performing the immunization An individual administering a vaccine shall provide a written record as set forth in R9-6-704 to the person immunized child or to the responsible person. This record shall conform to the standards of documentary proof pursuant to R9-6-703.~~

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~~R9-6-703~~R9-6-704. Standards for Documentary Proof of Immunity

- A. ~~An individual may establish Proof proof of immunity to the diseases a disease listed in R9-6-701(A) R9-6-702(A) shall be documented by one of the following:~~
1. ~~An immunization record that contains:~~
 - a. ~~Name of the person A child's name;~~
 - b. ~~Birth The child's date of birth;~~
 - c. ~~Type The type of vaccine administered;~~
 - d. ~~Month The month and year of each immunization, except for other than MMR, for which month, day, and year is required; and for a child born before January 1, 2003;~~
 - e. ~~The month, day, and year of MMR immunization for a child born before January 1, 2003;~~
 - f. ~~The month, day, and year of each immunization for a child born on or after January 1, 2003; and~~
 - e.g. ~~Name The name of the physician or authorized representative of a health agency individual administering the vaccine or the name of the entity that the individual administering the vaccine represents; or~~
 2. ~~Laboratory evidence of immunity, as defined in A.R.S. § 36-671(8);~~
 3. ~~An Arizona School Immunization Record that includes:~~
 - a. ~~The child's name;~~
 - b. ~~The child's date of birth;~~
 - c. ~~The grade of the child on the date of enrollment;~~
 - d. ~~Whether the child is male or female;~~
 - e. ~~The type of vaccine administered;~~
 - f. ~~The month and year of each immunization, other than MMR, for a child born before January 1, 2003;~~
 - g. ~~The month, day, and year of MMR immunization for a child born before January 1, 2003;~~
 - h. ~~The month, day, and year of each immunization for a child born on or after January 1, 2003;~~
 4. ~~A school immunization record from another state;~~
 5. ~~An electronic version of the child's immunization record generated by an immunization registry, and signed and dated by a local health officer, school administrator, child care administrator, WIC administrator, the immunization registry administrator or the immunization registry administrator's designee;~~
 6. ~~An electronic version of the child's immunization record generated by a school, signed and dated by the school administrator or the school administrator's designee, and containing the information in subsection (A)(1); or~~
 7. ~~A statement of immunity as described in subsection (B).~~
- B. ~~A physician, or authorized representative of a health agency shall the physician's designee, or a registered nurse practitioner may sign an immunization record or a statement of immunity stating that a child is immune to a disease, but shall not sign a statement of immunity to measles or rubella without obtaining serologic evidence of immunity.~~

~~R9-6-704~~R9-6-705. Responsibilities of Schools and Child Care

- A. ~~As of January 1, 1992, a school shall forbid attendance of any pupil not meeting the requirements for immunization or exemption and shall suspend such pupils pursuant to A.R.S. § 15-843. Except as provided in R9-6-706, a school administrator or a child care administrator shall ensure that an immunization record for each child attending a school or child care is maintained at the school or child care and contains the applicable documentary proof of immunity listed in R9-5-704.~~
- B.** ~~If a child does not meet the requirements for immunization according to Table 1 or Table 2 or requirements for exemption from immunization according to R9-6-706, a school administrator shall:~~
1. ~~Not allow the child to enter the school, or~~
 2. ~~If the child is already attending the school, remove the child from school as authorized by A.R.S. § 15-872.~~
- C.** ~~If a child does not meet the requirements for immunization according to Table 1 or Table 2 or requirements for exemption from immunization according to R9-6-706, a child care administrator shall notify the responsible person in writing at the time of entry that:~~
1. ~~The child may attend the child care for not more than 15 days from the date of the notification, and~~
 2. ~~If the child is not immunized by the 15th day following notification, the child may not attend child care.~~
- B.D.** ~~The admitting official A school administrator or child care administrator shall determine the pupil a child to be in compliance with the requirements an immunization requirement in of this Article for a specific disease when:~~
1. ~~The pupil's The child's immunization record complies with the documentary proof required pursuant to R9-6-703 contains proof of immunity required in R9-6-704, and the pupil child has received or is in the process of receiving all the required age specific vaccine doses immunizations according to Table 1 or Table 2; or~~
 2. ~~A responsible person has submitted to the school or child care documentation of an An exemption from immunization is submitted in accordance with the requirements set forth in R9-6-705 according R9-6-706.~~
- C.** ~~When the pupil's immunization record is not available at the time of enrollment, a school shall provide the responsible person with the following:~~
1. ~~Notification of the lack of compliance with the immunization requirements;~~

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2. ~~Written notification which specifies when the required doses shall be completed, specifies the availability of exemptions to immunization, and refers the pupil to a physician, or local health agency for review of the pupil's immunization history and provision of immunizations as needed; and~~
 3. ~~Notification that the pupil is suspended until an acceptable immunization record which meets the standards of documentary proof is presented to the school.~~
- E.** At the time of enrollment, if a child's immunization record is not available, does not contain proof of immunity required in R9-6-704, or does not contain proof of an exemption according to R9-6-706, a school administrator or school administrator's designee, or a child care administrator shall notify the responsible person:
1. That the child is not in compliance with immunization requirements;
 2. In writing, that:
 - a. For the child enrolling in a school, all immunizations are required to be completed according to Table 1 or Table 2 and proof provided to the school before entry; or
 - b. For the child enrolling in a child care, all immunizations required in Table 1 or Table 2 are required to be completed and proof provided to the child care within 15 days of the notification; and
 3. In writing, that the responsible person send the child to a physician or local health agency to obtain proof of immunization.
- D.** ~~When immunization records are presented which do not comply with the standards for documentary proof, a school shall:~~
1. ~~Notify the responsible person of the lack of compliance with the immunization requirements; and~~
 2. ~~Obtain a review and verification of the pupil's immunization record by or in consultation with a certified school nurse, a public health nurse, a licensed physician, or authorized representative of a local health agency.~~
- E.F.** If the admitting official a school administrator or school administrator's designee, or a child care administrator questions the accuracy of a child's immunization record and is unable to verify the accuracy of the pupil's immunization record pursuant to subsection (D), a the school administrator or school administrator's designee, or the child care administrator shall provide to notify the responsible person:
1. ~~A written referral~~ In writing, that the responsible person send the child to a physician or local health agency for further review of the pupil's child's immunization history and provision of immunizations as needed, and;
 2. ~~Notification~~ For a child attending a school, that the pupil child is suspended not allowed to return to school until an the child's immunization record that meets the standards of documentary proof in R9-6-704 and is presented to the school; and
 3. For a child attending a child care, that the child is not allowed to return to child care 15 days following the notification, unless the child's immunization record meets the standards of documentary proof in R9-6-704 and is presented to the child care.
- F.G.** ~~All schools~~ A school administrator or school administrator's designee, or child care administrator shall maintain a current list of pupils children that contains each child who: without evidence of immunization or immunity to the diseases listed in R9-6-701(A). The list shall contain the names of all pupils with incomplete immunization histories or exemptions for personal or medical reasons where evidence
1. Is exempt from providing proof of immunity according to R9-6-706, or
 2. Has not provided proof of immunity in compliance with R9-6-704 has not been provided.
- G.H.** ~~A public or private school administrator or child care administrator shall forbid attendance by any pupils not allow a child who lacking lacks proof of immunization or immunity against any of the diseases a disease listed in R9-6-701(A) R9-6-702(A) to attend the school or child care during an outbreak period of outbreaks of those diseases the disease as determined by the Department or local health agency, for which the child lacks proof of immunity is lacking. The Department or local health agency shall announce an outbreak of disease and shall declare the length of the period of communicability determine the start and termination of the outbreak.~~
- R9-6-705-R9-6-706. Exemptions to Immunizations**
- A. ~~A pupil child~~ who has reached a fifth birthday shall be is exempt from the Hib immunization requirement.
 - B. ~~A pupil child~~ who has reached a seventh birthday shall be is exempt from the pertussis immunization requirement.
 - C. ~~A pupil child with who submits laboratory evidence of immunity to a disease to a school or child care shall not be subject to immunization is not required to be immunized against that disease as a condition for attending a school or child care entry, provided that such evidence is submitted to the school.~~
 - D. A child attending a school, who submits documentary proof of exemption from immunization for personal beliefs that contains the information in A.R.S. § 15-873(A)(1), is exempt from the immunization requirements in this Article.
 - E. A child attending child care, who submits a written document for exemption from immunization that contains the child's name, the child's date of birth, and a statement that the exemption is based upon religious beliefs, is exempt from the immunization requirements in this Article.
- D.F.** ~~If a medical exemption is granted in accordance with~~ obtained according to A.R.S. § 15-873(A)(2), a physician shall ~~define~~ identify each vaccine that is exempted.
1. The physician shall designate the exemption as either permanent or temporary.

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~~1-2.~~ If designated as a permanent medical exemption, may be provided for one or more vaccines the medical exemption lasts indefinitely.

~~2-3.~~ If designated as a temporary medical exemption, a physician shall specify the date of its termination of the temporary medical exemption.

a. ~~A school or child care shall allow a pupil child with a temporary medical exemption to attend school or child care on the condition that the required immunizations are obtained at the termination of until the exemption terminates.~~

b. ~~The A school administrator or school administrator's designee, or a child care administrator shall notify the responsible person in writing of the date by which the pupil child is required to shall complete all required immunizations for which the child had a temporary medical exemption.~~

~~E.G.~~ A school administrator or school administrator's designee, or child care administrator shall record an exemption granted in accordance with A.R.S. § 15-873 on the school child's immunization record in the pupil's permanent file as required in A.R.S. § 15-874.

~~R9-6-706;~~ **R9-6-707, Required Reports**

A. ~~By November 30 15 of each year, the a school administrator of each school district and private school shall submit a report to the Department or local health agency an immunization status report. on a form provided by the Department that contains: The report shall contain the following information:~~

1. ~~Enrollment as of October 15 of that year The name and address of the school;~~

2. ~~An identification of whether it is a school, private school, or charter school;~~

3. ~~The name, telephone number, and fax number of a contact person;~~

4. ~~The name and district number of the school district, if applicable;~~

5. ~~The county the school is located in;~~

6. ~~Each grade taught at the school;~~

7. ~~The number of children enrolled at the school in designated grades as of the date of the report;~~

~~2-8.~~ The number of pupils children with documentary proof of immunization status, specifying including the number of children who:

a. ~~Have received all immunizations each immunization required for their age;~~

b. ~~Are medically exempt specifying on a permanent basis or temporary basis; Have a medical exemption;~~

c. ~~Are exempt for personal beliefs according to A.R.S. § 15-873; and~~

d. ~~Have submitted laboratory evidence of immunity as defined in A.R.S. § 36-671; and~~

3. ~~The number of new entrants without documentary proof of immunization status, specifying the number with incomplete immunizations; and~~

~~4-9.~~ The number of licensed child care centers, schools with pre-kindergarten, kindergarten, or if no kindergarten, 1st grade pupils specifying the number of pupils admitted and the number of doses received per pupil of diphtheria, tetanus, pertussis, poliomyelitis, measles, mumps, rubella, and hepatitis B vaccines. The number of doses of Hib vaccine shall also be reported for those students under age 5 child of each vaccine required in Table 1.

B. ~~The Department or local health agency shall require additional reports as needed which include immunization information about pupils n all grades during an outbreak or potential outbreak as determined by the Department or local health agency If requested by the Department or local health agency, a school administrator or child care administrator shall provide the following outbreak, case, or suspect case information:~~

1. ~~Immunization information in R9-6-704;~~

2. ~~Attendance information specifying the dates each child was present at the school or child care during the communicable period; and~~

3. ~~Any other information relating to the outbreak, case, or suspect case that is requested by the Department or local health agency.~~

C. ~~Each A school administrator of a school whose nurses are that has an individual authorized by law to administer vaccines or immunizing agents and receives vaccines provided by the Department shall; submit monthly reports to the county health department which shall include~~

1. ~~Prepare a report on a form provided by the Department each calendar month that contains:~~

a. ~~A VFC PIN number;~~

b. ~~The provider name or business name, address, telephone number, and fax number;~~

c. ~~The beginning date and end date of the report;~~

d. ~~the The number of children immunized during the preceding calendar month;~~

e. ~~The age and date of birth of each child immunized during the preceding calendar month;~~

f. ~~Whether each child immunized during the preceding calendar month is:~~

i. ~~Covered by KidsCare,~~

ii. ~~Covered by AHCCCS,~~

iii. ~~Uninsured.~~

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- H.** ~~As required by A.R.S. § 36-135, A health care professional licensed under~~ according to A.R.S. Title 32 shall report each vaccine administered to each child all immunizations administered to children to the Department in accordance with A.R.S. § 36-135, as follows:
- I.** ~~Information submitted in accordance with A.R.S. § 36-135(C) shall be furnished as follows:~~
1. ~~If using the reporting by mail or fax, only the health care professional shall use a form forms supplied by the Department, and provide the following:~~
 - a. ~~shall be used, which must be fully completed before submission. All information required in A.R.S. § 36-135(B);~~
 - b. ~~IRMS number; and~~
 - c. ~~VFC PIN number, if applicable;~~
 2. ~~If using the reporting by telephone, the health care professional shall report all required information in subsection (H)(1) must be reported during regular business hours to between 8:00 a.m. and 5:00 p.m., Monday through Friday, except state holidays, by calling a telephone number provided by the Department for this purpose.~~
 3. ~~If using the computer, reporting electronically, the health care professional shall:~~
 - a. ~~Confirm an enrollment process must be completed with ASIIS to certify that the computer system meets the technical specifications defined required by ASIIS;~~
 - a.b. ~~Computer reporting may be performed electronically via a modem connection Connect to the ASIIS Gateway by modem or by submission submit to the Department of a 3 1/2" diskette with the required information: in subsection (H)(1); and~~
 - b.c. ~~Any computer reporting from systems other than those If using a software program that is not provided by ASIIS, must provide all the required information in an American Standard Character Information Interchange delimited format.~~
- ~~J.I.~~ No change

Table 1. ~~Immunization Requirements for Child Care and School Enrollment~~

Table 2. ~~Recommended Schedule for Pupils Starting Immunization after School~~

R9-6-708. ~~Renumbered~~

~~R9-6-707, R9-6-708, Release of Immunization Information~~

~~In addition to those the persons identified in who have access to immunization information according to A.R.S. § 36-135(D) who have access to immunization information, and according to the limitations defined in subsections and consistent with the limitations in A.R.S. § 36-135(E) and (H), the Department may also release such immunization information to the following:~~

1. ~~Authorized representatives~~ An authorized representative of a state or local health departments agency for the control, investigation, analysis, or follow-up of disease;
2. ~~A child care operator administrator, who has registered with ASHS to determine the immunization status of a child in the child care of the operator;~~
3. An authorized representative of WIC, to determine the immunization status of children enrolled in WIC;
4. An individual or organization authorized by the Department, to conduct medical research to evaluate medical services and health related services, health quality, immunizations data quality, and efficacy; or
5. An authorized representative of an out-of-state agency, including a state health department, local health agency, school, child care, health care provider, or a state agency that has legal custody of a child.

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Table 1. Immunization Requirements for Child Care or School Entry

Age at Entry	Number of Doses of Vaccine Required	Special Notes and Exceptions
<2 months	1 Hep B	(See Note ¹)
2 through 3 months	1 DTP; or DTaP or DT 1 OPV or <u>IPV Polio</u> 1 Hib 1 Hep B	(See Note ¹)
4 through 5 months	2 DTP; or DTaP or DT 2 OPV or <u>IPV Polio</u> 2 Hib 2 Hep B	(See Note ¹)
6 through 11 months	3 DTP; or DTaP or DT 2 OPV or <u>IPV Polio</u> 3 Hib 3 <u>2</u> Hep B	(<u>Hib exception</u> - See Note ² for a child 7 months through 59 months of age.) (See Note ¹)
12 through 14 months	3 DTP; or DTaP or DT 3 OPV or <u>IPV Polio</u> Hib 1 MMR 3 Hep B	(See Note ²) (See Note ³) (See Note ¹)
15 through 59 months	4 DTP; or DTaP or DT 3 OPV or <u>IPV Polio</u> Hib 1-2 MMR 3 Hep B	(See Note ²) (See Note ³) (See Note ¹)
2 through 5 years (Only required for Maricopa County child care)	2 Hep A	(See Note ⁴)
<u>Kindergarten or 1st grade entry</u> 4 through 6 years (School entry)	4 5 DTP; or DTaP or DT 3 <u>4</u> OPV or <u>IPV Polio</u> 2 MMR 3 Hep B	<u>Exception - A child shall receive a 5th dose is not required if the 4th dose of diphtheria-tetanus containing vaccine was received before after the 4th birthday.</u> <u>Exception - A 4th dose is not required if the 3rd dose of polio was received after the 4th birthday.</u> (see Note ⁵) (See Note ³) A child entering child care or school shall receive a 2nd dose, 1 month or more after the date of the 1st dose. A child entering child care or school shall receive the Hep B series according to Note ¹ .

⁵ A child shall receive a 4th dose of OPV or IPV for school entry if the 3rd dose was received before the 4th birthday. OPV or IPV Polio vaccine is not required for individuals more than 18 years of age or older, for school entry.

Table 2. Catch-Up Immunization Schedule for Child Care or School Entry

Vaccine	Dose	Time Intervals, <u>Special Notes and Exceptions</u>
1. DTP– Diphtheria, Tetanus and Pertussis		
a. For a Child Less Younger Than 7 Years of Age: DTP or any combination of DTP, <u>or DTaP and DT</u>	1st	A child shall receive the 1st dose before school entry, or no later than 15 days following child care entry.
	2nd	If 4 weeks or more have passed since the date of the 1st dose, a child shall receive the 2nd dose before school entry, or no later than 15 days following child care entry.
	3rd	If 4 weeks or more have passed since the date of the 2nd dose, a child shall receive the 3rd dose before school entry, or no later than 15 days following child care entry.
	4th	If 6 months or more have passed since the date of the 3rd dose, a child shall receive the 4th dose before school entry, or no later than 15 days following child care entry.
	5th or more	If a child received the 4th dose before the child's 4th birthday, A the child shall receive a 5th dose before school entry, or no later than 15 days following child care entry. <u>Exception - A 5th dose is not required if the child received the 4th dose after the child's 4th birthday.</u> If a child received the 4th dose after the child's 4th birthday, the child shall receive a dose of Td 10 years after the date of the last dose.
b. For a Child Aged 7 Years of Age and Older, or An Individual More Than 18 Years of Age: Td – Tetanus Tetanus and Diphtheria containing vaccine (Td) (Pertussis not required <u>indicated</u>)	1st	A child shall receive a 1st dose before school entry.
	2nd	If 4 weeks or more have passed since the date of the 1st dose, a child or an individual more than 18 years of age shall receive the 2nd dose before school entry.

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	3rd	If 6 months or more have passed since the date of the 2nd dose, a child or an individual more than 18 years of age shall receive the 3rd dose before school entry. A child or individual more than 18 years of age shall receive a dose of Td 10 years after the date of the 3rd dose.
2. OPV or IPV – Polio (See Note ¹ below.)	1st	(See Note ¹ below.) A child shall receive the 1st dose before school entry, or no later than 15 days following child care entry.
	2nd	If 4 weeks or more have passed since the date of the 1st dose, a child shall receive the 2nd dose before school entry, or no later than 15 days following child care entry.
	3rd	For a child who has received 2 doses of IPV, OPV, or 1 dose of each, if If 4 weeks or more have passed since the date of the 2nd dose, the child shall receive the 3rd dose of OPV or IPV before school entry, or no later than 15 days following child care entry.
	<u>4th</u>	<u>If 8 weeks or more have passed since the date of the 3rd dose, the child shall receive the 4th dose before school entry.</u> <u>Exception - A 4th dose is not required if the 3rd dose was received after the 4th birthday.</u>
3. MMR - Measles, Mumps, Rubella (See Note ³ below.)	1st	A child who is 12 months of age or older, or an individual more than 18 years of age, shall receive the 1st dose before school entry, or no later than 15 days following child care entry.
	2nd	(See Note ³ below.) If 1 month or more has passed since the date of the 1st dose, a child who is 4 years of age or older shall receive the 2nd dose before school entry, or no later than 15 days following child care entry.
4. Hib - Haemophilus influenzae type b (See Note ² below.) (Not required for individuals aged 5 years <u>of age</u> and older.)	1st <u>through 4th</u>	A child who is <u>less younger</u> than 5 years of age shall receive a dose before school entry, or no later than 15 days following child care entry. (See Note ² below.)
5. Hep B - Hepatitis B (See Note ⁴ below.)	1st	(See Note ⁴ below.) A child shall receive the 1st dose before school entry, or no later than 15 days following child care entry.

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(See Note ⁴ below.)	2nd	If 4 weeks or more have passed since the date of the 1st dose, a child shall receive the 2nd dose before school entry, or no later than 15 days following child care entry.
(See Note ⁴ below.)	3rd	If 2 months or more have passed since the date of the 2nd dose, and 4 months or more have passed since the date of the 1st dose <u>and the child is at least 6 months of age</u> , a child shall receive the 3rd dose before school entry, or no later than 15 days following child care entry. <u>Exception - A child who is 11 through 15 years of age who is receiving the Merck Recombivax HB Adult Formulation vaccine is not required to receive a 3rd dose.</u>
6. Hep A - Hepatitis A Only required for Maricopa County child care	1st	A child who is 24 through 71 months of age shall receive the 1st dose no later than 15 days following child care entry.
	2nd	If 6 months or more have passed since the date of the 1st dose, a child shall receive the 2nd dose no later than 15 days following child care entry.

¹ ~~A child shall receive a 4th dose of OPV or IPV if the 3rd dose was received before the 4th birthday. OPV or IPV Polio vaccine is not required for individuals more than 18 years of age or older for school entry.~~

² ~~A child 0 through 2 months old shall receive the 3 dose Hib series when the child is 2, 4, and 6 months old with a 4th dose when the child is 12-15 months old. A child 3 through 6 months old who is starting the Hib series shall receive 4 doses: 1 dose before entry, the 2nd dose 2 months after the date of the 1st dose, the 3rd dose 2 months after the date of the 2nd dose, and a 4th dose when 12-15 months old. A child 7 through 11 months old who is starting the Hib series shall receive 3 doses: 1 dose before entry, the 2nd dose 2 months after the date of the 1st dose, and a 3rd dose when 12-15 months old. A child 12 through 14 months old who is starting the Hib series shall receive 2 doses: 1 dose before entry, followed by a 2nd dose 2 months or more after the date of the 1st dose, but not before age 15 months. A child 15 through 59 months old who is starting the Hib series shall receive a single dose before entry and does not require another dose.~~

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² A child who begins the Hib series at 7 months of age or older shall receive Hib according to the following schedule:

<u>Current Age (months)</u>	<u>Prior Immunization History</u>	<u>Recommended Regimen</u>
<u>7-11</u>	<u>1 dose</u>	<u>1 dose at 7-11 months of age and a booster at least 2 months later at 12-15 months of age</u>
<u>7-11</u>	<u>2 doses</u>	<u>1 dose at 7-11 months of age and a booster at least 2 months later at 12-15 months of age</u>
<u>12-14</u>	<u>1 dose before 12 months</u>	<u>2 doses administered at least 2 months apart</u>
<u>12-14</u>	<u>2 doses before 12 months</u>	<u>1 dose</u>
<u>15-59</u>	<u>Any incomplete schedule</u>	<u>1 dose</u>

³ According to R9-6-702(B) A a child in kindergarten, 1st, 2nd, or 7th grade shall receive the 2nd MMR before entering school or no later than 15 days following child care entry. A child in any other grade shall receive the 2nd MMR in accordance with the timeline specified in R9-6-701(C).

⁴ According to R9-6-702(B) A a child in kindergarten, 1st, 2nd, or 7th grade shall receive the hepatitis B series before entering, or no later than 15 days following child care entry. A child in any other grade shall receive the hepatitis B series in accordance with the timeline specified in R9-6-701(C).

NOTICE OF PROPOSED RULEMAKING

**TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS;
SECURITIES REGULATION**

CHAPTER 4. CORPORATION COMMISSION - SECURITIES

PREAMBLE

- 1. Sections Affected**
R14-4-132
- Rulemaking Action**
Amend
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statute: A.R.S. § 44-1821
Implementing statutes: A.R.S. §§ 44-1822, 44-1824, 44-1961
Constitutional authority: Arizona Constitution, Article XV, § 4
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**
Notice of Rulemaking Docket Opening: 8 A.A.R. 494, February 1, 2002
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Cheryl T. Farson
Address: Arizona Corporation Commission, Securities Division
1300 W. Washington, 3rd Floor
Phoenix, AZ 85007-2996

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Telephone: (602) 542-4242
Fax: (602) 594-7470
E-mail: cf@ccsd.cc.state.az.us

5. An explanation of the rule, including the agency's reasons for initiating the rule:

A.A.C. R14-4-132 ("rule 132") requires that registered dealers make, maintain, and preserve books and records in compliance with certain specified U.S. Securities and Exchange Commission ("SEC") rules, including 17 CFR 240.17a-3 and 17 CFR 240.17a-4. The SEC has amended 17 CFR 240.17a-3 and 17 CFR 240.17a-4. The amendments will be effective May 2, 2003.

The SEC's books and records rules, promulgated under the Securities Exchange Act of 1934, specify minimum requirements with respect to the records that dealers must make, and how long those records and other documents relating to a dealer's business must be kept. The SEC has required that dealers create and maintain certain records so that, among other things, the SEC, self-regulatory organizations, and state securities regulators may conduct effective examinations of dealers.

The National Securities Market Improvement Act of 1996 prohibits states from establishing books and records rules that differ from, or are in addition to, the SEC's books and records rules.

The Division proposes amending rule 132 to reflect the federal law mandate that state books and records requirements do not differ from the SEC books and records rules and to reflect the SEC's amendments effective May 2, 2003.

6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study, and other supporting material:

None

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

An amendment to rule 132 will not diminish a previous grant of authority.

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

The economic, small business, and consumer impact statement for rule 132 incorporates by reference SEC Release No. 34-44992; File No. S7-26-98, which analyzes the costs, savings, and benefits of amendments to the federal books and records requirements. This analysis is relevant to the Commission's amendment of rule 132 because, by federal mandate, rule 132 is uniform with federal law.

Section 15(h)(1) of the federal Securities Exchange Act of 1934 (15 U.S.C. 78o(h)(1)), adopted in 1996, provides that

No law, rule, regulation, or order, or other administrative action of any State or political subdivision thereof shall establish . . . making and keeping records . . . requirements for . . . dealers . . . that differ from, or are in addition to, the requirements in those areas established under this title.

The SEC has amended two of the rules incorporated in rule 132; the amendments will be effective May 2, 2003. The Commission amends rule 132 to reflect the federal law mandate that state books and records requirements do not differ from the SEC books and records rules and to reflect the SEC's amendments effective May 2, 2003.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Cheryl T. Farson
Address: Arizona Corporation Commission, Securities Division
1300 W. Washington, 3rd Floor
Phoenix, AZ 85007-2996
Telephone: (602) 542-4242
Fax: (602) 594-7470
E-mail: cf@ccsd.cc.state.az.us

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

No proceeding is scheduled. Pursuant to A.R.S. § 41-1023(C), the agency will schedule an oral proceeding if, within thirty days after the published Notice of Proposed Rulemaking, a written request for an oral proceeding is submitted to the individual named in item #4. The Arizona Corporation Commission will take final action at an open meeting with respect to the making of the proposed rule.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

12. Incorporations by reference and their location in the rules:

The following materials are incorporated by reference in rule 132(A):

17 CFR 240.17a-3 (2002)
17 CFR 240.17a-4 (2002) as amended by 66 FR 55817 (2001)
17 CFR 240.15g (2002)
17 CFR 240.15c2-11(2002)

13. The full text of the rule follows:

**TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS;
SECURITIES REGULATION**

CHAPTER 4. CORPORATION COMMISSION - SECURITIES

ARTICLE 1. IN GENERAL RELATING TO THE ARIZONA SECURITIES ACT

Section

R14-4-132. Books and Records of Dealers

ARTICLE 1. IN GENERAL RELATING TO THE ARIZONA SECURITIES ACT

R14-4-132. Books and Records of Dealers

- A.** Unless otherwise provided by order of the Commission, each registered dealer shall make, maintain, and preserve books and records in compliance with U.S. Securities and Exchange Commission rules 17a-3 (17 CFR 240.17a-3 (~~1991~~2002)); and 17-a4 (17 CFR 240.17a-4 (~~1991~~2002)) as amended in Release No. 34-4992, 66 Fed. Reg. 55817 (2001); 15e2-6 15g (17 CFR 240.15e2-6 (~~1991~~240.15g (2002)); and 15c2-11 (17 CFR 240.15c2-11 (~~1991~~2002), as amended in Release No. 34-29094, 56 Fed. Reg. 19148 (1991)) all of which are incorporated herein by reference. Copies of the materials are available from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402, from the Commission, and are on file with the Office of the Secretary of State.
- B.** To the extent that the U.S. Securities and Exchange Commission promulgates changes to the above-referenced rules, dealers in compliance with such rules as amended shall not be subject to enforcement action by the Commission for violation of this rule to the extent that the violation results solely from the dealer's compliance with the amended rule.

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9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Troy Walters, Rules Analyst
Address: Arizona Department of Transportation
Administrative Rules Unit, Mail Drop 507M
3737 N. 7th St., Suite 160
Phoenix, AZ 85014-5017
Telephone: (602) 712-6722
Fax: (602) 241-1624
E-mail: twalters@dot.state.az.us

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of 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 is not scheduled for these proposed rule changes. However, one may be requested by contacting the analyst listed in item #4 of this notice. Written, faxed, or internet comments may also be made by contacting the rules analyst listed in item #4, between the times of 8:00 a.m. and 4:00 p.m., Monday through Friday. If no oral proceeding is requested, the rulemaking's public record will close on June 28, 2002, at 4:00 p.m.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

12. Incorporations by reference and their location in the rules:

None

13. The full text of the rules follows:

TITLE 17. TRANSPORTATION

CHAPTER 5. DEPARTMENT OF TRANSPORTATION - COMMERCIAL PROGRAMS

ARTICLE 4. DEALERS

Section

R17-5-405. Motor Vehicle Dealer Acquisition Contract
R17-5-406. Motor Vehicle Dealer Consignment Contract

ARTICLE 4. DEALERS

R17-5-405. Motor Vehicle Dealer Acquisition Contract

- ~~**A.** General Requirements. The dealer acquisition contract required by A.R.S. § 28-1310.01 shall be prepared and furnished by dealer on dealer's own business form and shall comply with all requirements of this rule.~~
- ~~**B.** Content. The dealer acquisition contract shall contain, but is not limited to, the following information separately stated and in the following order at the beginning of the contract:~~
- ~~1. The heading "Dealer Acquisition Contract".~~
 - ~~2. Dealer name, trade name, and license number.~~
 - ~~3. Dealer business address and phone number.~~
 - ~~4. Vehicle owner name, address, and phone number.~~
 - ~~5. Vehicle identification number, license plate number, licensing state, model, make, and year.~~
 - ~~6. Vehicle title number and titling state.~~
 - ~~7. Lienholder name, address, phone number, and disclosed lien balance, prepayment penalties if any, and any other information relevant to the terms and conditions of repayment of the loan.~~
 - ~~8. Warranty from owner that vehicle is free and clear of all liens and encumbrances except those disclosed and that the amount of the unpaid lien balance is no greater than the disclosed lien balance.~~
 - ~~9. Contract amount and recital that the amount has been paid to owner by dealer or credited against the purchase price of another vehicle sold by dealer to owner.~~
 - ~~10. Statement that owner sells and transfers to dealer the described vehicle.~~
 - ~~11. Authorization from owner to dealer permitting dealer to obtain from lienholder any and all information necessary to verify that stated lien amount is accurate and to assure that the debt is paid and the lien released.~~

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12. ~~Warranty from owner that the registration documentation delivered to dealer is the original and most recently issued registration for listed vehicle.~~
 13. ~~Agreement as to who shall pay off lien amount.~~
 14. ~~Authorization from owner to dealer permitting dealer to obtain the official, original certificate of title from lienholder and to endorse owner's name thereon, if necessary, to transfer title of vehicle to dealer.~~
 15. ~~Agreement by owner that, in the event the certificate of title is received by owner, owner will deliver same to dealer immediately and provide dealer with any signatures and acknowledgments necessary to transfer vehicle to dealer.~~
 16. ~~Date acquisition contract executed.~~
 17. ~~Signature of dealer.~~
 18. ~~Signature of owner.~~
- C.** ~~Any additional contract provisions shall not conflict with nor alter the meaning of the required provisions.~~
- D.** ~~Disposition. Whenever a dealer prepares an acquisition contract as required by this rule, a copy shall be given to the owner of the vehicle. The original contract shall be retained by the dealer at his established place of business for 3 years.~~
- E.** ~~Disclaimer. Compliance with the requirements of this rule is not and shall not be interpreted as nor held out to be approval by the state of Arizona, any of its departments, divisions, agencies, officers, or employees of the contract's fairness, validity, or legality. This rule merely furnishes information which is required to be on a dealer acquisition contract and is not intended to be a complete contract.~~
- A.** Definitions.
1. "Contract" or "Dealer acquisition contract" has the meaning prescribed under A.R.S. § 28-4410(G)(2).
 2. "Dealer" or "Motor vehicle dealer" has the meaning prescribed in A.R.S. § 28-4301(23).
 3. "Division" means the "Motor Vehicle Division" of the Arizona Department of Transportation and any authorized agent.
 4. "Vehicle" or "motor vehicle" has the meaning prescribed under A.R.S. § 28-4301(22).
 5. "Owner" has the meaning prescribed under A.R.S. § 28-101(36)(a), and has the legal right to sell or dispose of a motor vehicle.
 6. "State" means to the "state of Arizona" and all its agencies, political subdivisions, their officers and agents.
- B.** General Requirements. For purposes of A.R.S. § 28-4410, a dealer shall submit a dealer acquisition contract prepared:
1. On the dealer's own business form, and
 2. With contents as prescribed under subsection (C).
- C.** Content. The dealer acquisition contract shall contain the following information in the listed order from the beginning of the contract to its end. This Section does not detail additional statutory requirements for business contracts executed in Arizona:
1. The heading "Dealer Acquisition Contract";
 2. The dealer's name and dealer license number;
 3. The dealer's business address and telephone number;
 4. The owner's name, address, and telephone number;
 5. The vehicle identification number, license plate number; licensing state; model, make, and year;
 6. The lien holder's name, address, telephone number, disclosed lien balance, prepayment penalties, if any, and any other information relevant to the terms and conditions of the lien repayment;
 7. A statement by the owner that the vehicle is free and clear of all liens and encumbrances, except those that have been disclosed; and, the unpaid lien balance is no greater than the disclosed lien balance;
 8. The contracted purchase price and a recital that this amount has either been paid directly to the owner or credited against the purchase price of another vehicle;
 9. A statement indicating that the owner is selling and transferring the described vehicle to the dealer;
 10. An authorization by the owner permitting the dealer to obtain all information necessary to verify the accuracy of the stated lien amount, assure that the debt is paid, and the lien is released;
 11. A statement by the owner that the registration document provided to the dealer is the original and most recent registration issued for the vehicle;
 12. An agreement indicating whether the owner or dealer shall satisfy the lien balance;
 13. An authorization by the owner permitting the dealer to obtain the original title certificate from the lien holder; endorse the owner's name on the title; and if necessary, transfer the title to the dealer;
 14. A statement that if an owner receives the certificate of title, the owner shall immediately deliver the title to the dealer and provide any signature and acknowledgment necessary to complete the title transfer to the dealer;
 15. The date the contract is executed;
 16. The dealer's signature; and
 17. The owner's signature.
- D.** Any additional mandated dealer acquisition contract provisions shall not conflict with nor alter the meaning of the provisions of this Section.

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- E. Disposition. When a dealer prepares a dealer acquisition contract as prescribed under this Section, the dealer shall give a copy to the vehicle's owner and keep the original at the dealer's established place of business for three years.
- F. Disclaimer. The dealer, in complying with this Section, shall not interpret or claim compliance to be an approval by the state of the fairness, validity, or legality of a dealer acquisition contract. This Section only furnishes information required in a dealer acquisition contract and is not intended to detail any additional, contractual requirements defined under other Arizona statutes.

R17-5-406. Motor Vehicle Dealer Consignment Contract

- A. General Requirements.** The dealer consignment contract required by A.R.S. § 28-1310.01 shall be prepared and furnished by dealer on dealer's own business form and shall comply with all requirements of this rule.
- B. Content.** The dealer consignment contract shall contain, but is not limited to, the following information separately stated and in the following order at the beginning of the contract:
 - 1. The heading "Dealer Consignment Contract".
 - 2. Dealer name, trade name, and license number.
 - 3. Dealer business address and phone number.
 - 4. Vehicle owner name, address, and phone number.
 - 5. Vehicle identification number, license plate number, licensing state, model, make, and year.
 - 6. Vehicle title number and titling state.
 - 7. Lienholder name, address, phone number, disclosed lien balance, prepayment penalties, if any, and any other information relevant to the terms and conditions of repayment of the loan.
 - 8. Warranty from owner that vehicle is free and clear of all liens and encumbrances except those disclosed.
 - 9. Authorization from owner to dealer permitting dealer to market and sell vehicle on behalf of owner for mutually agreed upon and specified minimum price.
 - 10. Agreement by dealer to inform any prospective customer that vehicle is on consignment.
 - 11. Agreement by dealer to satisfy all disclosed liens immediately upon receipt of the proceeds from sale of vehicle.
 - 12. Agreement by owner to deliver and reassign certificate of title for vehicle to purchaser properly endorsed and acknowledged upon payment of minimum specified price.
 - 13. Expiration date of consignment contract.
 - 14. Agreement by dealer to deliver vehicle to owner at specified location upon expiration or termination of consignment contract.
 - 15. Agreement by owner to pay any money due dealer upon delivery of the vehicle after expiration or termination of the consignment contract.
 - 16. Date consignment contract executed.
 - 17. Signature of dealer.
 - 18. Signature of owner.
- C.** Any additional contract provisions shall not conflict with nor alter the meaning of the required provisions.
- D.** Disposition. Whenever a dealer prepares a consignment contract as required by this Section, a copy shall be given to the owner of the vehicle. The original shall be retained by the dealer at his established place of business for 3 years after the consignment contract has expired or terminated or the sale of the vehicle is completed.
- E.** Disclaimer. Compliance with the requirements of this rule is not and shall not be interpreted as nor held out to be approval by the state of Arizona, any of its departments, divisions, agencies, officers, or employees of the contract's fairness, validity, or legality. This rule merely furnishes information which is required to be on a dealer consignment contract and is not intended to be a complete contract.
- A. Definitions.**
 - 1. "Contract" or "Dealer consignment contract" has the meaning prescribed under A.R.S. § 28-4410(G)(1).
 - 2. "Dealer" or "Motor vehicle dealer", has the meaning prescribed under A.R.S. § 28-4301(23).
 - 3. "Division" means the "Motor Vehicle Division" of the Arizona Department of Transportation and any authorized agent.
 - 4. "Vehicle" or "motor vehicle" has the meaning prescribed under A.R.S. § 28-4301(22).
 - 5. "Owner" has the meaning prescribed under A.R.S. § 28-101(36)(a), and has the legal right to sell or dispose of a motor vehicle.
 - 6. "State" means the "state of Arizona", all its agencies, political subdivisions, their officers, and agents.
- B. General Requirements.** For purposes of A.R.S. § 28-4410, a dealer shall submit a dealer consignment contract prepared:
 - 1. On the dealer's own business form, and
 - 2. With contents as prescribed under subsection (C).
- C. Content.** The dealer consignment contract shall contain the following information in the listed order from the beginning of the contract to its end. This Section does not detail additional statutory requirements for business contracts executed in Arizona:
 - 1. The heading "Dealer Consignment Contract";

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2. The dealer's name and dealer license number;
 3. The dealer's business address and telephone number;
 4. The vehicle owner's name, address, and telephone number;
 5. The vehicle's identification number, license plate number, licensing state, model, make, and year;
 6. The lien holder's name, address, telephone number, disclosed lien balance, prepayment penalties, if any, and any other information relevant to the terms and conditions of the lien repayment;
 7. A statement by the owner that the vehicle is free and clear of all liens and encumbrances, except those that have been disclosed, and the unpaid lien balance is no greater than the disclosed lien balance;
 8. An authorization by the owner permitting the dealer to market and sell the vehicle on behalf of the owner at a mutually-agreed upon, specified, minimum price;
 9. The agreement by the dealer to inform any prospective purchaser that the vehicle is on consignment;
 10. The agreement by the dealer that, upon receiving the sale proceeds, the dealer shall immediately satisfy all disclosed and specified liens;
 11. An agreement by the owner that, upon the completion of the sale and after receiving the sale proceeds, to promptly deliver and endorse the title certificate for reassignment to the purchaser;
 12. The expiration date of the consignment contract;
 13. An agreement by the dealer to deliver the vehicle to the owner at a specified location upon expiration or termination of the contract;
 14. An agreement by the owner to pay any specified fees due the dealer upon the return of the vehicle, after the expiration or termination of the consignment contract;
 15. The date the contract is executed;
 16. The dealer's signature; and
 17. The owner's signature.
- D.** Any additional mandated dealer consignment contract provisions shall not conflict with nor alter the meaning of the provisions of this Section.
- E.** Disposition. When a dealer prepares a dealer consignment contract as prescribed under this Section, the dealer shall give a copy to the vehicle's owner and keep the original at the dealer's established place of business for three years after the date that the contract has expired, terminated, or the vehicle has been sold.
- F.** Disclaimer. The dealer, in complying with this Section, shall not interpret or claim compliance to be an approval by the state of the fairness, validity, or legality of a dealer consignment contract. This Section only furnishes information required in a dealer consignment contract and is not intended to detail any additional, contractual requirements defined under other Arizona statutes.