

# NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* first as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council or the Attorney General. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Register* after the final rules have been submitted for filing and publication.

## NOTICE OF FINAL RULEMAKING

### TITLE 2. ADMINISTRATION

#### CHAPTER 5. DEPARTMENT OF ADMINISTRATION PERSONNEL ADMINISTRATION

[R08-216]

#### PREAMBLE

- 1. Sections Affected**  
R2-5-101
- Rulemaking Action**  
Amend
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**  
Authorizing statutes: A.R.S. §§ 38-653 and 41-763(2) and (6)  
Implementing statutes: A.R.S. § 38-651 et seq.
- 3. The effective date for the rules:**  
August 30, 2008
- 4. List of all previous notices appearing in the Register addressing the final rules:**  
Notice of Rulemaking Docket Opening: 14 A.A.R. 1101, April 4, 2008  
Notice of Proposed Rulemaking: 14 A.A.R. 1132, April 11, 2008
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**  
Name: Jeanne Hann  
Address: Department of Administration  
100 N. 15th Ave., Ste. 363  
Phoenix, AZ 85007  
Telephone: (602) 542-2006  
Fax: (602) 542-7544  
E-mail: Jeanne.hann@azdoa.gov
- 6. An explanation of the rules, including the agency's reasons for initiating the rulemaking:**  
The Department is adding a definition of "older child" and amending the definition of "eligible dependent" to include an older child. This will enable certain older children to participate in the insurance plans made available by the Department.
- 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:**  
None
- 8. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:**  
Not applicable
- 9. The summary of the economic, small business, and consumer impact:**  
This rule change affects only state agencies and those who participate in the insurance plans made available by the Department. It does not directly impact small businesses or consumers. The anticipated economic impact is due to

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claims that will be made by the older children to whom insurance coverage is provided. The Department projects these costs to be approximately \$1.9 million.

**10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

The Department made minor, non-substantive changes between the proposed and final rules. Minor formatting changes were made at the request of G.R.R.C. staff.

**11. A summary of the comments made regarding the rules and the agency response to them:**

The Department received no comments regarding the rules.

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

None

**13. Incorporations by reference and their location in the rule:**

None

**14. Were these rules previously made as emergency rules?**

No

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

TITLE 2. ADMINISTRATION

CHAPTER 5. DEPARTMENT OF ADMINISTRATION  
PERSONNEL ADMINISTRATION

ARTICLE 1. GENERAL

Section  
R2-5-101. Definitions

ARTICLE 1. GENERAL

**R2-5-101. Definitions**

The following words and phrases have the defined meanings unless otherwise clearly indicated by the context.

1. No change
2. No change
3. No change
4. No change
5. No change
6. No change
7. No change
8. No change
9. No change
10. No change
  - a. No change
    - i. No change
    - ii. No change
    - iii. No change
    - iv. No change
    - v. No change
  - b. No change
    - i. No change
    - ii. No change
    - iii. No change
    - iv. No change
    - v. No change
  - c. No change
  - d. No change
11. No change
12. No change

- a. No change
- b. No change
- 13. No change
- 14. No change
- 15. No change
- 16. No change
- 17. No change
- 18. No change
- 19. No change
- 20. No change
- 21. No change
- 22. No change
  - a. No change
  - b. No change
  - c. No change
  - d. No change
  - e. No change
  - f. No change
  - g. No change
  - h. No change
  - i. No change
  - j. No change
    - i. No change
    - ii. No change
    - iii. No change
    - iv. No change
    - v. No change
    - vi. No change
    - vii. No change
- 23. “Eligible dependent” means the employee-member’s, retiree’s, or former elected official’s spouse under Arizona law, ~~or domestic partner, or an unmarried child, or older child.~~
- 24. No change
- 25. No change
- 26. No change
- 27. No change
- 28. No change
- 29. No change
- 30. No change
- 31. No change
- 32. No change
- 33. No change
- 34. No change
- 35. No change
- 36. No change
- 37. No change
- 38. No change
  - a. No change
  - b. No change
  - c. No change
- 39. No change
- 40. No change
- 41. No change
- 42. No change
- 43. “Older child” means an individual who:
  - a. Is younger than 25 years old.
  - b. Is unmarried.
  - c. Was covered by a health insurance plan made available by the Department during the year that the individual was 18 years old, and
  - d. Resides in Arizona, if the individual is:

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- i. A natural child, adopted child, or stepchild of an employee, officer, retiree, or former elected official;
- ii. A natural child, adopted child, or stepchild of a domestic partner; or
- iii. A child for whom an employee, officer, retiree, or former elected official received a court-ordered guardianship when the child was 18 years old or younger.

- 43-44. No change
- 44-45. No change
- 45-46. No change
- 46-47. No change
- 47-48. No change
- 48-49. No change
- 49-50. No change
- 50-51. No change
- 51-52. No change
- 52-53. No change
- 53-54. No change
- 54-55. No change
- 55-56. No change
- 56-57. No change
  - a. No change
  - b. No change
  - c. No change
  - d. No change
- 57-58. No change
- 58-59. No change
- 59-60. No change
- 60-61. No change
- 61-62. No change
- 62-63. No change
- 63-64. No change
- 64-65. No change
- 65-66. No change
- 66-67. No change
- 67-68. No change
- 68-69. No change
- 69-70. No change
- 70-71. No change
- 71-72. No change
- 72-73. No change
- 73-74. No change

**NOTICE OF FINAL RULEMAKING**

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 1. BOARD OF ACCOUNTANCY**

[R08-218]

**PREAMBLE**

- |  |  |
|--|--|
| <b>1. <u>Section Affected</u></b><br>R4-1-453  | <b><u>Rulemaking Action</u></b><br>Amend |
| <b>2. <u>The specific statutory authority for the rulemaking, including both the authorizing statute (general) and the implementing statutes (specific):</u></b> |  |
| Authorizing statutes: A.R.S. § 32-703(B)(13)   |  |
| Implementing statutes: A.R.S. §§ 32-703(B)(4) and 32-730(D)  |  |

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

The effective date is January 1, 2009. This will avoid violation of the new provisions, educating registrants regarding the rule and allowing time for registrants to become compliant with the rule. The public will not be harmed by the delayed effective date, since it is in the best interest of the public that registrant be informed about the rule.

**4. A list of all previous notices appearing in the Register addressing the final rule:**

Notice of Rulemaking Docket Opening: 14 A.A.R. 845, March 21, 2008

Notice of Proposed Rulemaking: 14 A.A.R. 802, March 21, 2008

**5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Valerie M. Elliott, Executive Director

Address: Board of Accountancy  
100 N. 15th Ave., Suite 165  
Phoenix, AZ 85007

Telephone: (602) 364-0804

Fax: (602) 364-0903

E-mail: velliott@azaccountancy.gov

or

Name: Jim Dube, Deputy Director

Address: Board of Accountancy  
100 N. 15th Ave., Suite 165  
Phoenix, AZ 85007

Telephone: (602) 364-0804

Fax: (602) 364-0903

E-mail: jdube@azaccountancy.gov

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

The Board is amending the continuing professional education (CPE) rule, requiring that all certified public accountants complete 80 hours, not just those in public accounting, requiring 16 hours to be live or interactive CPE, and requiring 16 hours in accounting, auditing or taxation. These changes ensure that all CPAs are held to the same standards.

**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:**

None

**8. 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:**

Not applicable

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

The Board is amending the continuing professional education rule, requiring all certified public accountants to complete 80 hours and 16 of the 80 hours must be live or interactive CPE, and 16 of the 80 hours must be in accounting, auditing, or taxation. The costs to the Board will be minimal. The costs to the certified public accountants will be moderate. Certified public accountants not in public accounting who currently take less than 80 hours will bear the costs for the additional continuing education courses. Certified public accountants who currently take only self-study courses will bear the burden of any cost difference for taking the 16 hours of live or interactive CPE proposed in the rule. Certified public accountants who currently take less than 16 hours of accounting, auditing or taxation courses will bear the burden of any cost difference between those courses and management advisory or business law courses. The benefit to the public is that all active certified public accountants in Arizona will have to meet the same requirements for renewing their certificates.

**10. A description of the changes between the proposed rule, including supplemental notices, and the final rule (if applicable):**

The primary purpose of the rulemaking, as stated in item six, is to amend the continuing professional education (CPE) rule, requiring that all certified public accountants complete 80 hours, requiring 16 hours to be live or interactive CPE, and requiring 16 hours in accounting, auditing or taxation. The portion of the rule dealing with members of the accounting, taxation and peer review oversight advisory committees earning continuing professional education hours for their service was removed due to the concern that the Board does not have clear statutory authority to compensate members of the advisory committees in such a manner. This provision would only impact certified public accountants

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who serve on the accounting and auditing, taxation and peer review oversight advisory committee and elect to claim credit for their service, since the proposed rule stated a registrant “may report eight hours of continuing education for service...”. Also, non-substantive changes were made by throughout the rule to improve clarity, grammar, or consistency as suggested by G.R.R.C. staff.

**11. A summary of the comments made regarding the rules and the agency response to them:**

The Board held an oral proceeding on April 22, 2008 at 8:30 a.m. in the Board offices at 100 N. 15th Ave., Suite 165, Phoenix, AZ 85007, no one appeared. The Board received five e-mails, two of which were outside the comment period. The comments addressed concern about the cost of the continuing professional education classes and the implementation date of the rule. The Board understands the concern about the cost, but the Board, registered accounting firms, and members of the public gain intangible benefits from having certified public accountants who receive continuing professional education in core knowledge areas of accounting, auditing and taxation; who learn in an interactive environment; and obtain the same level of education. The second concern raised was the implementation date of the rule, the Board is providing at least six months of advance notice to registrants of the rule change by requesting a delayed implementation date of January 1, 2009. The rolling implementation date requested by the comments would be an administrative burden, since each certified public accountant, approximately 10,275, would have his or her own implementation date. In addition, the Board has made previous changes to the continuing professional education rule with a six month delayed implementation date without any negative impact to the registrants.

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

Not applicable

**13. Any material incorporated by reference and its location in the text:**

None

**14. Was this rule previously made as an emergency rule:**

No

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

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 1. BOARD OF ACCOUNTANCY**

**ARTICLE 4. REGULATION**

Section

R4-1-453. Continuing Professional Education

**ARTICLE 4.REGULATION**

**R4-1-453. Continuing Professional Education**

**A.** ~~Continuing professional education includes~~ “Continuing professional education,” “CPE,” or “continuing education” means attendance at classes, authorship of articles, conducting or teaching courses, and self-study courses if they contribute to the maintenance and improvement of professional competence in accounting.

**B.** No change

1. No change

2. Courses taken at colleges and universities ~~described in R4-1-231~~ apply toward the CPE requirement as follows:

a. No change

b. No change

c. No change

3. No change

4. No change

5. No change

a. No change

b. No change

6. No change

7. No change

**C.** No change

1. No change

a. No change

b. No change

c. No change

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- d. No change
- 2. No change
- 3. No change
- D. Hour Requirement. A registrant shall complete the ~~hour~~ CPE requirements as specified under subsections ~~(4)~~ (D)(1) through ~~(9)~~ (D)(9) below as applicable. ~~The registrant shall ensure that a minimum of 50% of any required credit hours are in the subject areas of accounting, auditing, taxation, business law, or management advisory services, including the following credit hours required under subsections (D)(1) through (9):~~
  - 1. ~~Registrants in public practice~~ A registrant whose last renewal period was for two years shall complete 80 ~~credit~~ hours of CPE during the two-year period immediately preceding ~~biennial~~ registration renewal.
  - 2. ~~Registrants for registration renewal~~ A registrant who ~~have~~ has been certified for less than two years shall complete 10 ~~credit~~ hours of CPE for every three months registered before registration renewal.
  - 3. ~~Registrants~~ A registrant who neither ~~reside~~ resides nor ~~practice~~ practices accounting in Arizona ~~are~~ is required to fulfill Arizona's CPE ~~requirement~~ requirements before ~~renewing their registrations~~ registration renewal.
  - 4. ~~Registrants not engaged in public accounting practice, who do not perform public accounting services for compensation, shall complete 60 hours of CPE during the two year period immediately preceding registration renewal.~~
  - 4. A registrant shall complete a minimum of 50% of the required hours in the subject areas of accounting, auditing, taxation, business law, or management advisory services with a minimum of 16 hours in the subject areas of accounting, auditing or taxation. If a registrant has been certified for less than two years, the Board shall reduce the required hours on a prorated basis.
  - 5. A registrant shall complete a minimum of 16 hours of the required hours in a classroom setting or through an interactive webinar during the two-year period immediately preceding registration renewal. If a registrant has been certified for less than two years, the Board shall reduce the required hours on a prorated basis.
  - 5.6. A registrant shall complete four hours of CPE in the subject area of ethics during the two-year period immediately preceding registration renewal. ~~The four hour requirement~~ four hours required by this subsection shall include a minimum of one hour of each of the following subjects:
    - a. Ethics related to the practice of accounting including the ~~American Institute of Certified Public Accountants Professional Code of Professional Conduct of the American Institute of Certified Public Accountants~~; and
    - b. Board statutes and administrative rules.
  - 6. ~~Registrants entering public accounting practice shall notify the Board. The registrant shall complete a total of 80 credit hours of CPE before practicing public accounting. CPE hours taken to satisfy the registrant's current biennial registration may be used toward meeting this requirement. The additional CPE hours submitted in support of this requirement may not be used to meet the CPE credit hour requirement for the next biennial registration. Once entered, the registrant shall complete the applicable hours required for registration.~~
  - 7. A registrant who is retired, is age 60 or more, and does not perform any accounting services, whether or not participating in the profits of a public accounting entity, does not need to complete any CPE for registration renewal.
  - 8. ~~Applicants~~ An applicant for reinstatement following the suspension of a certificate pursuant to A.R.S. § 32-741(C) shall complete any deficiency in CPE not to exceed 80 ~~credit~~ hours. CPE hours used to meet the reinstatement requirement may not be used to meet the CPE ~~credit~~ hour requirement requirements for the next biennial registration. An applicant whose suspension has extended beyond the next biennial registration period shall complete the deficiency which resulted in the suspension as well as the 80 ~~credit~~ hours required for re-registration.
  - 9. ~~Applicants~~ An applicant for reinstatement following the suspension of a certificate, other than that described in subsection (D)(8), shall complete the ~~applicable credit~~ 80 hour requirement for registration. The CPE hours used to meet the reinstatement requirement may not be used to meet the CPE ~~credit~~ hour requirement requirements for the next biennial registration. For purposes of this subsection, an applicant whose suspension was for reasons other than non-registration and whose suspension has extended beyond two registration periods (four years) is not required to report more than 160 hours of CPE.
  - 10. The Board may grant a partial or complete exemption from the CPE ~~requirement~~ requirements to an individual registrant who makes a written request in which good cause is shown. Good cause includes permanent or partial disability, illness or other physical or mental condition, military service, or financial hardship ~~which that~~ prevented the individual registrant from completing the CPE ~~requirement~~ requirements.
  - 11. A registrant shall report total CPE ~~credit~~ hours completed during the registration renewal period. ~~Credit hours in excess of Hours that exceed~~ the number required for the current registration renewal period may not be carried forward to a subsequent registration renewal period.
- E. Reporting: ~~Applicants for initial registration, renewal, reinstatement or~~ An applicant for reinstatement or renewal or a registrant who ~~are~~ is subject to an audit may provide a signed statement, certifying under penalty of perjury, ~~of that~~ the applicant or registrant has completed the CPE ~~programs for which they apply for credit requirements~~. This statement shall show list:
  - 1. No change
  - 2. No change

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- 3. No change
- 4. No change
- F. CPE Record Retention: ~~Applicants~~ A registrant shall maintain for three years and provide the Board upon request the following documents: course outlines, proof of attendance or participation, and written proof of completion.

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**TITLE 8. EMERGENCY AND MILITARY AFFAIRS**

**CHAPTER 4. ARIZONA EMERGENCY RESPONSE COMMISSION**

[R08-217]

**PREAMBLE**

- 1. Sections Affected**

Article 1	<b><u>Rulemaking Action</u></b>
R8-4-101	New Article
R8-4-102	New Section
R8-4-103	New Section
R8-4-104	New Section
R8-4-105	New Section
R8-4-106	New Section
R8-4-107	New Section
R8-4-108	New Section
R8-4-109	New Section
R8-4-110	New Section
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 26-343(I)  
Implementing statute: A.R.S. §§ 26-341 et seq.
- 3. The effective date for the rules:**

August 30, 2008
- 4. List of all previous notices appearing in the Register addressing the final rules:**

Notice of Rulemaking Docket Opening: 14 A.A.R. 1101, April 4, 2008  
Notice of Proposed Rulemaking: 14 A.A.R. 1139, April 11, 2008
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Mark Howard, Executive Director  
Address: Arizona Emergency Response Commission  
5636 E. McDowell Road  
Phoenix, AZ 85008  
Telephone: (602) 231-6346  
Fax: (602) 392-7519  
E-mail: Mark.howard@azdema.gov
- 6. An explanation of the rules, including the agency's reasons for initiating the rulemaking:**

The Commission is making rules regarding emergency planning required of Local Emergency Planning Committees, reports required from facilities that have extremely hazardous substances or hazardous chemicals onsite, and the community's right to know about these substances and chemicals. The Commission is also making a rule regarding grants to local governments for use in complying with EPCRA (see A.R.S. § 26-343(H)).
- 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:**

None



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- 8. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:**  
Not applicable
- 9. The summary of the economic, small business, and consumer impact:**  
The economic, small business, and consumer impact of these rules will be minimal because the rules simply clarify procedures required or authorized by state and federal law.
- 10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**  
Minor, non-substantive, and clarifying changes were made between the proposed and final rules at the request of G.R.R.C. staff.
- 11. A summary of the comments made regarding the rules and the agency response to them:**  
An oral proceeding was held. No comments were made regarding the rules.
- 12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**  
None
- 13. Incorporations by reference and their location in the rule:**  
42 U.S.C. 11001(c), October 17, 1986, U.S. Government Printing Office, U.S. Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250, incorporated at R8-4-103  
40 CFR 370, Subpart B, July 1, 2007, U.S. Government Printing Office, U.S. Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250, incorporated at R8-4-107
- 14. Were these rules previously made as emergency rules?**  
No
- 15. The full text of the rules follows:**

**TITLE 8. EMERGENCY AND MILITARY AFFAIRS**

**CHAPTER 4. ARIZONA EMERGENCY RESPONSE COMMISSION**

**ARTICLE 1. EMERGENCY PLANNING AND COMMUNITY RIGHT TO KNOW**

Section	
<u>R8-4-101.</u>	<u>Definitions</u>
<u>R8-4-102.</u>	<u>General Provisions</u>
<u>R8-4-103.</u>	<u>Responsibilities of an LEPC</u>
<u>R8-4-104.</u>	<u>Emergency Planning and Preparedness</u>
<u>R8-4-105.</u>	<u>Local Emergency Response Plan</u>
<u>R8-4-106.</u>	<u>Reportable Release Notification</u>
<u>R8-4-107.</u>	<u>EHS or Hazardous Chemical Reporting</u>
<u>R8-4-108.</u>	<u>Compliance Procedures</u>
<u>R8-4-109.</u>	<u>Community Right-to-know Procedures</u>
<u>R8-4-110.</u>	<u>Grants</u>

**ARTICLE 1. EMERGENCY PLANNING AND COMMUNITY RIGHT TO KNOW**

**R8-4-101. Definitions**

- A.** The definitions in A.R.S. § 26-341 apply to this Chapter.
- B.** In this Article, unless specified otherwise:
1. “Emergency planning district” means an area that the Commission designates to facilitate preparing and implementing an emergency response plan.
  2. “EPA” means the United States Environmental Protection Agency.
  3. “EPCRA” means the Emergency Planning and Community Right-to-Know Act of 1986, commonly known as SARA Title III.
  4. “FD” means local fire department or the fire district with jurisdiction for a particular facility.
  5. “Hazardous substance” means a substance on the list that appears at 40 CFR 302.4.
  6. “LEPC” means “Committee.” as prescribed at A.R.S. § 26-341(2).
  7. “MSDS” means material safety data sheet and has the same meaning as prescribed at 40 CFR 370.02.
  8. “NIMS” means National Incident Management System.

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9. "Reportable release" means a release that is not excluded under 40 CFR 355.40.
10. "TPQ" means threshold planning quantity and has the same meaning as prescribed at 40 CFR 355.20.

**R8-4-102. General Provisions**

- A.** The Commission shall make all forms referenced in this Chapter available on its internet site.
- B.** The owner or operator of a facility that is required to submit information under this Article may submit the information electronically to the Commission and LEPC and to the FD if, as indicated on the Commission's web site, the FD has entered into an agreement with the Commission regarding electronic submission.
- C.** When the chair of an LEPC forwards to the Commission an item requiring action by the Commission before its next meeting, the Executive Director of the Commission shall respond to the LEPC on behalf of the Commission until the Commission takes action at its next meeting.

**R8-4-103. Responsibilities of an LEPC**

- A.** Members of an LEPC shall fulfill the responsibilities listed at 42 U.S.C. 11001(c), October 17, 1986, which is incorporated by reference, contains no future editions or amendments, and is available from the Commission and the U.S. Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250.
- B.** In addition to the responsibilities under subsection (A), members of an LEPC shall:
  1. Establish procedures for access to the Local Emergency Response Plan;
  2. Evaluate the resources needed to develop and implement the Local Emergency Response Plan and make recommendations to the County Board of Supervisors and the Commission regarding mechanisms to provide the resources needed;
  3. Ensure that newly appointed LEPC members participate in training provided by the Commission regarding the responsibilities of LEPC members; and
  4. Ensure that LEPC members are aware of and have the opportunity to attend Commission-sponsored meetings regarding matters related to emergency planning and preparedness.

**R8-4-104. Emergency Planning and Preparedness**

- A.** If a facility is required to comply with 40 CFR 355.30, the owner or operator of the facility shall also comply with the emergency planning and preparedness requirements in this Section.
- B.** If a facility is designated by the Commission under A.R.S. § 26-347(B), the owner or operator of the facility shall comply with the emergency planning and preparedness requirements in this Section and the reporting requirements of R8-4-107.
- C.** No later than 60 days after a facility first becomes subject to the emergency planning and preparedness requirements of this Section, the owner or operator of the facility shall submit a facility emergency response plan according to A.R.S. § 26-347(D). The owner or operator of the facility may submit the facility emergency response plan by completing and submitting an Emergency Response Plan Questionnaire, which is available from the Commission.
- D.** The owner or operator of a facility that submits an Emergency Response Plan Questionnaire under subsection (C) may also submit a Hazard Analysis Worksheet for each extremely hazardous substance at the facility that equals or exceeds the TPQ.
- E.** On or before March 1 of each year, the owner or operator of a facility described in subsection (A) or (B) shall:
  1. Review and determine whether the facility emergency response plan submitted under subsection (C) is still accurate and, if changes are needed to ensure that the facility emergency response plan is accurate, submit information regarding the relevant changes. If information regarding relevant changes to the facility emergency response plan is submitted, the owner or operator of the facility may revise and submit the Hazard Analysis Worksheet previously submitted under subsection (D); and
  2. Comply with R8-4-107(C).

**R8-4-105. Local Emergency Response Plan**

- A.** Within 12 months after the Commission designates a new emergency planning district and appoints members of an LEPC for the newly designated emergency planning district, the LEPC shall prepare an emergency response plan that complies with the requirements at A.R.S. § 26-345(E) and complies with NIMS.
- B.** On or before December 31 of each year and when there are changed circumstances in the community or at a facility, an LEPC shall review and update the emergency response plan for its emergency planning district.
- C.** An LEPC shall submit a copy of the emergency response plan prepared under subsection (A) or (B) to the Commission.
- D.** Within 60 days after the Commission receives a copy of an emergency response plan under subsection (C), the Commission staff shall:
  1. Review the emergency response plan and make recommendations for revisions necessary to ensure that the emergency response plan complies with law and coordinates with the emergency response plans of adjoining emergency planning districts; and
  2. Return the emergency response plan and recommendations to the LEPC.
- E.** An LEPC shall ensure that the emergency response plan prepared under subsection (B) and reviewed and amended under subsection (D) is incorporated into the county's emergency operations plan in accordance with county procedures.

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- F. At least biennially and after providing at least 30 days notice to the Commission, an LEPC shall conduct an exercise of its emergency response plan.
- G. On or before December 31 of each year, an LEPC shall survey its emergency planning district to determine how many copies of the U.S. Department of Transportation Emergency Response Guidebook are needed and forward the information regarding the number of copies needed to the Commission.

**R8-4-106. Reportable Release Notification**

The owner or operator of a facility at which a reportable release occurs shall:

1. Comply with the notification requirements of A.R.S. § 26-348(A);
2. Submit the written follow-up emergency notice required under A.R.S. § 26-348(B); and
3. Update the notice provided under subsection (2) as required under A.R.S. § 26-348(C).

**R8-4-107. Extremely Hazardous Substance or Hazardous Chemical Reporting**

- A. The owner or operator of a facility shall comply with the extremely hazardous substance and hazardous chemical reporting requirements of 40 CFR 370, Subpart B, July 1, 2007, which is incorporated by this reference, contains no later amendments or editions, and is available from the Commission and the U.S. Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250.
- B. As required by A.R.S. § 26-350, an owner or operator described in subsection (A) shall submit a Tier Two Emergency and Hazardous Chemical Inventory Form, using a form available from the Commission, by March 1 of each year.
- C. If a facility ceases to meet the minimum reporting thresholds of 40 CFR 370, Subpart B, for EHS and hazardous chemical reporting with regard to a specific EHS or hazardous chemical, the owner or operator of the facility may submit a notice to the Commission, LEPC, and FD indicating that the specific EHS or hazardous chemical is no longer present in a quantity that meets the minimum reporting threshold.

**R8-4-108. Compliance Procedures**

- A. The Commission shall make information regarding the EPCRA available to the owner or operator of a facility.
- B. The owner or operator of a facility may obtain guidance, but not legal advice, regarding complying with the EPCRA by contacting the Commission.

**R8-4-109. Community Right-to-know Procedures**

- A. To obtain information regarding a specific hazardous chemical or extremely hazardous substance at a specific facility, local emergency response plan, or notice regarding a reportable release, a person shall submit a written request to the Commission or LEPC. If a request is submitted to an LEPC, the LEPC may forward a copy of the request to the Commission so Commission staff can coordinate a response to the request. To obtain a copy of a Form R relating to toxic chemical releases, a person shall submit a written request to the Commission.
- B. As required by 42 U.S.C. 11022, the Commission or LEPC shall respond to a written request for information. The response shall advise the person making the request of one of the following:
  1. The time and location at which the person may inspect and copy the requested information.
  2. That additional information is needed to process the request.
  3. That the requested information is not available but the Commission or LEPC will ask the owner or operator of the facility to provide the information, or
  4. That the request is denied because:
    - a. The requested information does not exist.
    - b. The owner or operator of the facility is not required to provide the information.
    - c. The Commission or LEPC determined that disclosing the information will impair its ability to protect public health or safety and the public interest in nondisclosure outweighs the public interest in disclosure, or
    - d. The information is exempt by law from disclosure.
- C. Before releasing information, the Commission or LEPC shall advise the owner or operator of a facility of the request for information regarding the facility.
- D. Under A.R.S. § 39-121, the Commission or LEPC shall charge the person making a request under this Section the cost of reproducing the information requested. The Commission shall deposit the funds received under this subsection in accordance with A.R.S. § 26-343(G).

**R8-4-110. Grants**

- A. On or before September 1 of each year, the Commission shall provide notice that is consistent with A.R.S. § 41-2702 to all LEPCs regarding grants that are available from the Commission.
- B. To receive funds that are awarded on a non-competitive basis, an LEPC shall submit a "Certification and Request for Funding" form in which the LEPC certifies that it:
  1. Is in compliance with all applicable law, including NIMS;
  2. Will use the funds in the manner intended;
  3. Will keep separate funds from the Emergency Response Fund and funds from other sources; and
  4. Will submit all required reports.

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- C.** To receive grant funds that are awarded on a competitive basis, an LEPC shall submit to the Commission a proposal that specifies:

  - 1. The goal that the LEPC intends to accomplish with any grant funds received.
  - 2. Where the grant funds will be spent.
  - 3. The amount of grant funds needed to accomplish the goal.
  - 4. The time needed to accomplish the goal, and
  - 5. Other information that the Commission requests to assist the Commission to evaluate the grant proposal.
- D.** On behalf of the Commission, Commission staff shall meet at least annually with members of the LEPCs to establish the criteria used to evaluate a grant proposal. Commission staff, on behalf of the Commission, shall evaluate each proposal that is timely received using the criteria established. The Commission shall ensure that the criteria used include consideration of both the qualification of and need for an LEPC to receive a grant.

  - 1. The criteria regarding qualification of an LEPC to receive a grant may include:
    - a. The extent to which the LEPC fulfilled the responsibilities listed in R8-4-103;
    - b. Whether the LEPC complied with all provisions of R4-8-104;
    - c. Whether the LEPC submitted all reports required for grant funds previously received;
    - d. Whether previously received grant funds were used in a manner that achieved the goal established;
    - e. Attendance by LEPC members at Commission-sponsored meetings; and
    - f. The number of training sessions provided by LEPC members to emergency responders in the emergency planning district; and
  - 2. The criteria regarding need for an LEPC to receive a grant may include:
    - a. The number of facilities required to report to the LEPC under this Chapter;
    - b. The population represented by the LEPC; and
    - c. The number of reportable releases during the past year in the area represented by the LEPC.
- E.** Within 60 days after the grant-proposal deadline specified in the notice of grant availability, the Commission shall provide written notice to each LEPC that applies for grant funds regarding whether grant funds will be awarded and if so, the amount awarded.
- F.** An LEPC that receives grant funds shall submit progress reports to the Commission on dates prescribed by the Commission. The LEPC shall include in each progress report a summary of the work done to accomplish the goal stated in the grant proposal and a detailed accounting of the expended and remaining grant funds.