

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

NOTICE OF PROPOSED RULEMAKING

TITLE 3. AGRICULTURE

CHAPTER 2. DEPARTMENT OF AGRICULTURE ANIMAL SERVICES DIVISION

[R08-365]

PREAMBLE

1. Sections Affected

R3-2-901
R3-2-903
R3-2-906
R3-2-907
R3-2-908

Rulemaking Action

Amend
Amend
Amend
New Section
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. § 3-107

Implementing statute: A.R.S. § 3-710

3. A list of all previous notices appearing in the *Register* addressing the proposed rule:

Notice of Rulemaking Docket Opening: 14 A.A.R. 4265, November 14, 2008 (*in this issue*)

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

Name: Carlos Ramírez, Rules Analyst

Address: Department of Agriculture
1688 W. Adams St., Room 235
Phoenix, AZ 85007

Telephone: (602) 542-0962

Fax: (602) 542-5420

E-mail: cramirez@azda.gov

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

The Arizona Department of Agriculture is proposing to amend its rules dealing with eggs and egg products controls as well as add new rules to implement new guidelines for the production of shell eggs in this state. The proposed amendments are authorized under statutory provisions made under SB1373, approved during the 2008 legislative session.

Under the proposed amendments, all caged egg-laying hens in the state shall be required to be raised according to the United Egg Producers (UEP) Animal Husbandry Guidelines. These guidelines were created as best management practices by the egg production industry to ensure the safe consumption of quality-produced eggs as well as recognizing the growing concern for animal welfare. Additionally, all eggs sold in this state shall be required to be produced by a company whose flocks are certified under the UEP certification program, and all eggs shall display the UEP-Certified logo on their cases, cartons, and containers. An exemption would be made for egg producers operating or controlling the operation of one or more egg ranches if each ranch has fewer than 20,000 egg-laying hens that produce eggs, as authorized specifically by statute. Under the proposed amendments, all egg producers in Arizona shall also meet the facility and sanitary operation requirements prescribed by the Regulations Governing the Voluntary Grading of Shell Eggs, 7 CFR 56, effective March 30, 2008.

Notices of Proposed Rulemaking

Additional supporting amendments to prescribe definitions of terms, sampling and inspection guidelines, and violations and penalties will also be made to the rules to make them consistent with the proposed amendments.

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

None

7. A showing of good cause why the 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

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

The Department believes the proposed rulemaking will have a moderate economic impact on the Department and a substantial economic impact on some caged-facility egg producers that sell shell eggs in Arizona and retailers that sell these eggs. The Department will assume responsibility for enforcement and inspection of the proposed production, labeling, and sanitation requirements, which will be added to the duties of the Department's egg inspectors. The proposed rulemaking will also require large caged-facility shell egg producers to become UEP certified and identify their product as such in order to sell in Arizona. The Department does not believe the proposed rulemaking will significantly affect caged-facility egg producers in this state, since it is believed that all applicable producers are already UEP certified, and will therefore not affect employment or state revenue. The proposed rulemaking will also have a minimal effect on affiliates of local egg producers, particularly egg packaging manufacturers that will have to include certification information on their packaging. Alterations to packaging do not require substantial modifications to packaging equipment and can be altered with relative ease and minimal cost.

The Department is unsure of how many large out-of-state caged-facility egg producers who currently sell shell eggs in Arizona are not presently UEP certified. An informal survey of retailers in the state by the Department's egg inspectors showed a range of 0% to 85% of eggs offered for sale that came from caged-facility egg producers were not identified as UEP certified. But many of these eggs may be from UEP certified companies that are not currently using the UEP certified logo on their packaging. The cost of adding the logo is minimal. There would be a substantial economic impact on any out-of-state company subject to the proposed rulemaking that could no longer sell shell eggs in Arizona as a result of not being UEP certified. The Department is aware of at least one large out-of-state company likely to be subject to the proposed rulemaking that is not currently UEP certified. There would also be a corresponding substantial economic impact for UEP certified companies that increase shell egg sales in Arizona to buyers who previously purchased from non-UEP certified companies. Nonetheless, the Department believes there are no alternative methods of achieving the objectives of the proposed rulemaking and holds that the benefits of the rulemaking outweigh any costs. The proposed rulemaking will not affect public or private employment, small businesses, or the state's general fund.

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: Carlos Ramírez, Rules Analyst
Address: Department of Agriculture
1688 W. Adams St., Room 235
Phoenix, AZ 85007
Telephone: (602) 542-0962
Fax: (602) 542-5420
E-mail: cramirez@azda.gov

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

The Department will conduct an oral proceeding to receive comments on the proposed rulemaking as follows:

Date: December 18, 2008
Time: 10:00 a.m.
Location: Department of Agriculture
Conference Room 206
1688 W. Adams St.
Phoenix, AZ 85007

The rulemaking record will close on December 18, 2008 at 4:30 p.m. A person may submit written comments on the proposed rulemaking to the individual listed in items 4 and 9 above until the close of the rulemaking record.

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:

Under R3-2-901, the definition for “United Egg Producers Animal Husbandry Guidelines” is incorporated from the United Egg Producers Guidelines for U.S. Egg Laying Flocks, 2008 Edition.

R3-2-908 incorporates the facility and sanitary operation standards prescribed by the Regulations Governing the Voluntary Grading of Shell Eggs, 7 CFR 56, effective March 30, 2008.

13. The full text of the rule follows:

TITLE 3. AGRICULTURE

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

ARTICLE 9. EGG AND EGG PRODUCTS CONTROL

Section

- R3-2-901. Definitions
- R3-2-903. Sampling: Schedule and Methods for Evidence
- R3-2-906. Violations and Penalties
- R3-2-907. Poultry Husbandry: Standards for Production of Eggs
- R3-2-908. Sanitary Standards: Egg Processing

ARTICLE 9. EGG AND EGG PRODUCTS CONTROL

R3-2-901. Definitions

In addition to the definitions provided in A.R.S. §§ 3-701, 3-702, 3-703 and 3-704, the following shall apply to this Article:

- 1- “Lot” means any quantity of two or more eggs.
- 2- “Spot-check” sample means any sample less than a representative sample described in the chart in R3-2-903(B).
“United Egg Producers Animal Husbandry Guidelines” means the United Egg Producers Animal Husbandry Guidelines for U.S. Egg Laying Flocks, 2008 Edition. This material is incorporated by reference, does not include any later amendments or editions, and is available for inspection at the Department of Agriculture, 1688 W. Adams St., Phoenix, AZ 85007, or the United Egg Producers at 1720 Windward Concourse, Suite 230, Alpharetta, GA 30005.
“United Egg Producers Certified” means a company that has achieved United Egg Producers Certified status pursuant to the requirements prescribed by the United Egg Producers Animal Husbandry Guidelines.
“United Egg Producers Certified logo” means the official symbol and accompanying language used to identify eggs produced by United Egg Producers Certified companies.

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

- A. An inspector may conduct random spot-check sampling of a lot of eggs to determine whether the lot meets minimum quality and weight standards and is in compliance with R3-2-907(B).
- B. Representative egg sampling, under A.R.S. § 3-710(G), shall be based on the following table. A lot that does not meet minimum quality or weight standards or is not in compliance with R3-2-907(B) shall receive a warning notice hold tag.

Minimum Number of Cases and Cartons Comprising a Representative Sample			
Lot size of cartons	Minimum eggs for inspection	Lot size of 30 doz. per case	Minimum cases for inspection ¹
1 - 4 cartons	All	1 case	1 case
5 - 30 cartons inclusive	50	2 - 10 cases inclusive	2 cases
31 - 120 cartons inclusive	100	11 - 25 cases inclusive	3 cases
120 - 210 cartons inclusive	200	26 - 50 cases inclusive	4 cases
211 - 315 cartons inclusive	300	51 - 100 cases inclusive	5 cases
		101 - 200 cases inclusive	8 cases

Notices of Proposed Rulemaking

		201 - 300 cases inclusive	11 cases
		301 - 400 cases inclusive	13 cases
		401 - 500 cases inclusive	14 cases
		501 - 600 cases inclusive	16 cases
		For each additional 50 cases or fraction of a case in excess of 600 cases	1 case
¹ An inspector shall take 100 eggs from each case for inspection.			

1. An inspector may draw additional samples to determine whether the lot meets the minimum requirements.
2. When loose eggs are out of the case, the sample shall be based on a carton.
3. Eggs shall be sampled on a 30-dozen-case basis. When eggs are packed in other lot quantities, an inspector shall convert the quantity of eggs to the equivalent 30-dozen-case basis to establish the official sample size.

R3-2-906. Violations and Penalties

- A.** A dealer, producer-dealer, manufacturer, producer, or retailer, at each individual location, is subject to the penalties in subsection (B) for any of the following violations:
1. Category A:
 - a. Making a false or misleading statement relating to advertising or selling eggs and egg products;
 - b. Acting as a dealer, producer-dealer, producer, or manufacturer without a valid license;
 - c. Selling shell eggs with an incorrect or incomplete expiration date, or without an expiration date;
 - d. Selling grade AA or grade A eggs after the expiration date on the carton, case, or container, unless the eggs are exempt under A.R.S. § 3-715(K);
 - e. Failing to maintain records and reports required by this Article;
 - f. Failing to label a carton, case, or container with one size, one grade, ~~and~~ one brand name, or, if applicable under R3-2-907(B), the United Egg Producer Certified logo;
 - g. Moving eggs or an egg case, carton, or container with a warning tag or notice, or removing a warning tag or notice without permission from the Director;
 - h. Refusing to submit egg or egg product, an egg case, carton, container, subcontainer, lot, load, or display of eggs to inspection; or
 - i. Refusing to stop, at the request of an authorized representative of the Department, any vehicle transporting eggs or egg products.
 - j. Selling eggs that have not been produced in accordance with the standards prescribed under R3-2-907(B).
 - k. Failing to raise egg-laying hens in this state in accordance with the standards prescribed under R3-2-907(A).
 2. Category B:
 - a. Extending the expiration date of shell eggs as defined in A.R.S. § 3-701(10); or
 - b. Advertising, representing, or selling out-of-state eggs as local eggs.
 3. Category C:
 - a. Failing to ensure that shell eggs for human consumption are kept refrigerated at an ambient temperature not higher than 45° F;
 - b. Failing to ensure that frozen egg products for human consumption, labeled for storage at 0° F or below, are kept under refrigeration at a temperature of 0° F or lower; or
 - c. Failing to ensure that liquid egg products for human consumption are kept refrigerated at a temperature not higher than 40° F.
- B.** Any violation of this Article or of ~~3~~ A.R.S. Title 3, Chapter 5, Article 1 not listed in subsection (A) is subject to a Category A civil penalty.
- C.** Under A.R.S. § 3-739, the civil penalty for a violation of subsection (A) is:

Number of Violations	Category A	Category B	Category C
1	Warning	Warning	Warning
2	\$50	\$50	\$100
3	\$100	\$100	\$200
4		\$150	\$400
5		\$200	\$500

Notices of Proposed Rulemaking

6		\$250	
7		\$300	

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

- A.** All egg-laying hens in this state shall be raised according to United Egg Producers Animal Husbandry Guidelines.
- B.** All eggs sold in this state shall be produced by a United Egg Producers Certified company and shall display the United Egg Producers Certified logo on their cases, cartons, and containers.
- C.** This Section does not apply to egg producers operating or controlling the operation of one or more egg ranches each having fewer than 20,000 egg-laying hens producing eggs and also does not apply to any hens that are raised cage-free or their eggs.

R3-2-908. Sanitary Standards; Egg Processing

All egg producers in this state shall meet the facility and sanitary operation requirements prescribed by the Regulations Governing the Voluntary Grading of Shell Eggs, 7 CFR 56, effective March 30, 2008. This material is incorporated by reference, does not include any later editions, and is available for inspection at the Department of Agriculture, 1688 W. Adams St., Phoenix, AZ 85007.

NOTICE OF PROPOSED RULEMAKING

TITLE 9. HEALTH SERVICES

**CHAPTER 8. DEPARTMENT OF HEALTH SERVICES
FOOD, RECREATIONAL, AND INSTITUTIONAL SANITATION**

[R08-360]

PREAMBLE

1. Sections Affected

R9-8-601
R9-8-602
R9-8-603
R9-8-604
R9-8-605
R9-8-606
R9-8-607
R9-8-608
R9-8-611
R9-8-612
R9-8-613
R9-8-614
R9-8-615
R9-8-616
R9-8-617

Rulemaking Action

New Section
New Section
New Section
New Section
New Section
New Section
New Section
New Section
Repeal
Repeal
Repeal
Repeal
Repeal
Repeal
Repeal
Repeal

2. The statutory authority for the rulemaking, both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. §§ 36-132(A)(1), 36-136(A)(4) through (7), 36-136(F), and 36-601
Implementing statute: A.R.S. § 36-136(H)(8)

3. A list of all previous notices appearing in the Register addressing the proposed rule:

Notice of Rulemaking Docket Opening: 14 A.A.R. 719, February 29, 2008

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

Name: Ben Stepleton, Food Safety Manager
Address: Department of Health Services
Bureau of Epidemiology and Disease Control
Office of Environmental Health
150 N. 18th Ave., Suite 430
Phoenix, AZ 85007

Notices of Proposed Rulemaking

Telephone: (602) 364-3130
Fax: (602) 364-3146
E-mail: stepleb@azdhs.gov

or

Name: Kathleen Phillips, Administrative Counsel and Rules Administrator
Address: Department of Health Services
Office of Administrative Counsel and Rules
1740 W. Adams St., Suite 200
Phoenix, AZ 85007

Telephone: (602) 542-1264
Fax: (602) 364-1150
E-mail: phillik@azdhs.gov

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

A.R.S. § 36-136(H)(8) states that the Arizona Department of Health Services (Department) “shall define and prescribe reasonably necessary measures” concerning a campground’s: sewage and excreta disposal; garbage and trash collection, storage and disposal; and water supply. A.R.S. § 36-136(H)(8) also states that campgrounds rules “shall prescribe minimum standards” for: preparation of food in community kitchens; adequacy of excreta disposal; garbage and trash collection, storage and disposal; and water supply. Finally, A.R.S. § 36-136(H)(8) states that campgrounds rules shall “provide for inspection” of campgrounds and “for abatement as public nuisances” of any campground that does not comply with the campground rules.

The current rules for campgrounds are located in *Arizona Administrative Code* Title 9, Chapter 8, Article 6. The purpose of this rulemaking is to amend the campgrounds rules to make them consistent with current statutory authority, current Department policy, current rulemaking format and style requirements, and issues raised in the Five-year Review Report approved by the Governor’s Regulatory Review Council in 2007.

The proposed campgrounds rules shall define and prescribe reasonably necessary measures concerning a campground’s: sewage and excreta disposal; garbage and trash collection, storage and disposal; and water supply. The proposed campgrounds rules shall also prescribe minimum standards for: preparation of food in community kitchens; adequacy of excreta disposal; garbage and trash collection, storage and disposal; and water supply. Finally, the campgrounds rules shall provide for the inspection of a campground and for the abatement as a public nuisance of any campground that does not comply with the campgrounds rules.

The proposed campgrounds rules will conform to rulemaking format and style requirements of the Governor’s Regulatory Review Council and the Office of the Secretary of State.

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

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

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:

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 greater than \$10,000 in additional costs or revenues. Costs are listed as significant when meaningful or important, but not readily subject to quantification.

The proposed rules will have an economic impact on the Department, local health departments, campgrounds, campers and the general public. The proposed rules’ impact on the Department will be the usual rulemaking-related costs and costs for enforcement of the rules, both of which are minimal. In addition, the Department will incur minimal-to-moderate costs to provide education on the proposed rules to local health departments and campgrounds. The proposed rules should make the campgrounds rules easier to understand and easier to enforce, thus likely causing the Department to experience a significant benefit.

Local health departments will likely incur a minimal cost to: enforce the proposed rules and obtain and provide education on the proposed rules. The proposed rules should make the campgrounds rules easier to understand and easier to enforce, thus likely causing local health departments to experience a significant benefit.

Campgrounds will incur a minimal cost to comply with the proposed rules. As a result of the proposed rules being easier to understand and likely to comply with, a campground may experience a significant benefit.

Notices of Proposed Rulemaking

The proposed rules, by requiring campgrounds to comply with sanitary standards, will likely cause campers to experience a significant benefit. A clean and sanitary campground is likely to have a positive effect on a camper's camping experience.

The proposed rules, by requiring campgrounds to comply with sanitary standards will likely cause the general public to experience significant benefit. The proposed rules are likely to help preserve Arizona's natural habitat, which in turn may increase camping in Arizona. The more people that come to Arizona because of its natural habitat and camping, means more money being introduced into Arizona's economy.

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

Name: Ben Stepleton, Food Safety Manager
Address: Department of Health Services
Bureau of Epidemiology and Disease Control
Office of Environmental Health
150 N. 18th Ave., Suite 430
Phoenix, AZ 85007
Telephone: (602) 364-3130
Fax: (602) 364-3146
E-mail: stepleb@azdhs.gov

or

Name: Kathleen Phillips, Administrative Counsel and Rules Administrator
Address: Department of Health Services
Office of Administrative Counsel and Rules
1740 W. Adams St., Suite 200
Phoenix, AZ 85007
Telephone: (602) 542-1264
Fax: (602) 364-1150
E-mail: phillik@azdhs.gov

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 rules:

The Department has scheduled the following oral proceeding:

Date: December 15, 2008
Time: 10:00 a.m.
Location: Department of Health Services
150 N. 18th Ave., Conference Room 540A
Phoenix, AZ 85007

A person may submit written comments on the proposed rules to either individual listed in items 4 and 9 until the close of record on December 15, 2008, at 3:00 p.m.

Person with a disability may request reasonable accommodation by contacting Robert Lane at laner@azdhs.gov or (602) 364-0792. Requests should be made as early as possible to allow sufficient time to arrange for the accommodation.

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

Not applicable

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

Not applicable

13. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

**CHAPTER 8. DEPARTMENT OF HEALTH SERVICES
FOOD, RECREATIONAL, AND INSTIUTIONAL SANITATION**

ARTICLE 6. ~~CAMP GROUNDS~~ CAMP GROUNDS

Section

- R9-8-601. ~~Reserved~~ Definitions
- R9-8-602. ~~Reserved~~ General Provisions
- R9-8-603. ~~Reserved~~ Restroom, Bathroom, Other Toilet Facility, and Shower Room Management
- R9-8-604. ~~Reserved~~ Community Kitchen
- R9-8-605. ~~Reserved~~ Water Supply
- R9-8-606. ~~Reserved~~ Sewage Disposal
- R9-8-607. ~~Reserved~~ Refuse Management
- R9-8-608. ~~Reserved~~ Inspections
- R9-8-611. ~~Scope~~ Repealed
- R9-8-612. ~~Supervision~~ Repealed
- R9-8-613. ~~Water supply~~ Repealed
- R9-8-614. ~~Protection against fires~~ Repealed
- R9-8-615. ~~Sewage and refuse disposal~~ Repealed
- R9-8-616. ~~Toilets~~ Repealed
- R9-8-617. ~~Construction and maintenance of buildings~~ Repealed

ARTICLE 6. ~~CAMP GROUNDS~~ CAMP GROUNDS

R9-8-601. ~~Reserved~~ Definitions

In this Article, unless otherwise specified:

1. "Ashes" means the waste that remains after any combustible material is burned.
2. "Bathroom" means a restroom that contains a shower head or bathtub.
3. "Bathtub" means a receptacle, in which a user can sit, with a faucet that supplies water capable of reaching at least 85° F and with a drain connected to a sewage collection system.
4. "Bedding" has the same meaning as in A.R.S. § 36-796.
5. "Camp" or "camping" means erecting a tent, arranging sleeping material, or parking a motor vehicle with the intent of remaining in the tent, sleeping material, or motor vehicle overnight.
6. "Campground" means land that is provided for camping by a responsible person.
7. "Chemical toilet" means a structure used for the collection of human excreta with a watertight, impervious pail or tank that contains a chemical solution placed directly under the seat and a pipe or conduit that connects the riser to the tank.
8. "Clean" means free from dirt or debris.
9. "Combustion toilet" means a structure used for the collection of human excreta, where heat is used to reduce the discharged human excreta to ashes.
10. "Community kitchen" means a structure or room located within a campground that is used by individuals camping at the campground for the purpose of preparing food.
11. "Debris" means litter or the remains of something that has broken or torn into pieces.
12. "Drinking water" means water for human consumption that meets the requirements of 18 A.A.C. 4.
13. "Durable" means capable of withstanding expected use and remaining easily cleanable.
14. "Faucet" means a fixture connected to a plumbing system that provides and regulates the flow of drinking water from a plumbing system.
15. "Fixture" means a permanent attachment to a structure.
16. "Floor drain" means an opening in a floor surface that leads to a sewage collection system.
17. "Human consumption" means an individual's use of water for activities such as drinking, bathing, showering, hand washing, cooking, dishwashing, laundering, or cleaning.
18. "Human excreta" means fecal and urinary discharges and includes any waste that contains this material.
19. "Impervious" means incapable of being penetrated.
20. "Lavatory" means a sink or a basin with a faucet that supplies water capable of reaching at least 85° F and with a drain connected to a sewage collection system.
21. "Manages" means to direct the use of.
22. "Motor vehicle" has the same meaning as in A.R.S. § 44-281.
23. "Non-absorbent" means impervious to liquid, such as a material coated or treated with rubber, plastic, or other sealing substance.
24. "Other toilet facility" means any structure, except for a restroom or a bathroom, designed for the purpose of collecting human excreta, such as a chemical toilet, combustion toilet, or privy.
25. "Owns" means to have the right to possess, use, and convey the interest.
26. "Plumbing system" means fixtures, pipes, and related parts assembled to carry drinking water into a structure and

- carry sewage out of the structure.
27. "Privy" means any structure used for the collection and storage of human excreta without the aid of running water.
28. "Public health issues" means matters associated with disease or illness, medical care, sanitation or hygiene.
29. "Public nuisance" means the activities or conditions that may be subject to A.R.S. § 36-601.
30. "Refuse" has the same meaning as in A.A.C. R18-13-302.
31. "Refuse container" means a receptacle that is capable of being moved and is used for refuse storage.
32. "Regulatory authority" means:
- a. The Arizona Department of Health Services; or
 - b. One of the following entities as specified in A.R.S. § 36-136(D):
 - i. A local health department;
 - ii. A county environmental department; or
 - iii. A public health services district.
33. "Responsible person" means an individual, partnership, corporation, association, the state, a governmental subdivision of the state, a unit of a governmental subdivision of the state, an agency of the state, or a public or private organization that owns or manages a campground within the state.
34. "Restroom" means a structure or room that contains at least one lavatory and water closet or at least one lavatory, water closet, and urinal.
35. "Sanitary" means free from filth, bacteria, viruses, mold, and fungi.
36. "Sealable" means capable of being closed tightly.
37. "Sewage" means the waste from toilets, baths, sinks, lavatories, laundries, and other plumbing fixtures in residences, institutions, public and business buildings, mobile homes, and other places of human habitation, employment, or recreation.
38. "Sewage collection system" has the same meaning as in A.A.C. R18-9-101.
39. "Shower head" means a fixture connected to a plumbing system that allows drinking water to fall on a user's body.
40. "Shower room" means a structure or room that contains at least one shower head and at least one floor drain, but does not contain a bathtub, lavatory, water closet, or urinal.
41. "Sleeping material" means any of the following:
- a. Bedding.
 - b. Sheets, or
 - c. Blankets.
42. "Stored" means holding refuse before the refuse is disposed of according to A.A.C. R18-13-311 and A.A.C. R18-13-312.
43. "Tent" means a collapsible structure that is capable of being moved.
44. "Toilet" means water-flushed, chemical-flushed, or no-flush bowl for the disposal of human excreta.
45. "Urinal" means a water-flushed, chemical-flushed, or no-flush upright basin used by males for urination only.
46. "Water closet" has the same meaning as in A.R.S. § 45-311.
47. "Watertight" means made or assembled so that liquid cannot enter or escape.

R9-8-602. Reserved General Provisions

- A.** A responsible person or the responsible person's designee shall ensure the campground complies with the provisions of this Article and with federal and state statutes and rules and local ordinances governing subjects included in A.R.S. § 36-136(H)(8).
- B.** A violation of this Article is a public nuisance under A.R.S. § 36-601.
- C.** This Article does not apply to campgrounds located on federal or tribal land within the state.

R9-8-603. Reserved Restroom, Bathroom, Other Toilet Facility, and Shower Room Management

A responsible person or the responsible person's designee shall ensure that:

1. Each restroom or bathroom located within the campground:
 - a. Is clean and sanitary; and
 - b. Has:
 - i. Floors and walls of non-absorbent materials;
 - ii. Water closets with seats of the split or U-shaped type made of non-absorbent material;
 - iii. Interior surfaces that are washable and free from gaps;
 - iv. Toilet paper at each water closet;
 - v. Soap and single-use paper towels or air hand dryers; and
 - vi. Refuse containers as specified in R9-8-607(1);
2. Each other toilet facility located within the campground:
 - a. Is clean and sanitary; and
 - b. Has toilet paper;

Notices of Proposed Rulemaking

3. Each shower room located within the campground:
 - a. Is clean and sanitary; and
 - b. Has:
 - i. Water capable of reaching at least 85° F from all shower heads;
 - ii. Floors and walls of non-absorbent materials;
 - iii. Floors that slope to a drain connected to a sewage collection system;
 - iv. Interior surfaces washable and free of gaps; and
 - v. Refuse containers as specified in R9-8-607(1); and
4. Each restroom, bathroom, other toilet facility, or shower room located within the campground is maintained to avoid odors and insect or vermin infestation.

R9-8-604. Reserved Community Kitchen

A responsible person or the responsible person's designee shall ensure:

1. That food prepared in a community kitchen located within the campground is only prepared by an individual who is camping at the campground, unless the requirements of 9 A.A.C. 8, Article 1 are met; and
2. That a community kitchen located within the campground is maintained in a clean and sanitary condition.

R9-8-605. Reserved Water Supply

A responsible person or the responsible person's designee shall ensure that:

1. Water provided by the campground for human consumption meets the requirements of 18 A.A.C. 4;
2. Water provided by the campground to operate each restroom, bathroom, and shower room located within the campground is sufficient in quantity and in pressure to operate each restroom, bathroom, and shower room located within the campground at all times; and
3. Each individual who enters the campground is notified of each source of water located within the campground that does not meet the requirements of 18 A.A.C. 4.

R9-8-606. Reserved Sewage Disposal

A responsible person or the responsible person's designee shall ensure that sewage and human excreta produced within the campground:

1. Does not create a public nuisance; and
2. Is disposed of according to 18 A.A.C. 9, Article 3 or 18 A.A.C. 13, Article 11.

R9-8-607. Reserved Refuse Management

A responsible person or the responsible person's designee shall ensure that:

1. The campground has conspicuously located refuse containers that are:
 - a. Constructed of durable and non-absorbent material; and
 - b. Sealable; and
2. Refuse produced within the campground:
 - a. Does not create a public nuisance; and
 - b. Is collected, stored, and disposed of according to 18 A.A.C. 13, Article 3.

R9-8-608. Reserved Inspections

The regulatory authority shall inspect a campground for compliance with this Article at least once each year.

R9-8-611. Scope Repealed

~~The regulations in this Article shall apply to any city, county, city and county, village, community, institution, person, firm or corporation operating, maintaining or offering for public use within the state of Arizona any tract of land on which persons may camp or picnic either free of charge or by payment of a fee. Each and every owner and lessee of any public camp or picnic ground shall be held responsible for full compliance with these regulations.~~

R9-8-612. Supervision Repealed

- ~~A. The management of every public camp or picnic ground shall assume responsibility for maintaining in good repair all sanitary appliances on said ground and shall promptly bring such action as may be necessary to prosecute or eject from such ground any person who willfully or maliciously damages such appliances or any person who in any way fails to comply with these regulations.~~
- ~~B. At least one caretaker shall be employed by the management to visit said camp or picnic ground every day that campers or picnickers occupy said ground. Such caretaker shall do whatever may be necessary to keep said ground and its equipment in a clean and sanitary condition.~~
- ~~C. Each camping party shall be allotted usable space of not less than 350 square feet.~~

R9-8-613. Water supply Repealed

- ~~A. The water supply system shall be in accordance with Article 2 of this Chapter and shall be provided in ample quantity to~~

meet all requirements of the maximum number of persons using such ground at any time. Said water supply shall be easily obtained from its source or on a pipe distribution system from faucets which shall be located not more than 300 feet from a camp or picnic spot within such ground. If water supply is obtained direct from above ground source, said source must be covered properly and water withdrawn by means of open pipe or faucet as approved by the Department. In no case can dipping from open springs, seeps or wells be permitted.

- B. Any water considered unsafe for human consumption in the vicinity of such ground, to which campers or picnickers may have access, shall be either eliminated or purified or shall be kept posted with placards definitely warning persons against its use.

R9-8-614. ~~Protection against fires~~ Repealed

No fires shall at any time be so located as to endanger automobiles or other property in the camp ground. No fires shall be left unattended at any time, and all fires shall be completely extinguished before leaving.

R9-8-615. ~~Sewage and refuse disposal~~ Repealed

- A. Supervision and equipment: Supervision and equipment sufficient to prevent littering of the ground with rubbish, garbage or other refuse shall be provided and maintained. Fly-tight depositories for such materials shall be provided and conspicuously located. Each and every camp or picnic spot on said ground shall be within a distance of not over 200 feet from such a depository. These depositories shall not be permitted to become foul smelling or unsightly or breeding places for flies.
- B. The method of final sewage or refuse disposal utilized in connection with the operation of any camp or picnic ground shall be such as to create no nuisance.
- C. Basins: A sufficient number of basins, iron hoppers or sinks shall be provided and each shall be connected with a sewerage system; these are to be used for the disposal of domestic waste waters.

R9-8-616. ~~Toilets~~ Repealed

Fly-tight privies or water flushed toilets shall be provided and shall be maintained in a clean and sanitary condition. Separate toilets for men and women shall be provided, one for each 25 men and one for each 25 women or fraction thereof of the maximum number of persons occupying such ground at any time. No camp or picnic spot within such ground shall be at a greater distance than 400 feet from both a women's and men's toilet. The location of all toilets shall be plainly indicated by signs.

R9-8-617. ~~Construction and maintenance of buildings~~ Repealed

If cottages, cabins, tent houses, dwelling houses or other structures to be used for human habitation are erected in any public camping ground, the following requirements in their construction shall be observed: (Note: All local building ordinances must be complied with in addition to observing the following requirements.)

1. All wood floors shall be raised at least 18 inches above the ground and space underneath such floors shall be left open and free from obstruction on at least two opposite sides. All floors shall be constructed of tongue and groove material.
2. Interior walls shall be of surfaced lumber or other material that may easily be kept clean and shall be constructed so that they may always be kept in a thoroughly clean condition.
3. No room for sleeping purposes shall have less than 500 cubic feet of air space for each occupant.
4. The area of window space in each sleeping room shall be equal to at least one-eighth of the floor area of the room.
5. Windows of sleeping rooms shall be so constructed that at least half of each window can be opened.
6. Cooking, including the preparation and storing of food must not be allowed in any room used for sleeping. Partitions and doors between cooking and sleeping rooms must be tight.
7. If kitchen is provided, it must be equipped with running water and a sink connected with a sewerage system or septic tank. Kitchen must be screened against flies and mosquitoes.
8. If inside toilet is provided it must be water flushed and connected with a sewerage system or septic tank. Room containing such toilets must have window opening to the outside air. Bath and lavatory must be connected with sewerage system or septic tank.
10. Covered metal garbage containers must be provided, at least one for every two buildings.
11. Buildings shall be cleaned daily and after each occupancy shall be thoroughly cleaned. If bedding is provided it must be kept in a clean condition.

NOTICE OF PROPOSED RULEMAKING

TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING

CHAPTER 3. ARIZONA STATE LOTTERY COMMISSION

[R08-362]

PREAMBLE

1. **Sections Affected** **Rulemaking Action**
R19-3-212 Amend
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. § 5-504(B)
Specific statute: A.R.S. §§ 5-512 and 5-505(A)(4)
3. **A list of all previous notices appearing in the Register addressing the proposed rules:**
Notice of Rulemaking Docket Opening: 14 A.A.R. 3812, October 3, 2008
4. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Art Macias, Executive Director
Address: Arizona State Lottery
4740 E. University Drive
Phoenix, AZ 85034
Telephone: (480) 921-4505
Fax: (480) 921-4488
E-mail: amacias@azlottery.gov
or
Name: Pam DiNunzio
Address: Arizona State Lottery
4740 E. University Drive
Phoenix, AZ 85034
Telephone: (480) 921-4489
Fax: (480) 921-4488
E-mail: pdinunzio@azlottery.gov
5. **An explanation of the rules, including the agency's reason for initiating the rules:**
Article 2, Retailers, prescribes the requirements and procedures for Arizona retail businesses that sell Lottery game products. The rules explain common retailer provisions such as: requirements for the sale and payment of Lottery games, retailer conduct including the revocation, suspension or renewal of retailer licenses, hearing procedures, stolen tickets procedures, and Lottery-conducted compliance investigations. R19-3-212 will be amended as a result of statutory changes in the 2008 Legislative Session. Laws 2008, Ch. 287, § 2 revised the compensation to licensed sales agents from a range of 6.5%-7% of ticket sales to a range of 5.5%-8% of ticket sales. The Lottery is amending the rule to incorporate the statutory change.
6. **A reference to any study relevant to the rules that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
None
7. **A showing of good cause why the 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
8. **The preliminary summary of the economic, small business, and consumer impact:**

The rules for Article 2, Retailers, describe various requirements and procedures for retail businesses to sell Lottery game products. R19-3-212 is being amended to comply with statutory changes approved in the 2008 Legislative Session. The Lottery anticipates amendments to this rule will primarily impact the agency and Lottery retailers.

A. Arizona State Lottery. The primary impact to the Lottery from amending R19-3-212 will be greater flexibility regarding retailer commissions. Previously, all retailers earned a minimum of 6.5% for each transaction and were eligible for up to an additional one-half percent based on performance criteria. The base rate of 6.5% applied to all retailers equally, regardless of the type of retailer or relative performance as compared to other retailers. Laws 2008, Ch. 287, § 2 revised the compensation rate to a range of 5.5%-8%. One-half percent will continue to be based on achieving specified performance incentives. This new strategy gives the Lottery the ability to structure compensation rates at different levels; some retailers could qualify for a higher commission rate, while potential new retail venues requiring greater Lottery support might receive a lesser amount. For example, retailers that rely on the Lottery to staff the location or to assist in maintaining adequate product inventory may not warrant the same commission as retailers that manage their own sales and inventory. The revised compensation range will facilitate the Lottery's ability to expand into new retail locations and structure commissions more commensurate with the level of service required.

The change in commissions should not have a significant impact on Lottery expenditures. The overall compensation rate was 6.7% in FY08; this figure is not expected to change dramatically since higher commissions should be balanced by lower commissions. In addition, any payment of higher commissions will likely be tied to Lottery sales growth, again offsetting any increased expense.

The Lottery will incur minimal administrative processing and programming costs associated with the initial implementation of different commission rates. These costs are included as part of normal agency operating expenses and will be outweighed by the benefits of a more flexible compensation system.

B. Businesses Directly Affected by this Rulemaking. Businesses impacted by this rule are existing Lottery retailers or retail establishments that apply for a license to sell Lottery products. Lottery retailers are also the only small businesses affected by this rule. Overall, this rulemaking is expected to benefit all retailers, both large and small.

Although the Lottery still needs to determine specific criteria, retailers will now have the opportunity to earn a higher commission rate on the sale of Lottery products. Previously, retailers received a base rate of 6.5% plus up to an additional .5% for meeting performance criteria. The new structure provides the possibility to earn commissions of up to 8%, thus increasing retailer revenue potential. Although the minimum base compensation rate is now 5.5% instead of 6.5%, this is not expected to impact existing retailers. Any commission rate below 6.5% will likely apply to new retail channels. The Lottery currently has approximately 2600 retailers, but will endeavor to increase the retailer base in future years by possibly expanding into new venues (i.e. chain drugstores, retail chain stores, the airport). Lower commission rates will potentially apply to these new types of retailers depending on the amount of support required by the Lottery. This provides a more equitable compensation methodology, while not impacting current retailers.

In general, retailers will benefit from the potential to increase commissions. In FY08, Lottery retailers earned \$31.6 million in commissions with an overall compensation rate of 6.7%. The rule does not impose any costs on retailers.

C. State Revenues. Revenue generated from Lottery game sales and retailer license fees are deposited into the Lottery Fund and Lottery Prize Fund. In FY08, total game sales were \$472.9 million and approximately \$58,000 was collected in license fees. Although the exact dollar amount cannot be determined, Lottery revenues are anticipated to increase as a result of adding new retailers and from improved performance of existing retailers. A percentage of Lottery game revenue is returned to the state to fund various beneficiary programs as specified in A.R.S. § 5-522, including the General Fund. The Lottery returned \$144.5 million to state beneficiaries in FY08.

This rulemaking will not have any identifiable economic impact on political subdivisions of the state, the general public, or private and public employment.

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: Art Macias, Executive Director

Address: Arizona State Lottery
4740 E. University Drive
Phoenix, AZ 85034

Telephone: (480) 921-4505

Fax: (480) 921-4488

E-mail: amacias@azlottery.gov

or

Name: Pam DiNunzio

Address: Arizona State Lottery

Notices of Proposed Rulemaking

4740 E. University Drive
Phoenix, AZ 85034

Telephone: (480) 921-4489
Fax: (480) 921-4488
E-mail: pdinunzio@azlottery.gov

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

Date: December 19, 2008
Time: 10:00 a.m.
Location: Arizona Lottery
4740 E. University Drive
Phoenix, AZ 85034
Nature: Oral Proceeding

The close of record is 5:00 p.m. on December 18, 2008 for written comments and at the end of the oral proceeding for verbal comments.

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 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING

CHAPTER 3. ARIZONA STATE LOTTERY COMMISSION

ARTICLE 2. RETAILERS

Section
R19-3-212. Retailer Compensation

ARTICLE 2. RETAILERS

R19-3-212. Retailer Compensation

- A.** The Lottery shall pay a retailer a commission of ~~six~~ at least five and one-half percent but not more than seven and one-half percent of the price of each Lottery ticket sold. The Lottery shall not pay a retailer a commission on sales transactions that are prohibited by any state or federal statute or rule.
- B.** In addition to the compensation specified in subsection (A), the Lottery shall pay an incentive of up to one-half percent on the price of each ticket sold to a retailer who meets specifications established in writing by the Director. The written specifications shall be provided to the retailer before the incentive program begins.