





added solutions and that do not meet a standard of identity were established. Sixth, requirements to use a descriptive designation “mechanically tenderized” blade tenderized,” or “needle tenderized” on the labels of raw or partially cooked needle or blade tenderized beef products unless the products are to be fully cooked or to receive another full lethality treatment at an official establishment were created. Seventh, new record keeping requirements related to sourcing of raw ground beef were created for official establishments and retail stores that grind raw beef products for sale in commerce.

Federal regulations to establish a mandatory inspection program for fish of the order Siluriformes and products derived from these fish were also created. 80 FR 75590-01. These regulations are effective March 1, 2016 and are not included in this rulemaking which incorporates 9 CFR Chapter III as revised, January 1, 2016.

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

None

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

Not applicable

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

The conduct and its frequency of occurrence that the rule is designed to change.

The purpose of this rulemaking is to update the incorporated federal regulations to the latest version in order to maintain consistent state status. The Department believes most persons regulated by this rule are already in compliance with the current federal regulations. Therefore, the Department does not believe the target conduct occurs with significant frequency.

The harm resulting from the conduct the rule is designed to change and the likelihood it will continue to occur if the rule is not changed.

The main harm that will result if the conduct is not addressed by updating the incorporated federal regulations is the loss of consistent state status. The Department believes the loss of consistent state status is likely if the rule is not changed.

The estimated change in frequency of the targeted conduct expected from the rule change.

As stated above, the Department does not believe the targeted conduct occurs with significant frequency, however, to the extent there may be some individuals not following current federal regulations the Department expects the rule change to further reduce the targeted conduct to even more limited frequency.

A brief summary of the information included in the economic, small business and consumer impact statement.

None of these changes are expected to require any new full-time Department employees.

There may be some minimal cost to some individuals due the new requirements related to labeling and recordkeeping, however, the Department does not believe these costs will outweigh the benefit of maintaining consistent state status, and the Department is not able to offer any less intrusive alternatives and still be “at least equal to” federal law.

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

Name: Rick Mann

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

Telephone: (602) 542-6398

E-mail: rmann@azda.gov

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

A person may request an oral proceeding on the proposed rules by contacting the individual identified in item #4 within 30 days of publication of this notice.

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

Pursuant to A.R.S. § 3-104(F), the ADA Advisory approved this rulemaking.

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

The rule does not require a permit.



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

9 CFR Chapter III is applicable to this rule. This rule is not more stringent than the federal law.

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

No

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

Most of 9 CFR Chapter III is incorporated by reference in rule 202.

- 13. The full text of the rule follows:**

TITLE 3. AGRICULTURE

CHAPTER 2. DEPARTMENT OF AGRICULTURE ANIMAL SERVICES DIVISION

ARTICLE 2. MEAT AND POULTRY INSPECTION

Section

R3-2-202. Meat and Poultry Inspection; Slaughtering Standards

ARTICLE 2. MEAT AND POULTRY INSPECTION

R3-2-202. Meat and Poultry Inspection; Slaughtering Standards

All meat and poultry inspection, slaughtering, production, processing, labeling, storing, handling, transportation and sanitation procedures shall be conducted as prescribed in 9 CFR Chapter III, revised January 1, 2013 2016, as amended by 76 FR 68058-64 (November 3, 2011) 80 FR 75590-01 (December 2, 2015), except sections 302.2, 307.5, 307.6, 312, 322, 327, 329.7, 329.9, 331, 335, 351, 352, 354, 355, 381.38, 381.39, 381.96 through 381.112, 381.195 through 381.209, 381.218 through 381.225, 390, 391, 392, 590 and 592. This material is incorporated by reference and does not include any later amendments or editions. A copy of the incorporated material is available from the Department and may also be viewed online at www.gpo.gov/fdsys.

NOTICE OF PROPOSED RULEMAKING

TITLE 3. AGRICULTURE

CHAPTER 2. DEPARTMENT OF AGRICULTURE ANIMAL SERVICES DIVISION

[R16-68]

PREAMBLE

- | <u>1. Article, Part or Section Affected (if applicable)</u> | <u>Rulemaking Action</u> |
|--|---------------------------------|
| R3-2-801 | Amend |
| R3-2-806 | Amend |
- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**
 Authorizing statute: A.R.S. §§ 3-107(A)(1) and 3-605(C)
 Implementing statute: A.R.S. § 3-306
- 3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:**
 Notice of Rulemaking Docket Opening: 22 A.A.R. 344, February 19, 2016
- 4. The agency's contact person who can answer questions about the rulemaking:**
 Name: Roland Mader
 Address: Department of Agriculture
 1688 W. Adams St.
 Phoenix, AZ 85007
 Telephone: (602) 466-0075
 Fax: (602) 542-4194
 E-mail: rmader@azda.gov



5. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:

The requirements of R3-2-806 are outdated. The Department is proposing to simplify and clarify the rules by removing some of the stringent and overly specific requirements. This will make compliance with the rule easier and reduce potential conflicts modern practices. R3-2-801 is being amended to remove a defined term because the provision that uses the defined term is being removed from R3-2-806.

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

None

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

Not applicable

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

The conduct and its frequency of occurrence that the rule is designed to change.

Persons constructing or extensively altering a parlor or milk room must submit the plans to the Dairy Supervisor for written approval. The Department receives plans on a bimonthly basis, approximately. Currently the rules create very specific requirements for the construction and alteration of these facilities. This rule making will provide more flexibility to those seeking approval of their plans.

The harm resulting from the conduct the rule is designed to change and the likelihood it will continue to occur if the rule is not changed.

The current rules are overly specific and strict application in some situations may prohibit modern production and construction practices. For example a strict application of the rule may prevent the direct loading of milk into a tanker trunk.

The estimated change in frequency of the targeted conduct expected from the rule change.

The Department will implement the streamlined requirements as soon as this rule is effective.

A brief summary of the information included in the economic, small business and consumer impact statement

None of these changes are expected to require any new full-time Department employees.

The Department does not believe the changes will have a significant economic impact for business or consumers. If anything there may be some economic benefits to dairy farmers due to the greater flexibility in the new rule.

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

Name: Roland Mader
Address: Department of Agriculture
1688 W. Adams St.
Phoenix, AZ 85007
Telephone: (602) 466-0075
Fax: (602) 542-4194
E-mail: rmader@azda.gov

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

A person may request an oral proceeding on the proposed rules by contacting the individual identified in item #4 within 30 days of publication of this notice.

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

Pursuant to A.R.S. § 3-104(F), the ADA Advisory Council approved this rulemaking.

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

The rules do not require a permit. R3-2-806 requires agency approval of constructing or extensively altering a parlor or milk room. The Department issues a general approval for the entire proposed action and allow for modifications after approvals are granted. R3-2-806(A).

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

There is not a corresponding federal law for the rules in this rulemaking.



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

No

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

The Grade A Pasteurized Milk Ordinance –2013 Revision is incorporated in the definition of “PMO” in R3-2-801.

13. The full text of the rule follows:

TITLE 3. AGRICULTURE

CHAPTER 2. DEPARTMENT OF AGRICULTURE ANIMAL SERVICES DIVISION

ARTICLE 8. DAIRY AND DAIRY PRODUCTS CONTROL

| | |
|-----------|------------------------|
| Section | |
| R3-2-801. | Definitions |
| R3-2-806. | Parlors and Milk Rooms |

ARTICLE 8. DAIRY AND DAIRY PRODUCTS CONTROL

R3-2-801. Definitions

In addition to the definitions in A.R.S. §§ 3-601 and 3-661, the following terms apply to this Article:

“3-A Sanitary Standards” and “3-A Accepted Practices,” as published by the International Association for Food Protection, amended May 31, 2002, means the criteria for cleanability of dairy processing equipment. This material is incorporated by reference, does not include any later amendments or editions, and is on file with the Department at 1688 W. Adams St., Phoenix, AZ 85007 and is also available at <http://www.3-A.org>.

“C-I-P” means a procedure by which equipment, pipelines, and other facilities are cleaned-in-place as prescribed in the 3-A Accepted Practices.

“Converted” means the process by which a frozen dessert is changed from a frozen to semi-frozen form without any change in the ingredients.

“Fluid trade product” means any trade product as defined in A.R.S. § 3661(5) that resembles or imitates milk, low-fat milk, chocolate milk, half and half, or cream.

“Food establishment” means any establishment, except a private residence, that prepares or serves food for human consumption, regardless of whether the food is consumed on the premises.

“Frozen desserts mix” or “mix” means any frozen dessert before being frozen.

“Grade A raw milk” means raw milk produced on a dairy farm that conforms to Section 7 of the PMO and the requirements of R3-2-805.

“Parlor” and “milk room” mean the facilities used for the production of Grade A raw milk for pasteurization.

“Plant” means any place, premise, or establishment, or any part, including specific areas in retail stores, stands, hotels, restaurants, and other establishments where frozen desserts are manufactured, processed, assembled, stored, frozen, or converted for distribution or sale, or both. A plant may consist of rooms or space where utensils or equipment is stored, washed, or sanitized and where ingredients used in manufacturing frozen desserts are stored. Plant includes:

“Manufacturing plant” means a location where frozen desserts are manufactured, processed, pasteurized, and converted.

“Handling plant” means a location that is not equipped or used to manufacture, process, pasteurize, or convert frozen desserts, but where frozen desserts are sold or offered for sale other than at retail.

~~“Plate line” means a horizontal structural member, such as a timber, that provides the bearing and anchorage for the trusses of a roof or the rafters.~~

“PMO” means the Grade A Pasteurized Milk Ordinance –2013 Revision. This material is incorporated by reference, does not include any later amendments or editions, and is on file with the Department at 1688 W. Adams St., Phoenix, AZ 85007. A copy of the incorporated material may also be viewed at <http://agriculture.az.gov>.

“Retail food store” means any establishment offering packaged or bulk goods for human consumption for retail sale.

R3-2-806. Parlors and Milk Rooms

A. Construction Plans.



1. Any person constructing or extensively altering a parlor or milk room shall submit the plans and specifications to the Dairy Supervisor for written approval before work begins. The Dairy Supervisor shall approve or deny the plans within 10 business days.
 2. Plans shall consist of a scaled plot design with elevations and pertinent dimensions.
 3. Any deviations from the requirements in this Section and from approved plans and specifications may be made only after written approval of the Dairy Supervisor.
- B. Site.**
1. The parlor and milk room shall be located in a place free from contaminated surroundings.
 2. Feed racks, calf pens, bull pens, hog pens, poultry pens, horse stables, horse corrals, and shelter sheds shall not be closer than 100 feet to the milk room or closer than 50 feet to the parlor.
- C. Surroundings.**
1. Dirt or unpaved corrals and unpaved lanes shall not be closer than 25 feet to the parlor or closer than 50 feet to the milk room; corrals shall be constructed to remove runoff from the lowest point of the grade. ~~A minimum 3% slope shall be maintained in unpaved corrals where the available space for each animal is 400 square feet or less but may be reduced proportionately to 1 1/2% slope if 800 square feet or more is provided for each animal.~~
 2. A paved (concrete or equivalent) ramp or corral shall be provided to allow the animals to enter and leave the parlor. This paved area shall be curbed sufficiently high enough to contain waste material and water used to clean this area. ~~at least six inches high and six inches wide and sloped to a paved drain area. The paved area shall provide access to permanent feed racks or mangers and to water troughs. Water troughs shall be provided with an apron of concrete or equivalent at least 10 feet wide at the drinking area. The cow standing platform at permanent feed racks shall be paved with concrete or equivalent for at least 10 feet back of the stanchion line. The stanchion line shall have a curb at least one foot in height.~~
- D. Drains and waste disposal systems shall be adequate to drain the volume of water used in rinsing and cleaning, as well as the waste created by animals in the parlor. Floor level elevations of all structures shall be at least 15 inches above surrounding ground level and shall carry drainage 50 feet from the parlor and at least 100 feet from the milk room. Instead of natural drainage, automatic pumps or other means shall be provided for drainage disposal.**
- E. Milk room.**
1. ~~The milk room shall not be more than 15 feet from the parlor and may be located under the same roof (extended) as the parlor.~~ The milk room shall consist of one or more rooms for the handling of the milk and the cleaning, sanitization, and storage of the milk-handling equipment. Hot and cold running water outlets shall be provided as needed for sanitation available in each room. There shall be a minimum of five feet between a farm milk tank at the widest point and the milk room wall where the wash vats are installed. Except for currently installed milk tanks, there shall be at least three feet between any farm tank or farm tank appurtenance and the milk room walls.
 2. Passageway. The passageway between the milk room and parlor shall have at least a 3-foot clearance for ingress and egress ~~and have ceiling or roof ventilation.~~ Equipment such as milk receivers, dump tanks, or coolers that are part of an enclosed milk line system may be installed in the passageway if:
 - a. A 3-foot clearance is allowed for the walkway;
 - b. Space is provided between walls and equipment to permit the disassembly of equipment for cleaning or inspection;
 - c. The passageway between the parlor and the milk room may be closed at one end. The parlor may be separated from the passageway by a pipe rail fence if the slope of the parlor floor is away from the passageway. If the slope of the parlor floor is toward the passageway, a concrete wall between the passageway and parlor floor of at least 12 inches in height shall be provided.
 - d. Rustless pipe sleeves with tight-fitting flanges and protective closures shall be installed where the milk lines, hoses for tankers, and wash lines go through the walls ~~or stationary doors~~ of the passageway.
 3. Floors.
 - a. The floors of the milk room, and passageway, if provided, shall be constructed of four-inch thick concrete, or other impervious material troweled smooth. The milk room floor shall slope at least 1/4 inch per 12 inches to a vented trapped drain. The passageway floor shall slope at least one inch per 10 feet toward a drain or gutter. All floor and wall junctions shall have at least a two-inch radius cove. ~~Concrete floors built on soils other than sandy loams shall have a sand or rock cushion at least six inches deep.~~
 - b. Drainage from the milk room may be independent from or connected to the parlor drainage. Floor drains shall be vented, have a water trap, and a clean-out plug. All floor drains and pipes under the milk room and parlor floor shall ~~have leakproof connections and~~ meet all applicable plumbing codes.
 4. Walls and ceilings.
 - a. All walls and ceilings shall be constructed of a light colored, impervious material with a smooth finish. If concrete block or masonry construction is used, all voids below the floor line shall be filled with concrete.
 - b. The main ceiling height shall allow sufficient room for access to, and sampling from, the bulk milk storage tank. ~~be at least nine feet above the floor and not less than the height of the farm tank plus two feet. New or extensively altered ceiling shall be at least three feet above the tank. The ceiling may follow the rafters to the plate line which shall be at least 7 feet 3 inches above the floor.~~



5. Doors and windows.
 - a. ~~Each room of the milk room shall have at least one glass or other light transmitting material. The total window area in each room shall be equivalent to at least 1/10 of the floor area.~~ All opening windows shall have at least 16-inch mesh screen.
 - b. Exterior doors of the milk room shall open outward, be solid, self-closing, and tight fitting. Any door from the passageway shall be a solid door, metal covered on both sides of the bottom half. Wooden door jambs or frames shall terminate six inches above the floor, and the concrete floor cove shall extend to the jambs or frames.
 - c. All working areas in the milk room shall contain at least 30 foot-candles of natural and/or artificial lighting.
 6. Ventilation. The milk room shall provide adequate ventilation to minimize condensation on ceilings, walls and equipment. Vents shall be protected from the penetration of insects, dust and other contaminants. At least two wall ventilators shall be installed horizontally not more than 10 inches nor less than four inches above the floor in each milk room. The wall ventilators shall provide openings equivalent to 2% of the floor areas. Wall vent openings shall be equipped with metal framed insect screens. The milk room shall contain one or more ceiling vents. ~~In the absence of forced draft ventilation, the ceiling vents shall be shafted to a roof peak vent that is at least 12 inches in diameter to ventilate the room and exclude dust, rain, birds, insects, and trash. Ceiling vents shall provide high ventilation equivalent to an opening of 2% or more of the floor area.~~ Ceiling vents shall not be installed directly above bulk milk storage tanks. ~~Oil or gas water heaters shall be vented outside above the roof edge.~~
 7. Tanker loading area. A tanker-loading area, at least 10 feet by 12 feet, paved, curbed, and sloped to drain, shall be provided adjacent to the milk room where milk is transferred from a farm tank to a milk tanker. If a tanker is used instead of a farm tank, a tanker shelter shall be provided that complies with the construction, light, drainage, and general maintenance requirements of the milk room.
 8. Farm tank installations. All farm tanks for the cooling and storing of milk shall be installed in the milk room. Bulk milk tanks equipped with agitator shaft opening seals may, if approved by the Dairy Supervisor, be bulk-headed through a wall.
- F. Parlor.
1. Floors.
 - a. ~~The floors, curbs and quarters shall be constructed of four-inch thick concrete or other, light-colored, impervious material, finished smooth. The floors, alleys, gutters, mangers, and curbs shall slope lengthwise at least 1 1/2 inches per 10 feet toward a drain or gutter. The cow standing platform in the elevated stall parlor shall slope sufficiently to provide for adequate drainage and cleaning, at least 1 1/2 inches toward the floor gutter.~~
 - b. Floor and wall junctions shall have at least a two-inch radius cove and shall be an integral part of the floor.
 - c. ~~The cow standing platform litter alley, feed alley, and gutter shall be given a true, even surface. The cow standing platform, litter alley, holding corral and concrete lane shall be treated to prevent slipping. Concrete floors built on soils other than sandy loams shall have a sand or rock cushion at least six inches deep.~~
 2. Walls. All walls shall be constructed of a light-colored, impervious material. If necessary, means shall be provided to prevent the entrance of swine, fowl and other prohibited animals, that shall extend at least four feet above the ground floor. All walls shall be finished smooth on the inside with the top ledge rounded on open walls. If a parlor wall forms a part of the holding corral or an entrance or exit lane, it shall be finished smooth on the outside. If a concrete block or masonry construction is used, all voids below the floor line shall be filled with concrete. In elevated stall parlors, the wall under the cow standing platform adjacent to the milking area shall be finished smooth and designed to prevent drip page leakage.
 3. Plate line. ~~The plate line in the floor level parlor shall be at least 7 feet 3 inches above the floor. In elevated stall parlors, the plate line shall be at least 6 feet 6 inches above the cow standing platform.~~
 4. Superstructure. ~~The exposed superstructure of the parlor or ceiling shall be constructed of smooth material. The roof sheathing in an exposed superstructure shall be applied directly to the rafters.~~
 - 5.3. Stalls. ~~The cow standing platform and floor level parlors shall be at least three feet wide for each cow and shall be at least four feet 10 inches and not more than six feet from the stanchion line to the gutter, depending on the size of the cattle and the design of the manger. If stanchions are not used, the cow standing platform shall be at least 7 feet in length. The cow stall in a tandem elevated stall shall be eight feet in length. A tandem stall and a herringbone stall shall have a smooth, flat, nonabsorbent splash panel behind each cow.~~
 - 6.4. Light and airspace. ~~The parlor shall have at least 400 cubic feet of air space for each stall. Window space, with or without glass, shall be equivalent to at least 6% of the floor area. Light transmitting material in the roof may be substituted for window spaces. Natural and/or Artificial artificial light shall be at least 30 foot-candles at the floor level and located to minimize shadows in the milking area.~~
 7. Alleys.
 - a. ~~The litter alley, exclusive of gutter, shall be at least 4 feet 9 inches wide behind a single string of cows. In a 2-string head-out parlor, the litter alley shall be at least eight feet wide between gutters.~~
 - b. ~~In a floor level parlor, the feed alley in single and 2single head-out types, shall be at least 5 feet 9 inches wide between stanchion line and wall. In 2string head-in parlors, there shall be at least 10 feet between stanchions.~~



- e. The milking alley in the 2string tandem elevated stall parlor shall be at least eight feet wide but may be reduced to five feet at the narrowest point if automatic feeders are installed and used. The width of the milking alley in the 2string herringbone parlor may be reduced to five feet at the narrowest point.
- d. In the single-string elevated parlor, the milking alley shall be at least eight feet wide.

8-5. Gutters.

- a. All parlors shall have gutters to catch the defecation of cows while in the stall and for any water used for rinsing.
- b. Gutters in the floor level parlor may be either trench or step off. The gutter shall be at least 14 inches wide and two inches deep at the cow standing platform. The gutter floor shall slope down away from the cow standing platform 1/2 inch across its width. The gutter shall have a uniform depth for its entire length.
- e. The gutters in an elevated stall parlor shall be grate covered in the stall and trenched along the outside wall. The stall gutter shall be located to catch defecation of cows in the stall. The stall gutter shall be at least 500 square inches in area and at least 20 inches wide and four inches deep. A herringbone parlor may have the stall gutter width reduced to 14 inches provided a 500 square inch area containing the animal is maintained. The wall gutter shall be at least eight inches wide and three inches deep and the bottom may be rounded. A trench gutter may be eliminated in an exit alley if the alley is curbed and sloped to drain.
- d-b. Pipe used for parlor gutter drainage shall be at least four inches in diameter and meet applicable plumbing codes.

9-6. Curbs.

- a. In elevated stall parlors, the cow standing platform shall be curbed on the side next to the milking alley and the curb shall be at least six inches in height with the top rounded to retain the elevated stall floor washings. This curb may be lowered to not less than two inches at the area where the milking machines are applied. Metal curbs shall be free of voids and sealed to stall and floor or wall.
- b. Floor level parlors shall contain a curb under the stanchion line at least six inches wide, 12 inches high from the stall floor, except if metal mangers are used the top of this curb shall be rounded.

10-7. Stanchions.

- a. The stanchion shall be metal or other impervious, easily cleanable material. ~~The lower horizontal line of the stanchion shall be at least two inches above the curb and at least 14 inches above the floor if no curb is provided.~~
- b. In floor level parlors, the manger shall have:
 - i. A width of at least 27 inches with a back wall at least 12 inches above the floor;
 - ii. Rounded corners;
 - iii. The low point of the manger at least eight inches out from the stanchion line and three inches above the floor; and
 - iv. A lengthwise slope of at least 1 1/2 inches per 10 feet toward a drain or gutter.
- e-b. Mangers and feed boxes in all types of parlors shall be constructed of impervious materials, finished smooth, and provided with drainage outlets at low points.

11-8. Ventilation.

- a. ~~Adequate~~ ventilation shall be provided in the parlor, holding corral, and wash area, if roofed.
- b. ~~Continuous open 18inch ridge vents that rise at least six inches above the roof area are permitted. Any ridge vent continuing over the feed room shall be tightly screened.~~
- e. If a stack vent is used, single string parlors shall have a 12-inch diameter opening, and multi-string parlors shall have a 14-inch diameter opening with not more than 10 feet between vent and wall, and vent and vent.
- d. A flat ceiling shall have at least two vents, two feet by two feet or equivalent, shafted to a roof peak vent with not less than a 12inch opening. The ceiling vents may be located directly over the cow standing platform or the milking pit. The vents shall be located not more than 10 feet between vent and wall, and vent and vent.

12- ~~The lower half of the parlor doors shall be covered on both sides with corrosion resistant metal.~~

- G. Roof drainage from parlors; and milk rooms; ~~or shelters~~ shall not drain into a corral unless the corral is paved and properly drained.
- H. If animals are fed in the parlor, feed storage facilities shall be provided. Feed storage rooms, when installed, shall be partitioned from the parlor and shall be fly and rodent proof. The feed discharge area of the bulk feed storage shall be concrete or other impervious material that is curbed and drained. Bulk feed may discharge directly into the parlor. A bulk feed tank located opposite the passageway shall be at least six feet from the milk room. Overhead feed storage is permissible if it is fly, rodent, and dust tight. Feed shall be conveyed to the manger or feed box in a tightly closed dust-free system. Overhead metal feed tanks may be used.
- I. Facilities to store dairy supplies shall be provided. Only supplies that come in contact with the milk or milk contact surface of the milk-handling equipment may be stored in the milk room and shall be protected from toxic materials, vectors, and dust.



NOTICE OF PROPOSED RULEMAKING

TITLE 6. ECONOMIC SECURITY

CHAPTER 5. DEPARTMENT OF ECONOMIC SECURITY
SOCIAL SERVICES

[R16-74]

PREAMBLE

- | | |
|---|---------------------------------|
| <u>1. Article, Part, or Section Affected (as applicable)</u> | <u>Rulemaking Action</u> |
| R6-5-5201 | Amend |
| R6-5-5202 | Amend |
| R6-5-5207 | Amend |
| R6-5-5217 | Amend |
| R6-5-5218 | Amend |
| R6-5-5219 | Amend |
- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**
 Authorizing statute: A.R.S. § 41-1954(A)(3)
 Implementing statute: A.R.S. § 46-809
- 3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rulemaking:**
 Notice of Rulemaking Docket Opening: 22 A.A.R. 1065, May 6, 2016 (*in this issue*).
- 4. The agency's contact person who can answer questions about the rulemaking:**
 Name: Rodney K. Huenemann
 Address: Department of Economic Security
 P.O. Box 6123, Site Code 837A
 Phoenix, AZ 85005
 or
 Department of Economic Security
 1789 W. Jefferson St., Site Code 837A
 Phoenix, AZ 85007
 Telephone: (602) 542-6159
 Fax: (602) 542-6000
 E-mail: rhuenemann@azdes.gov
- 5. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**
 This rulemaking is in response to a Five-Year Review Report, approved by the Governor's Regulatory Review Council on September 9, 2014. This rulemaking will address concerns identified in a rulemaking petition that the current rule unnecessarily restricts the number of organizations that are allowed to provide training in first aid and infant/child cardiopulmonary resuscitation (CPR) to family child care home providers. Additionally, this rulemaking will make technical corrections to correct typographical errors and incorrect citations.
- 6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
 The Department did not review or rely on any study relevant to the rules.
- 7. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**
 Not applicable
- 8. The preliminary summary of the economic, small business, and consumer impact:**
 The anticipated impact of this rulemaking is expected to be minimal for persons impacted by the rulemaking and cannot be accurately quantified. There are no expected negative economic impacts on small business. The rulemaking is anticipated to have a positive impact on some small businesses that provide first aid and/or cardiopulmonary resuscitation (CPR) training, as their trainings will now be accepted by the Department. There are no expected impacts on consumers.



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

Name: Rodney K. Huenemann
 Address: Department of Economic Security
 P.O. Box 6123, Site Code 837A
 Phoenix, AZ 85005
 or
 Department of Economic Security
 1789 W. Jefferson St., Site Code 837A
 Phoenix, AZ 85007
 Telephone: (602) 542-6159
 Fax: (602) 542-6000
 E-mail: rhuenemann@azdes.gov

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

The Department does not plan to conduct an oral proceeding on the proposed rules unless a written request for an oral proceeding is submitted to the person named in item 4 within 30 days after this notice is published. The Department will accept written public comments on the proposed rules for 30 days after this notice is published. Close of record for this rulemaking is 5:00 p.m. on June 6, 2016.

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

No other matters are prescribed.

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

The rules do not require a permit.

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

The Child Care and Development Block Grant (CCDBG) Act of 1990 and 45 CFR 98 and 99 are applicable to the subject of the rule. The Department has determined that the rules are not more stringent than corresponding federal law.

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

No analysis was submitted.

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

None

13. The full text of the rules follows:

TITLE 6. ECONOMIC SECURITY

**CHAPTER 5. DEPARTMENT OF ECONOMIC SECURITY
 SOCIAL SERVICES**

ARTICLE 52. CERTIFICATION AND SUPERVISION OF FAMILY CHILD CARE HOME PROVIDERS

Section

- R6-5-5201. Definitions
- R6-5-5202. Initial Application for Certification
- R6-5-5207. Maintenance of Certification: General Requirements; Training
- R6-5-5217. Meals and Nutrition
- R6-5-5218. Health Care; Medications
- R6-5-5219. Recordkeeping; Unusual incidents; Immunizations

ARTICLE 52. CERTIFICATION AND SUPERVISION OF FAMILY CHILD CARE HOME PROVIDERS

R6-5-5201. Definitions

No change

- 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
11. No change
12. 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
23. No change
24. No change
25. No change
26. No change
27. No change
28. No change
29. No change
30. No change
 - a. No change
 - b. No change
31. No change
32. No change
33. No change
34. No change
35. "Neglect" has the same meaning ascribed in A.R.S. § ~~8-201(21)~~ 8-201.
36. No change
37. No change
38. No change
39. No change
40. No change
41. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
42. No change
43. No change
44. No change
45. No change

R6-5-5202. Initial Application for Certification

- A. No change
- B. No change
- C. No change
- D. No change
 1. No change
 2. No change



- 3. No change
- 4. No change
- E. No change
- F. No change
 - 1. No change
 - 2. No change
 - 3. No change
- G. No change
- H. No change
- I. No change
 - 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
 - 11. No change
 - 12. No change
 - 13. No change
 - 14. No change
- J. No change
- K. No change
- L. An applicant shall furnish proof that the applicant, the individual backup provider, and members of the applicant's household who are age 13 or younger are immune from measles, rubella, diphtheria, tetanus, ~~pertusis~~, pertussis, polio, and any other diseases for which routine immunizations are readily and safely available.
 - 1. No change
 - 2. No change
 - a. No change
 - b. No change
- M. No change
 - 1. No change
 - a. No change
 - b. No change
 - 2. No change
- N. No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
 - 5. No change
 - 6. No change
- O. No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
- P. No change
- Q. No change
- R. The Department shall send an applicant a notice of administrative completeness or deficiency, as described in A.R.S. § 41-1074, indicating the additional information, if any, that the applicant must provide for a complete application package. The Department shall send the notice after receiving the application and before expiration of the administrative review time-frame described in ~~R6-5-5204~~ R6-5-5205. If the applicant does not supply the missing information listed in the notice, the Department may close the file.
- S. No change
- T. No change

R6-5-5207. Maintenance of Certification: General Requirements; Training

- A. No change
- B. No change



C. No later than 60 days after the date of provider certification, a provider and individual backup providers shall furnish the Department with proof of acceptable first aid training and certification in infant/child cardiopulmonary resuscitation ("CPR"). As used in this Section, "acceptable training" means a course ~~approved by~~ which conforms to the current guidelines of the American Red Cross or the American Heart Association, as confirmed in writing by the training provider, and is held in a classroom setting. The Department may extend the time for completing this requirement and children may remain in care during an extension, if:

1. No change
2. No change

D. No change

E. No change

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

F. No change

G. No change

H. No change

I. No change

J. No change

K. No change

L. No change

M. No change

N. No change

O. No change

1. No change
2. No change

R6-5-5217. Meals and Nutrition

A. No change

B. No change

C. No change

D. No change

E. No change

F. A provider shall monitor all perishable foods, including infant formulas and sack lunches. The provider shall ensure that food is individually labeled with a child's name, dated, covered, and properly stored to prevent spoilage- at temperatures of 45°F or less.

R6-5-5218. Health Care; Medications

A. No change

B. No change

1. No change
2. No change

C. No change

D. No change

E. No change

F. No change

G. No change

H. No change

1. No change
2. No change

I. No change

1. No change
2. No change
3. No change
4. No change

J. A provider shall use a sanitary medication measure for accurate dosage.

~~J.~~~~K.~~No change

~~K.~~~~L.~~No change

~~L.~~~~M.~~No change



R6-5-5219. Recordkeeping; Unusual incidents; Immunizations

- A. No change
- B. No change
- C. No change
- D. No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
 - 5. No change
 - 6. No change
 - 7. No change
 - 8. No change
- E. No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
 - 5. No change
- F. No change
 - 1. No change
 - a. An immunization record prepared by the child's health care provider stating that child has received current, age-appropriate immunizations specified in ~~R9-6-701~~ R9-6-702, including immunizations for Diphtheria, ~~homophiles influenza~~ Haemophilus influenzae type b, Hepatitis B, Measles, Mumps, ~~Pertusis~~, Pertussis, Polio-myelitis, Rubella, and Tetanus;
 - b. No change
 - c. No change
 - 2. If a child has received all current immunizations but requires further inoculations to be fully immunized, the provider shall require the parent to verify that the parent will have the child complete all immunizations in accordance with the DHS recommended schedule identified in ~~R9-6-701~~ R9-6-702. The provider shall:
 - a. No change
 - b. No change
 - 3. No change
- G. No change