

-Preface-

Department of Economic Security

Five – Year Review Reports

A.R.S. § 41-1056 requires that at least once every five years, each agency shall review its administrative rules and produce reports that assess the rules with respect to considerations including the rule’s effectiveness, clarity, conciseness and understandability. The reports also describe the agency’s proposed action to respond to any concerns identified during the review. The reports are submitted in compliance with the schedule provided by the Governor’s Regulatory Review Council. A.R.S. § 18-305, enacted in 2016, requires that statutorily required reports be posted on agency’s website.

**Department of Economic Security
Title 6, Chapter 5, Article 52
Five-Year Review Report**

1. Authorization of the rule by existing statutes:

General Statutory Authority: A.R.S. §§ 41-1003, 41-1954(A)(3), and 46-134(10)

Specific Statutory Authority: A.R.S. §§ 46-802, 46-807, 46-809, and 41-1072 through 41-1077

2. The objective of each rule:

Rule	Objective
R6-5-5201	This rule defines terms used in this Article so that any person reading the rules will understand the meaning of special terms and any terms that are not used according to their ordinary meaning.
R6-5-5202	This rule describes the initial application requirements for an individual who applies to become a DES-certified child care provider, including basic eligibility for applicants, required information to be submitted with an application, health and safety requirements, and the requirement to comply with all other regulations specified in this Article and federal, state or local laws that are applicable to providing child care services.
R6-5-5203	This rule establishes health and safety standards for a home facility in which child care services are provided. The standards include safeguarding potentially dangerous objects throughout the home and outdoor play area, having adequate space to provide child care services, having emergency exits with an evacuation plan, and specific requirements surrounding a body of water.
R6-5-5204	This rule describes the responsibilities of the Department and guidelines the Department shall use to determine the suitability of a DES-certified child care provider.
R6-5-5205	This rule establishes overall timeframes of the application process prescribed by A.R.S. § 41-1073 and includes separate time frames for determining administrative completeness and completing substantive-review of applications.
R6-5-5206	This rule establishes the requirements regarding a DES-certificate issued to a DES-certified child care provider and describes the non-transferability of the certificate from the DES-certified child care provider and location identified on the certificate.

Rule	Objective
R6-5-5207	This rule establishes general requirements for a DES-certified child care provider to maintain a DES certificate, including ongoing training in child care related topics, pediatric cardiopulmonary resuscitation (CPR), and first aid. This rule also describes the requirement to maintain a valid fingerprint clearance card for child care personnel, as well as the Department's requirement to conduct announced and unannounced onsite monitoring visits to a DES-certified child care provider.
R6-5-5208	This rule establishes the conditions under which the Department may renew a DES certificate issued to a DES-certified child care provider every three years.
R6-5-5209	This rule describes the program and equipment requirements regarding children in care, including infant/toddler, preschool, and school-age children, to ensure that care is provided in a developmentally appropriate manner that enables all children to develop the emotional, social, cognitive, and physical capacities and skills they need to achieve a safe and healthy well-being.
R6-5-5210	This rule clarifies general safety and supervisory requirements for a DES-certified child care provider and addresses initiating backup care arrangements, supervision of children in care, and mandatory reporting requirements for suspected child abuse and neglect. This rule also identifies the individuals who are authorized to pick up children and the individuals who are prohibited in a DES-certified child care home.
R6-5-5211	This rule establishes adequate sanitation requirements a DES-certified child care provider shall meet to ensure the health and safety of children in care and to prevent the spread of communicable disease in a DES-certified home.
R6-5-5212	This rule describes guidelines and limitations regarding the methods a DES-certified child care provider may use when providing guidance or disciplining children in care, including the requirement to set clear time limits and providing positive guidance, redirection, and time-out.
R6-5-5213	This rule establishes supplemental guidelines for a DES-certified child care provider who chooses to provide evening and nighttime child care, including the requirement for safe equipment and bedding.
R6-5-5214	This rule establishes supplemental guidelines for a DES-certified child care provider who cares for children under the age of two years, including requirements for feeding and physical contact.

Rule	Objective
R6-5-5215	This rule establishes supplemental guidelines for a DES-certified child care provider who cares for children with special needs, including the responsibility to ensure reasonable accommodations, communication with parents, inclusion practice, and the accommodation for a private diaper changing area for children older than the age of three years.
R6-5-5216	This rule establishes supplemental safety guidelines and requirements for a DES-certified child care provider who uses a motorized vehicle to transport a child in care.
R6-5-5217	This rule provides guidelines for a DES-certified child care provider to offer healthy meals and snacks and procedures to meet special dietary needs to children in care.
R6-5-5218	This rule establishes guidelines for a DES-certified child care provider to control infectious disease, store and administer medications, and keep a written log of medication administered to children in care. This rule also provides procedures to take when a child becomes ill and describes the DES-certified child care provider's responsibility to obtain only emergency medical treatment for a child in care, when needed.
R6-5-5219	This rule establishes a system a DES-certified child care provider shall use to maintain and retain a child's medical records to ensure compliance with the immunization requirements set by Department of Health Services, including unusual incidents and immunization records or exemption affidavits. This rule also requires a DES-certified child care provider to collect and keep certain documents according to the requirements of this Article and the child care registration agreement.
R6-5-5220	This rule establishes the standards for the maximum ratio of adults to children for all DES-certified child care providers, as well as procedures the Department follows to further limit the ratio under certain circumstances, such as provision of care to children with special needs or a home facility with inadequate space.
R6-5-5221	This rule describes the requirement of a DES-certified child care provider to notify the Department of significant changes that may affect the safety and stability of child care services and the timeframe in which changes shall be reported.
R6-5-5222	This rule describes a DES-certified child care provider's responsibility to maintain a DES-approved backup provider to ensure care is provided even when the DES-certified child care provider is unable to care for the children. This rule also addresses the proper use of the DES-approved backup provider and clarifies the procedures for mandatory reporting to the Department and to the parents when backup care is used.

Rule	Objective
R6-5-5223	This rule describes the basis for payment to a DES-certified child care provider for the provision of child care, as well as the responsibility of a DES-certified child care provider to make financial arrangements with a DES-approved backup provider when a backup provider is used to provide child care.
R6-5-5224	This rule describes the procedures the Department uses to document and investigate a complaint received against a DES-certified child care provider.
R6-5-5225	This rule describes the procedures the Department uses when placing a DES-certified child care provider on probation, including timeframes and progressive adverse action that may result from continued noncompliance.
R6-5-5226	This rule establishes the criteria the Department uses to deny, suspend, revoke, or refuse to renew a child care certification.
R6-5-5227	This rule describes the actions the Department takes to notify a DES-certified child care provider when an adverse action is taken against the DES-certified child care provider.
R6-5-5228	This rule establishes a DES-certified provider's right to appeal an adverse action taken by the Department, clarifies appealable and non-appealable actions, and references the rules and regulations that describe hearing procedures.

3. Are the rules effective in achieving their objectives?

Yes

No

If not, please identify the rule(s) that is not effective and provide an explanation for why the rule(s) is not effective.

Rule	Explanation
R6-5-5201	This rule is not effective because the definition for Child Protective Services (CPS) is outdated and does not reflect the shift in statutory and regulatory authority of CPS to the Department of Child Safety (DCS).
R6-5-5202	<p>This rule is not effective because it contains outdated, vague, and incorrect information.</p> <p>R6-5-5202(D)(4): A DES-certified provider cannot be a choice for backup child care services because a DES-certified provider is only certified to care for up to four children and there is no room to legally care for additional children who are cared for by another DES-certified child care provider.</p> <p>R6-5-5202(L): The language regarding immunization requirements is vague and outdated.</p> <p>R6-5-5202(M)(1): Language regarding medical recommendations are outdated and creates barriers for the applicant because the rule requires that the applicant and all household members of the applicant submit evidence of freedom from pulmonary tuberculosis (TB) within three months of the date of initial certification and annually thereafter. However, if the application approval timeframe is suspended and the applicant is not certified within three months of application, this creates a barrier for the applicant. Additionally, the rule states that evidence submitted under this section can only be provided by a physician and does not allow for evidence to be provided by other health care providers, such as a physician's assistant, registered nurse, or registered nurse practitioner.</p>
R6-5-5203	This rule is not effective because it does not address health and safety standards regarding animals kept within the home facility that may present a danger to children in care or the protection of children from vehicular traffic surrounding the home facility. Additionally, the rule does not require the DES-certified child care provider to have an outdoor activity area even though R6-5-5209 requires outdoor activities be incorporated and balanced in the program.

Rule	Explanation
R6-5-5207	This rule is not effective because the language allows child care personnel and all individual backup providers who may be ineligible to receive a valid fingerprint card to be in contact with children in care until the individual's application for a fingerprint card is denied. Additionally, language regarding "tobacco products or smoke" is no longer effective as the tobacco products are not clearly defined. The training hour requirement for a DES-certified in-home provider is not an adequate amount of time to cover all the federally required topics listed in 45 CFR 98.41(a)(1).
R6-5-5208	This rule is not effective because it does not align with current Department practice. R6-5-5208(A): The option to conduct an interview with a DES-certified in-home provider at the in-home provider's residence is impractical and has never been performed. R6-5-5208(E): The requirement of the Department to deny recertification or take other enforcement action when the provider does not accept Department-referred children on three separate occasions is incorrect because the Department does not refer children to any provider.
R6-5-5209	This rule is not effective because the list of developmentally appropriate play equipment and supplies in the rule are meant to be examples and are not a requirement for a DES-certified care provider to make available to children in care.
R6-5-5210	This rule is not effective because Child Protective Services (CPS) no longer exists and the rule lacks safety and supervisory requirements in the event of an emergency, including a natural or man-caused disaster, pursuant to 45 CFR 98.41(a)(1)(vii).
R6-5-5211	This rule is not effective because language in R6-5-5211(C) that requires a DES-certified child care provider to have "a garbage can with a close-fitting lid" does not clearly state that all garbage cans within the home facility must have close-fitting lids.
R6-5-5212	This rule is not effective because some of the discipline methods addressed are outdated and need to be evaluated to align with current acceptable practices that focus on preventing behavior issues by supporting children in learning appropriate social skills and emotional responses. Additionally, the use of time-out must be accompanied with specific guidelines to avoid inappropriate use.
R6-5-5213	This rule is not effective because language regarding the minimum standards for cribs is outdated and needs to be evaluated to align with 16 CFR 1219 and 1220.

Rule	Explanation
R6-5-5214	This rule is not effective because it does not include federally required standards, including prevention and recognition of shaken baby syndrome, preparation for a natural or man-caused emergency, and response plan to include lock-down or evacuation with small children.
R6-5-5215	This rule is not effective because it does not include federally required standards for emergency preparedness and a response plan to include lock-down or evacuation with children with special needs, pursuant to 45 CFR 98.41(a)(1)(vii).
R6-5-5216	This rule is not effective because the definition of “mechanically safe” is vague and needs clarification to provide a clearer understanding to DES-certified child care providers and Department staff.
R6-5-5217	<p>This rule is not effective because it contains outdated, vague, and incorrect information.</p> <p>R6-5-5217(A): The rule references an outdated federal regulation, 7 CFR 226.20 (January 1, 1998), incorporated by reference, and the Department's Authority Library, which no longer exists.</p> <p>R6-5-5217(F): The refrigerator temperature requirement does not align with A.A.C. R9-8-107 and does not address the federal requirement of a DES-certified child care provider to prevent and respond to emergencies due to food and allergic reactions.</p>
R6-5-5218	This rule is not effective because it lacks the federal health and safety requirements for appropriate disposal of bio-contaminants, pursuant to 45 CFR 98.41(a)(1)(viii).
R6-5-5219	This rule is not effective because it requires children who are exempt from immunizations for religious or medical reasons to be excluded from the home facility if there is an outbreak of a vaccine-preventable disease at the home facility. The Department cannot mandate a child be excluded from the home when the child who is exempt from immunizations for religious or medical reasons is the child of the DES-certified child care provider.
R6-5-5221	This rule is not effective because the definition of "significant change" is vague and needs clarification to provide a clearer understanding to DES-certified child care providers. This vague term results in DES-certified child care providers not reporting when a home facility is closed for the day.
R6-5-5222	This rule is not effective because backup providers have minimal requirements compared to DES-certified child care providers even though they are required to provide the same level of services.

Rule	Explanation
R6-5-5226	This rule is not effective because Child Protective Services (CPS) no longer exists and the fingerprint card requirement does not require DES-certified child care providers to submit information necessary for the Department to conduct additional criminal background checks, pursuant to 45 CFR 98.43.

4. Are the rules consistent with other rules and statutes?

Yes

No

If not, please identify the rule(s) that is not consistent. Also, provide an explanation and identify the provisions that are not consistent with the rule.

Rule	Explanation
R6-5-5201	The rule is not consistent with state statute because the definitions include CPS and does not reflect the shift in statutory and regulatory authority of CPS to the DCS, pursuant to A.R.S. § 8-451.
R6-5-5202	The rule is not consistent with federal regulations because the statement of services does not address a DES-certified child care provider's policies related to prevention of suspension, expulsion and denial of services, pursuant to 45 CFR 98.17.
R6-5-5203	This rule is not consistent with federal regulations regarding health and safety requirements that includes protection of children in care from vehicular traffic, pursuant to 45 CFR 98.41(a)(1)(v); emergency preparedness and response plan for an emergency resulting from a natural or man-caused disaster, pursuant to 45 CFR 98.42(a)(1)(vii); and a home facility's requirement to meet fire standards, pursuant to 45 CFR 98.42(b)(2)(ii).
R6-5-5204	This rule is not consistent with federal regulations at 45 CFR 98, Subpart D, which addresses program operations for child care services, including the Department's requirements.
R6-5-5207	This rule is not consistent with federal regulations regarding the minimum health and safety training on topics for pre-service and ongoing training, pursuant to 45 CFR 98.41(a)(1) and the requirement for a criminal background check to be completed prior to the start date of providing child care services, pursuant to 45 CFR 98.43.

Rule	Explanation
R6-5-5210	The rule is not consistent with state statute because it refers to CPS and does not reflect the shift in statutory and regulatory authority of CPS to the DCS, pursuant to A.R.S. § 8-451 and does not address safety and supervisory requirements in case of an emergency situation, including a natural or man-caused disaster, pursuant to 45 CFR 98.41(a)(1)(vii).
R6-5-5213	This rule is not consistent with federal regulations regarding safety standards for baby cribs, pursuant to 16 CFR 1219 and 1220 and the prevention of sudden infant death syndrome and the use of safe sleeping practices, pursuant to 45 CFR 98.41(a)(1)(ii).
R6-5-5214	This rule is not consistent with federal regulations regarding the prevention of sudden infant death syndrome and the use of safe sleeping practices, pursuant to 45 CFR 98.41(a)(1)(ii) and the prevention of shaken baby syndrome, abusive head trauma, and child maltreatment, pursuant to 45 CFR 98.41(a)(1)(vi).
R6-5-5215	This rule is not consistent with federal regulations regarding the standards for an emergency preparedness and response plan for children with disabilities and children with chronic medical conditions, pursuant to 45 CFR 98.41(a)(1)(vii).
R6-5-5217	This rule is not consistent with federal regulations regarding the standards for prevention and response to an emergency due to food and allergic reactions, pursuant to 45 CFR 98.41(a)(1)(iv).
R6-5-5218	The rule is not consistent with federal regulations regarding appropriate disposal of bio-contaminants, pursuant to 45 CFR 98.41(a)(1)(viii).
R6-5-5226	The rule is not consistent with state statute because it refers to CPS and does not reflect the shift in statutory and regulatory authority of CPS to the DCS, pursuant to A.R.S. § 8-451 and does not require adequate information to be submitted to the Department in order to conduct a criminal background check, pursuant to 45 CFR 98.43.

5. Are the rules enforced as written?

Yes

No

If not, please identify the rule(s) that is not enforced as written and provide an explanation of the issues with enforcement. In addition, include the agency(s) proposal for resolving the issue.

Rule	Explanation
R6-5-5201	This rule is not enforced as written because there are additional terms used in this Article that are not defined. The Department plans to revise this rule to include all terms the Department uses and to revise existing definitions that need clarification.
R6-5-5202	<p>This rule is not enforced as written because:</p> <p>R6-5-5202(L): Generally, medical doctors are not administering a polio vaccine to adults because the vaccine is not required for an individual who is 18 years of age or older, pursuant to 9 A.A.C. 6, Table 7.1(B)(6).</p> <p>R6-5-5202(M): The Department does not enforce the requirement to provide evidence of current freedom from pulmonary tuberculosis for a child under the age of 18 months.</p> <p>R6-5-5202(M)(1)(b): The Department does not enforce the requirement that a written statement must be provided by a physician. The Department accepts a written statement from other health care provider's, such as a physician's assistant, registered nurse, or registered nurse practitioner.</p> <p>The Department's current practices are enforced through the contract between the Department and a DES-certified child care provider. The Department plans to amend the rules to align with 45 CFR 98.</p>
R6-5-5203	<p>The rule is not enforced as written because federal requirements are not addressed, including health and safety requirements regarding building and physical premises safety standards that include protection of children from vehicular traffic, pursuant to 45 CFR 98.41(a)(1)(v); a DES-certified child care provider to have policy for emergency preparedness and response plan for an emergency resulting from a natural or man-caused event, pursuant to 45 CFR 98.41(a)(1)(vii); and the requirement of a home facility to meet the fire standards, pursuant to 45 CFR 98.42(b)(2)(ii).</p> <p>The Department's current practices are enforced through the contract between the Department and a DES-certified child care provider. The Department plans to amend the rules to align with 45 CFR 98.</p>

Rule	Explanation
R6-5-5204	<p>This rule is not enforced as written because federal regulations at 45 CFR 98, Subpart D, which addresses program operations for child care services, including the Department's requirements, are not included in the rule.</p> <p>The Department's current practices are enforced through the contract between the Department and a DES-certified child care provider. The Department plans to amend the rules to align with 45 CFR 98.</p>
R6-5-5207	<p>This rule is not enforced as written because the Department currently requires a DES-certified child care provider to participate in 12 hours of training annually, whereas the current rule only requires six hours of training. Additionally, the rule indicates that training must be completed in a calendar year, whereas the Department uses a "certification year" to track training to avoid prorating the training hours. A "certification year" begins the month a DES-certified child care provider is certified. The Department plans to amend the rules to align with 45 CFR 98.</p>
R6-5-5210	<p>The rule is not enforced as written because a DES-certified child care provider reports suspected child abuse to DCS, pursuant to A.R.S. § 8-451 and the safety and supervisory requirements in case of an emergency situation, including a natural or man-caused disaster are not addressed, pursuant to 45 CFR 98.41(a)(1)(vii).</p> <p>The Department's current practices are enforced through the contract between the Department and a DES-certified child care provider. The Department plans to amend the rules to align with 45 CFR 98.</p>
R6-5-5213	<p>This rule is not enforced as written because the Department has been inspecting DES-certified child care provider's cribs using federal regulation requirements at 16 CFR 1219 and 16 CFR 1220 since 2012.</p> <p>The Department's current practices are enforced through the contract between the Department and a DES-certified child care provider. The Department plans to amend the rules to align with 45 CFR 98.</p>

Rule	Explanation
R6-5-5226	<p>This rule is not enforced as written because reports of alleged maltreatment are reported to DCS, pursuant to A.R.S. § 8-451 and the Department requires additional information from a DES-certified child care provider to conduct additional criminal background checks required for providers and adult household members, pursuant to 45 CFR 98.43.</p> <p>The Department's current practices are enforced through the contract between the Department and a DES-certified child care provider. The Department plans to amend the rules to align with 45 CFR 98.</p>

6. **Are the rules clear, concise, and understandable?** Yes No

If not, please identify the rule(s) that is not clear, concise, or understandable and provide an explanation as to how the agency plans to amend the rule(s) to improve clarity, conciseness, and understandability.

Rule	Explanation
R6-5-5201	<p>This rule is not clear, concise, and understandable because the definition for "home facility" requires further clarification to potentially include the premises in addition to the residence. Additionally, terms such as "mechanically safe" and "significant change" are undefined and cause confusion to applicants, DES-certified child care providers, and Department staff.</p> <p>The Department plans to review and amend this rule by revising and adding definitions to improve clarity.</p>
R6-5-5202	<p>This rule is not clear, concise, and understandable because:</p> <p>R6-5-5202(L): The language requiring immunizations is vague and does not identify specific immunizations.</p> <p>R6-5-5202(M)(1)(a): The language indicating that a TB test must be performed within three months of the date or anniversary of initial certification is unclear whether this time is counted when an application approval process is suspended.</p> <p>The Department plans to amend this rule to align with 45 CFR 98 to improve clarity.</p>
R6-5-5207	<p>This rule is not clear, concise, and understandable because:</p> <p>R6-5-5207(K): It is unclear whether the language that prohibits a DES-certified child care provider from exposing a child in care to tobacco products or smoke includes electronic cigarettes and the vapor emitted from electronic cigarettes.</p>

	The Department plans to amend this rule to align with 45 CFR 98 to improve clarity.
R6-5-5209	<p>This rule is not clear, concise, and understandable because the list of developmentally appropriate play equipment and supplies in the rule are meant to be examples and are not a requirement for a DES-certified care provider to make available to children in care.</p> <p>The Department plans to amend this rule to align with 45 CFR 98 to improve clarity.</p>
R6-5-5211	<p>This rule is not clear, concise, and understandable because DES-certified child care providers have misinterpreted the language in R6-5-5211(C) to mean that that provider may have multiple garbage cans without a lid in the home as long as there is one garbage can with a close-fitting lid.</p> <p>The Department plans to amend this rule to clarify that all garbage cans in the home must have a close-fitting lid to improve compliance.</p>
R6-5-5216	<p>This rule is not clear, concise, and understandable because language in R6-5-5216(C) regarding “mechanically safe” is unclear and confusing to DES-certified child care providers and Department staff.</p> <p>The Department plans to amend the rule by revising the language to improve clarity.</p>
R6-5-5219	<p>This rule is not clear, concise, and understandable because language in R6-5-5219(G) is unclear whether the intention of the rule is to remove a DES-certified child care provider’s own child from the residence when an outbreak occurs.</p> <p>The Department plans to evaluate this rule in order to come to a reasonable solution and amend the language to improve clarity.</p>
R6-5-5221	<p>This rule is not clear, concise, and understandable because language in R6-5-5221(A) regarding “significant change” is unclear and confusing to DES-certified child care providers and sometimes results in a DES-certified child care provider not reporting a change to the Department.</p> <p>The Department plans to amend the rule by revising the language to improve clarity.</p>

7. Has the agency received written criticisms of the rules within the last five years?

Yes No

If yes, please fill out the table below:

Commenter	Comment	Agency's Response
Shannon Christian, Director, Federal Office of Child Care	<p>A letter from the Federal Office of Child Care to the Department, dated December 21, 2018 states: "Arizona did not fully implement the provisions listed below by the effective date of September 30, 2018; therefore, you will be on a Corrective Action Plan (CAP) for any unmet requirements starting October 1, 2018 for a period not to exceed one year."</p> <p>Deficiencies in the letter related to this Article include:</p> <ul style="list-style-type: none"> • Disaster preparedness and response plan, pursuant to 45 CFR 98.16(aa); and • Criminal background checks, pursuant to 45 CFR 98.43. 	<p>The Department developed a CAP for each area of deficiency and responded to the Federal Office of Child Care on March 15, 2019. The Federal Office of Child Care accepted the CAP and the Department is currently engaged in the action steps needed to meet the requirements.</p>

8. Economic, small business, and consumer impact comparison:

The Department completed an economic, small business, and consumer impact statement for this Article during a 1999 rulemaking. In that report, the Department estimated that the consumers and regulated Family Child Care Homes would receive the "intangible benefits that rise from having clearly defined rules," which proved to be an accurate assessment of the impact of the 1999 rulemaking.

An economic, small business, and consumer impact statement was also completed for R6-5-5207 during a 2016 rulemaking. This rulemaking removed unnecessary restrictions that required infant/child cardiopulmonary resuscitation (CPR) and first aid (FA) training to be "approved by" American Red Cross (ACR) or the American Heart Association (AHA) rather than "conform with" ACR or the AHA guidelines. This impacted which organizations could provide acceptable training

in infant/child (CPR) and first aid (FA) to DES-certified child care providers, making it more difficult for providers to comply with the requirement. The restrictions also limited the number of vendors qualified to deliver CPR/FA training to applicants and DES-certified child care providers. Currently, the cost of a CPR/FA combined training through the ACR averages about \$90 per person and equivalent training through the AHA ranges from \$69 - \$95 per person, depending on the trainer or location of training. The amendments to this rule had a positive economic impact on both DES-certified child care providers and organizations that deliver a classroom or blended-learning CPR/FA combined course that conforms to the guidelines of the ACR or the AHA. The American Safety and Health Institute (ASHI) and MEDIC First Aid Training Centers in Arizona offer a CPR/FA combined course that is currently \$50 per person. By promoting fair competition among providers of equivalent CPR/FA training, especially in rural areas, the rules resulted in greater flexibility and cost-savings to DES-child care providers without adversely affecting public health and safety.

9. Has the agency received any business competitiveness analyses of the rules?

Yes

No

10. Has the agency completed the course of action indicated in the agency's previous five-year review report?

Please state what the previous course of action was and if the agency did not complete the action, please explain why not.

The Department completed the proposed course of action identified in the previous Five-Year Review Report, approved by the Governor's Regulatory Review Council on September 9, 2014. Further concerns were identified in a rulemaking petition submitted to the Department on May 18, 2016 from the Health and Safety Institute to amend the rules to permit training and certification using hybrid (blended) learning approaches in addition to the traditional classroom approach for CPR/FA training. The concerns identified in the petition, as well as technical corrections to typographical errors and incorrect citations in R6-5-5201, R6-5-5202, R6-5-5207, R6-5-5217, R6-5-5218, and R6-5-5219 were addressed and the rules were amended in a Notice of Proposed Rulemaking, 22 A.A.R. 1029, May 6, 2016 and a Notice of Final Rulemaking, 22 A.A.R. 3185, November 11, 2016.

11. A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to regulated persons by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective:

Through analysis provided by the Department's program subject matter experts and Financial Services Administration, the Department believes that the rules impose the least burden and cost to persons regulated by these rules, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objectives. Amendments seek to align the rules with federal statutes and regulations and to make the rules more clear, concise, and understandable to the public, which is expected to reduce the burden and the costs associated with staff assistance and rework. Program subject matter experts indicate that amendments to the rules, as proposed in this report, are the most cost-effective way to bring the Department into compliance with federal requirements and ensure that the rules reflect current program practice.

12. Are the rules more stringent than corresponding federal laws? Yes No

Please provide a citation for the federal law(s). And if the rule(s) is more stringent, is there statutory authority to exceed the requirements of the federal law(s)?

The Child Care and Development Block Grant (CCDBG) Act of 2014 and Child Care and Development Funds (CCDF) regulations at 45 CFR 98 and 99 are applicable to the subject of these rules. The Department has determined that the rules are not more stringent than corresponding federal law.

13. For rules adopted after July 29, 2010 that require the issuance of a regulatory permit, license, or agency authorization, whether the rules are in compliance with the general permit requirements of A.R.S. § 41-1037 or explain why the agency believes an exception applies:

An analysis of the definition for general permit, as defined at A.R.S. § 41-1001(11), indicates that a certification of DES-child care providers meets the criteria of a general permit and meets the requirements of A.R.S. § 41-1037.

14. Proposed course of action:

If possible, please identify a month and year by which the agency plans to complete the course of action.

The Department requested a moratorium exception to make amendments to Article 52 in order to comply with CCDF regulations in 45 CFR 98 on October 26, 2016, and resubmitted on July 7, 2017. The proposed amendments would ensure compliance in the rules with requirements to:

- Establish administrative procedures for a Disaster Preparedness Plan;
- Establish an expulsion policy to reduce expulsions and suspensions of preschool-aged children;
- Clarify health and safety standards for children in child care settings;
- Revise the hours of required health and safety training and professional development to meet the minimum health and safety training topics to 12 hours pre-service training and 12 hours of ongoing training;
- Establish criminal background checks for back-up child care providers;
- Establish administrative procedures for Intentional Program Violation (IPV) to investigate and recover fraudulent payment and to impose sanctions on DES-certified child care providers in response to fraud; and
- Implement risk-based monitoring of certified child care providers that reduce the depth of monitoring for low risk providers and those with strong safety records and increase monitoring intensity for higher risk providers.

The Governor's Office informed the Department on August 30, 2018 that the request to amend Article 52 had been denied.

The Department is not seeking to amend these rules at this time.