

## NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by 1st 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. Due to time restraints, the Secretary of State's Office will no longer edit the text of proposed rules. We will continue to make numbering and labeling changes as necessary.

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 adoption, amendment, or repeal of any rule. A.R.S. §§ 41-1013 and 41-1022.

### NOTICE OF PROPOSED RULEMAKING

#### TITLE 4. PROFESSIONS AND OCCUPATIONS

#### CHAPTER 21. BOARD OF OPTOMETRY

#### PREAMBLE

1. Sections Affected Rulemaking Action  
R4-21-103 Amend
2. The specific authority for the rulemaking, including the authorizing statute (general) and the statutes the rules are implementing (specific):  
Authorizing statute: A.R.S. § 32-1704(A)  
Implementing statutes: A.R.S. § 32-1773
3. The name and address of agency personnel with whom persons may communicate regarding the rules:  
Name: Ms. Alexis Kjellstrom  
Address: Board of Optometry  
1400 West Washington, Suite 230  
Phoenix, Arizona 85007  
Telephone: (602) 542-3095  
Fax: (602) 542-3093
4. An explanation of the rule, including the agency's reasons for initiating the rule:  
Recently enacted, A.R.S. §32-1774 prohibits nonresident dispensers from filling a prescription for replacement soft contact lenses without having registered with the Board of Optometry and paid the required fee for registration or renewal of registration. A.A.C. R4-21-103 is being amended to add a new subsection which establishes the fees required for nonresident dispensers to register with the Board of Optometry in order to fill prescriptions for replacement soft contact lenses.
5. 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.
6. The preliminary summary of the economic, small business, and consumer impact:  
The Board of Optometry will incur only minimal expenses in implementing the new nonresident dispenser law. Besides the cost of the consultant assisting the Board with these rules, expenses will be incurred in the biannual registering of nonresident dispensers and in notifying nonresident dispensers who fill prescriptions for replacement soft contact lenses of the new registration requirement. Costs to individual nonresident dispensers who register will be \$500 every two years. At present 40 to 50 have been identified. There should be no other cost impacts.
7. 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: Ms. Alexis Kjellstrom  
Address: Board of Optometry  
1400 West Washington, Suite 230  
Phoenix, Arizona 85007  
Telephone: (602) 542-3095

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Fax: (602) 542-3093

8. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled where, when, and how persons may request an oral proceeding on the proposed rules:  
No public hearing to receive oral public comment is scheduled. Written requests for an oral proceeding or written comments regarding the proposed rule amendment will be accepted by the Board until 5 p.m., March 30, 1998. Address comments and requests for hearing to Alexis Kjellstrom, at the address listed in number 7, above.
9. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:  
None.
10. Incorporations by reference and their location in the rules:  
None.
11. The full text of the rules follows:

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 21. BOARD OF OPTOMETRY**

**ARTICLE 1. GENERAL PROVISIONS**

Section  
R4-21-103. Fees

**ARTICLE 1. GENERAL PROVISIONS**

Section  
R4-21-103. Fees

- A. In addition to fees established by A.R.S. § 32-1727, the fees relating to licenses are:
1. License issuance fee: \$150.00 in even-numbered years and \$300.00 in odd-numbered years.
  2. Biennial license renewal fee: \$300.00.
- B. The Board will charge the following fees for searches and copies of its records made pursuant to A.R.S. §§ 39-121.01 or 39-121.03:

1. Noncommercial copy:
    - a. 5¢ per name and address for directory listings or 15¢ each if printed on labels,
    - b. 25¢ per page for other records;
  2. Commercial copy:
    - a. 25¢ per name and address for directory listings or 35¢ each if printed on labels,
    - b. 50¢ per page for other records;
  3. Record searches: \$25.00 per hour, after first 15 minutes.
- C. Pamphlets containing optometry statutes and rules: \$5.00.
- D. An applicant for registration or renewal of registration as a nonresident dispenser for the purpose of filling prescriptions for replacement soft contact lenses shall pay to the Board a registration fee in the amount of \$500.00.

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 9. HEALTH SERVICES**

**CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS) - ADMINISTRATION**

**PREAMBLE**

- |   |  |
|---|--|
| <p>1. <u>Sections Affected</u></p> <p>R9-22-1101<br/>R9-22-1102<br/>R9-22-1103<br/>R9-22-1104</p> | <p><u>Rulemaking Action</u></p> <p>Amend<br/>Amend<br/>Amend<br/>Amend</p> |
|---|--|
2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):  
Authorizing statute: A.R.S. § 36-2903.01(H)  
Implementing statute: A.R.S. §§ 36-2918 and 36-2918.01
3. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:
- Name: Cheri Tomlinson
- Address: Arizona Health Care Cost Containment System  
801 East Jefferson, MD4200  
Phoenix, Arizona 85034
- Telephone: (602) 417-4198
- Fax: (602) 256-6756

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4. **An explanation of the rule, including the agency's reasons for initiating the rule:**  
The 4 Sections (R9-22-1101 through R9-22-1104) in 9 A.A.C., Chapter 22, Article 11 that define the process for determining the amount of civil monetary penalties and assessments and the rights of parties involved have been modified to:
- Comply with recommendations made in the March 1993 5-Year-Rule-Review Report;
  - Reference rule to statute and the Code of Federal Regulation whenever possible; and
  - Provide clarification to rule language.
5. **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.
6. **The preliminary summary of the economic, small business, and consumer impact:**  
A nominal economic impact, and benefit to, the following entities is anticipated as a result of the changes:
- AHCCCS contractors;
  - AHCCCS providers;
  - AHCCCS members; and
  - AHCCCS Administration.
- Other entities considered, but which will not be directly impacted by the changes include:
- Other governmental entities and political subdivisions; and
  - The general public, including taxpayers and private individuals.
7. **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: Cheri Tomlinson  
Address: Arizona Health Care Cost Containment System  
801 East Jefferson, MD4200  
Phoenix, Arizona 85034  
Telephone: (602) 417-4198  
Fax: 602-256-6756
8. **The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**
- Date: March 20, 1998  
Time: 9 a.m.  
Location: AHCCCS Administration  
701 East Jefferson, 2nd Floor, Hearing Room A  
Phoenix, Arizona  
Nature: Public Hearing
- A person may submit written comments on the proposed rules. The written comments should be submitted no later than 5 p.m., March 25, 1998, to the person listed in question #7.
9. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**  
Not applicable.
10. **Incorporations by reference and their location in the rules:**  
None.
11. **The full text of the rules follows:**

**TITLE 9. HEALTH SERVICES**

**CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS) - ADMINISTRATION**

**ARTICLE 11. CIVIL MONETARY PENALTIES AND ASSESSMENTS**

Section  
R9-22-1101. Basis for Civil Monetary Penalties and Assess-

ments for Fraudulent Claims  
R9-22-1102. Determinations Regarding the Amount of the Penalty and Assessment  
R9-22-1103. Notice of Proposed Determination and Rights of Parties

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R9-22-1104. Issues and burden of proof Burden of Proof

**ARTICLE 11. CIVIL MONETARY PENALTIES AND ASSESSMENTS**

R9-22-1101. Basis for Civil Monetary Penalties and Assessments for Fraudulent Claims

A. Pursuant to A.R.S. § 36-2918, the Director may impose a penalty and assessment against any person whom he determines in accordance with this Article has presented or caused to be presented a claim which is for a medical item or service:

1. That the person knew or had reason to know was not provided as claimed; or
2. That the person knew or had reason to know was false or fraudulent; or
3. For which the person knew or had reason to know that no payment could be made by the system because:
  - a. The person was terminated or suspended from participation in the system on the date for which the claim is being made; or
  - b. The item or service claimed is substantially in excess of the needs of the individual or of a quality that fails to meet professionally recognized standards of health care; or
4. For a physician's service, or an item or service incidental to a physician's service, by a person who knew or had reason to know that the individual who furnished or supervised the furnishing of the service was not licensed to provide or to supervise the provision of the service or that the individual obtained his license through a misrepresentation of material fact, or represented to the patient at the time the service was furnished that the physician was certified in a medical specialty by a medical specialty board if the person was not certified; or
5. For which the person knew or had reason to know that no payment could be made by the system because the request for payment is in violation of an agreement between the person and this state or the Administration.

A. Circumstances for imposing a penalty and assessment. The Director or designee shall impose a penalty and assessment under the circumstances described in A.R.S. § 36-2918. For the purposes of this Article, the term "reason to know" means that a person, with respect to information, acts in deliberate ignorance of the truth or falsity of the information or with reckless disregard of the truth or falsity of the information. No proof of specific intent to defraud is required.

B. The Director's determination that the person knew or had reason to know that payment for claimed medical items or services could not be made by the system shall be made in the following circumstances:

1. The person was suspended from participation in the system on the date that the claimed item or services were provided; or
2. The claimed items or services were substantially in excess of the needs of the patient as determined by a medical panel convened by the Director; or
3. The claimed items or services were deficient in quality compared with professionally recognized standards of health care as determined by a medical panel convened by the Director.

C. B. Violation of agreement. The Director Director's or designee's determination of whether a person knew or had reason to know that medical items each claim or services were request for payment was claimed in violation of an agreement with this state Arizona, or the Administration, or a contractor may be based on the terms of the agreement.

R9-22-1102. Determinations Regarding the Amount of the Penalty and Assessment

A. In determining the amount of any penalty or assessment, the Director or designee shall take into account, in accordance with this Section:

1. The nature of the claim or request for payment and the circumstances under which it was presented;
2. The degree of culpability of the person submitting the claim or request for payment;
3. The history of prior offenses of the person submitting the claim or request for payment;
4. The financial condition of the person presenting the claim or request for payment; and
5. Such other matters as justice may require.

B. Guidelines for determining the amount of a penalty or assessment. As guidelines for taking into account the factors listed in subsection (A) of this Section, the following circumstances shall be considered:

1. Nature and circumstances of the claim. It shall be considered a mitigating circumstance if all the items or services subject to a penalty and assessment under this Article were of the same type and occurred within a short period of time, there were few such items or services, and the total amount claimed for such items or services was less than \$1,000. It shall be considered an aggravating circumstance if such items or services were of several types, occurred over a lengthy period of time, there were many such items or services (or the nature and circumstances indicate a pattern of claims for such items or services), or the total amount claimed for such items or services was \$1,000 or more.
2. Degree of culpability. It shall be considered a mitigating circumstance if the claim for the item or service was the result of an unintentional and unrecognized error in the process the person followed in presenting claims, and corrective steps were taken promptly after the error was discovered. It shall be considered an aggravating circumstance if the person knew the item or service was not provided as claimed, or if the person knew that no payment could be made because he had been excluded from system reimbursement or because payment would violate the terms of an agreement between the person and this state or the Administration.
3. Prior offenses. It shall be considered an aggravating circumstance if at any time prior to the presentation of any claim which included an item or service subject to a penalty and assessment under this Article, the person was held liable for criminal, civil, or administrative sanctions in connection with a Medicaid or Medicare program or any other public or private program of reimbursement for medical services.
4. Financial condition. It shall be considered a mitigating circumstance if imposition of the penalty or assessment without reduction will jeopardize the ability of the person to continue as a health care provider. The resources available to the person may be considered when determining the amount of the penalty and assessment.
5. Other matters as justice may require. Other circumstances of an aggravating or mitigating nature shall be taken into account if, in the interest of justice, they require either a reduction of the penalty or assessment or an increase in order to assure the achievement of the purposes of this Article.

C. Unless there are extraordinary mitigating circumstances, the aggregate amount of the penalty and assessment shall never

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be less than double the approximate amount of damages sustained by this state or the Administration, as a result of claims subject to the penalty and assessment.

- A. Factors for determining a penalty and assessment.** The Director or designee shall take into account the following factors in determining the amount of a penalty and assessment:
1. The nature of each claim or request for payment and the circumstances under which it is presented;
  2. The degree of culpability of a person submitting each claim or request for payment;
  3. The history of prior offenses of a person submitting each claim or request for payment;
  4. The financial condition of a person presenting each claim or request for payment;
  5. The effect on patient care resulting from the failure to provide medically necessary care by a person submitting each claim or request for payment; and
  6. Other matters as justice may require.
- B. Types of claim circumstances.** In determining the amount of a penalty and assessment, the Director or designee shall consider both mitigating circumstances and aggravating circumstances surrounding submission of each claim or request for payment.
- C. Mitigating circumstance guidelines.** The Director or designee shall consider the following mitigating circumstance guidelines when determining the amount of a penalty and assessment:
1. Nature and circumstances of each claim or request for payment. The nature and circumstances of each claim or request for payment and the circumstances under which it is presented are a mitigating circumstance if:
    - a. All the items and services subject to a penalty and assessment are of the same type;
    - b. All the items and services subject to a penalty and assessment occurred within a short period of time;
    - c. There are few items and services; and
    - d. The total amount claimed for the items and services was less than \$1,000;
  2. Degree of culpability. The degree of culpability of a person submitting a claim or request for payment is a mitigating circumstance if:
    - a. Each item or service is the result of an unintentional and unrecognized error in the process the person followed in presenting the item or service;
    - b. Corrective steps were taken promptly after the error was discovered; and
    - c. A fraud and abuse control plan was adopted and operating effectively at the time each claim or request for payment was submitted.
  3. Financial condition. The financial condition of a person presenting a claim or request for payment is a mitigating circumstance if the imposition of a penalty and assessment without reduction will jeopardize the ability of the person to continue as a health care provider. The resources available to the person may be considered when determining the amount of the penalty and assessment; or
  4. Other matters as justice may require. Other circumstances of a mitigating nature will be taken into account if, in the interest of justice, the circumstances require a reduction of the penalty and assessment.
- D. Aggravating circumstance guidelines.** The Director or designee shall consider the following aggravating circumstance guidelines when determining the amount of a penalty and assessment:

1. Nature and circumstances of each claim or request for payment. The nature and circumstances of each claim or request for payment and the circumstances under which it is presented are an aggravating circumstance if:
    - a. The items and services subject to a penalty and assessment are of several types;
    - b. The items and services subject to a penalty and assessment occurred over a lengthy period of time;
    - c. There are many items or services (or the nature and circumstances indicate a pattern of claims for the items or services); or
    - d. The total amount claimed for the items and services is \$1,000 or greater;
  2. Degree of culpability. The degree of culpability of a person submitting each claim or request for payment is an aggravating circumstance if:
    - a. The person knew that each item or service was not provided as claimed;
    - b. The person knew that no payment could be made because the person had been excluded from System reimbursement; or
    - c. Payment would violate the terms of an agreement between the person and Arizona, the Administration or a contractor;
  3. Prior offenses. The prior offenses of a person submitting each claim or request for payment is an aggravating circumstance if, at any time before the presentation of any claim or request for payment subject to a penalty and assessment under this Article, the person was held liable for a criminal, civil, or administrative sanction in connection with:
    - a. A Medicaid program;
    - b. A Medicare program; or
    - c. Any other public or private program of reimbursement for medical services;
  4. Effect on patient care. The seriousness of an adverse effect that resulted, or could have resulted, from the failure of a person submitting a claim or request for payment to provide medically necessary care is an aggravating circumstance; or
  5. Other matters as justice may require. Other circumstances of an aggravating nature will be taken into account if, in the interest of justice, the circumstances require an increase of the penalty and assessment.
- E. Amount of Penalty and Assessment.** The aggregate amount of a penalty and assessment shall never be less than double the approximate amount of damages sustained by Arizona, the Administration or contractor, unless there are extraordinary mitigating circumstances.
- F. Compromise.** The Director or designee may compromise a penalty and assessment using the guidelines in subsections (C) and (D).

**R9-22-1103. Notice of Proposed Determination and Rights of Parties**

- A.** If the Director or designee proposes to impose a penalty or assessment in accordance with this Article, the Director or designee must deliver or send by certified mail, return receipt requested, to the person, written notice of intent to impose a penalty or assessment. The notice shall include reference to the statutory basis for the penalty and assessment; description of the claims and requests for payment with respect to which the penalty and assessment are proposed; the reason why such claims and requests for payment subject the person to such penalty and assessment; and the amount of the proposed penalty and assessment.

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- A. Administration's Responsibilities. If the Director or designee proposes to impose a penalty and assessment, the Director or designee shall deliver or send by certified mail, return receipt requested, to a person, written notice of intent to impose a penalty and assessment. The notice shall include:
1. Reference to the statutory basis for the penalty and assessment;
  2. A description of each claim or request for payment for which the penalty and assessment are proposed;
  3. The reason why each claim or request for payment subjects the person to a penalty and assessment; and
  4. The amount of the proposed penalty and assessment.
- B. Individual's Responsibilities. A person may submit ~~Within~~ within 35 days of the date of receipt of the notice from the date of the adverse action, the person may submit:
1. A written statement accepting imposition of the penalty and assessment; or
  2. A written request for a compromise of the penalty and assessment stating any reasons which that the person contends should result in a reduction or modification of the penalty and assessment. If such a request is submitted, the time period for filing an appeal and request for hearing pursuant according to subsection (C) of this Section shall be tolled until the Director's or designee's decision on the request for compromise; or
  3. An appeal and request for hearing ~~A grievance~~ in accordance with the provider grievance provision set forth in Article 8 of AHCCCS rules this Chapter.
- C. The Director or designee may impose a proposed penalty and assessment or any less severe penalty and assessment If if the a person does not request a hearing within the time prescribed by paragraphs subsections (B)(2) or (B)(3), the Director or

designee may impose the proposed penalty and assessment or any less severe penalty and assessment. The A person has no right to appeal a penalty and assessment with respect to which the if the person has not timely requested a hearing.

**R9-22-1104. Issues and burden of proof Burden of Proof**

- A. Preponderance of Evidence. In any hearing conducted pursuant according to this Article, the Director or designee must shall prove by a preponderance of the evidence that the—a person who requested the a hearing presented or caused to be presented ~~claims~~ each claim or request for payment in violation of Section A.A.C. R9-22-1101 of this Article. The A person who requested requests the a hearing shall bear the burden of producing and proving by a preponderance of the evidence any circumstances circumstance that would justify reducing the amount of the penalty and assessment.

B. Statistical sampling.

1. The Director or designee may introduce the results of a statistical sampling study as evidence of the number and amount of claims or requests for payment that were presented or caused to be presented by the person in meeting the burden of proof described in subsection (A). A statistical sampling study shall constitute prima facie evidence of the number and amount of claims or requests for payment, if based upon an appropriate sampling and computed by valid statistical methods.
2. The burden of proof shall shift to the person to produce evidence reasonably calculated to rebut the findings of the statistical sampling study once the Director or designee has made a prima facie case as described in subsection (A). The Director or designee will be given the opportunity to rebut this evidence.

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 9. HEALTH SERVICES**

**CHAPTER 25. DEPARTMENT OF HEALTH SERVICES - EMERGENCY MEDICAL SERVICES**

**PREAMBLE**

- |  |  |
|--|--|
| <p>1. <u>Sections Affected</u></p> <p>Article 7<br/>R9-25-701<br/>R9-25-702<br/>R9-25-703<br/>R9-25-704<br/>R9-25-705<br/>R9-25-706<br/>R9-25-707<br/>R9-25-708<br/>R9-25-709<br/>Exhibit T</p>  | <p><u>Rulemaking Action</u></p> <p>New Article<br/>New Section<br/>New Section<br/>New Section<br/>New Section<br/>New Section<br/>New Section<br/>New Section<br/>New Section<br/>New Section<br/>New Exhibit</p> |
| <p>2. <u>The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):</u></p> <p>Authorizing statute: A.R.S. § 36-136(F)</p> <p>Implementing statute: A.R.S. §§ 36-2202(A)(2), (3), (4), 36-2202.01; 36-2204(1) through (7); 36-2209(A)(2); and (B)(8), 41-1061 through 41-1066</p> |  |
| <p>3. <u>The name and address of agency personnel with whom persons may communicate regarding the rulemaking:</u></p> <p>Name: William J. Singer</p> <p>Address: Office of Emergency Medical Services<br/>1651 East Morten, Suite 120</p>  |  |

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Address: Office of Emergency Medical Services  
1651 East Morten, Suite 120  
Phoenix, Arizona 85020

Telephone: (602) 255-1170

Fax: (602) 255-1134

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

Complete Basic, Intermediate and Paramedic training and prompt testing for certification are critical to the maintenance of Arizona's Emergency Medical Services system. The need for currently certified personnel, particularly advanced level personnel, is especially critical in rural areas where resources are limited. As a result of the Bureau of EMS's (BEMS) reduced financial and personnel resources, ADHS and the EMS community worked together to develop statutory language that would permit ADHS to "outsource" testing for EMS certification in a fashion that would not compromise the integrity, security and validity of the testing process. Accomplishment of that effort required significant cooperation with the state's basic EMT training programs, the advanced level training programs, the ALS base hospitals, and the National Registry of Emergency Medical Technicians located in Columbus, Ohio.

Adoption of the rule will permit organizations to provide training and testing in additional locations throughout the state that will be closer to the applicants' locations or the location of their EMS providers. The rules establish clear criteria for the new components of the testing process.

**5. 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

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

R9-25-206(B)(1) permits the ALS base hospitals to provide Basic EMT recertification training. There may be fees associated with that training which will offset costs incurred by the hospitals. Because a formal program of EMT refresher training by ALS base hospitals had never been authorized prior to the adoption of A.A.C. Title 9, Chapter 25, Article 2, on January 1, 1997, an increase in costs is estimated to be minimal to substantial, decreased revenues, minimum to substantial, depending upon current number of refresher training programs offered by local/regional training programs. Section 206(B)(1) allows base hospitals to provide formal refresher training programs, formerly only provided by community college-based and private enterprise training programs. The base hospital authority to conduct such training programs will also be based upon the hospital's decision to offer such courses, as the authority to do so is optional. A.A.C. Title 9, Chapter 25, Article 5, along with A.A.C. Title 9, Chapter 25, Article 6, establish new, more specific criteria for application, identify the nature of the curriculum, trainee prerequisites, and disclosure documents. Applicants for EMT recertification will experience some economic impact. Based on a state wide survey, equivalent courses taught by community colleges range in cost from \$53 to \$100. A similar state wide survey of courses taught by private sector providers is approximately \$150. This Article describes a completely new process for assessing fees. Those fees are \$15 for a National Registry of Emergency Medical Technicians Basic-EMT examination, and \$35 for the Advanced Level examination. Additional, optional, testing fees are permitted by the testing organizations. The maximum additional testing fees allowed for EMT-Basic is \$15, for Advanced Level \$100.

**7. 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: William J. Singer

Address: Office of Emergency Medical Services  
1651 East Morten, Suite 120  
Phoenix, Arizona 85020

Telephone: (602) 255-1170

Fax: (602) 255-1134

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

Written comments will be accepted from now through March 23, 1998, addressed to William J. Singer at the address listed in paragraph 7. Oral comments will be heard at the following location and times:

Date: March 23, 1998

Time: 9 a.m. and 1 p.m.

Location: Bureau of Emergency Medical Services Conference Room  
1651 East Morten Avenue, Suite 120  
Phoenix, Arizona 85020

Nature: Oral comments

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9. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:  
Not applicable.
10. Incorporations by reference and their location in the rules:  
Not applicable.
11. The full text of the rules follows:

**TITLE 9. HEALTH SERVICES**

**CHAPTER 25. DEPARTMENT OF HEALTH SERVICES - EMERGENCY MEDICAL SERVICES**

**ARTICLE 7. EMERGENCY MEDICAL TECHNICIANS**  
**EXAMINATIONS**

- Section
- R9-25-701. Definitions
- R9-25-702. Testing Facilities
- R9-25-703. Testing Representatives for Advanced Level Examinations
- R9-25-704. Appointment of Testing Representatives
- R9-25-705. Duration, Renewal, Appointments and Approval of Testing Facilities and Testing Representatives
- R9-25-706. Suspension and Revocation of Testing Facility Approval and Testing Representative Appointments
- R9-25-707. Procedure for EMT-Basic Examinations
- R9-25-708. Procedure for EMT-Intermediate and EMT-Paramedic Examinations
- R9-25-709. Oversight of Examinations
- Exhibit T. EMT-Basic National Registry of Emergency Medical Technicians Application

**ARTICLE 7. EMERGENCY MEDICAL TECHNICIANS**  
**EXAMINATIONS**

**R9-25-701. Definitions (Authorized by A.R.S. §§ 36-2202(A)(2), (3), (4), and 36-2204(1) - (7))**

In Article 7 of this Chapter, unless the context otherwise requires:

1. "Advanced level examination" means the EMT-Intermediate or EMT-Paramedic level examination required by A.A.C. Title 9, Chapter 25, Article 6.
2. "Basic level examination" means the EMT-Basic level examination required by A.A.C. Title 9, Chapter 25, Article 5.
3. "Candidate" means a person who has completed a training program certified by the Department of Health Services, Emergency Medical Services.
4. "Days" means calendar days unless otherwise specified.
5. "Evaluator" means an individual who observes candidate performance and completes skills evaluation instruments.
6. "Medical Director" means the Medical Director appointed pursuant to A.R.S. § 36-2202(C).
7. "National Registry" means the National Registry of Emergency Medical Technicians.
8. "National Registry Representative" means a person or organization approved by the Department and the National Registry to administer National Registry examinations.
9. "Proctor" means a person who monitors written examinations and who is not monitoring an examination for a training program or course in which the person is currently participating as a candidate or student.

10. "Regional Council" means a local EMS coordinating system under contract with the Department pursuant to A.R.S. § 36-2210.
11. "Testing Facility" means an organization approved by the Director to conduct testing.
12. "Testing Representative" means a person who has been appointed by the Director to administer examinations.
13. "Training Program" means a training program certified pursuant to A.A.C. Title 9, Chapter 25, Articles 3 and 4 to conduct training.

**R9-25-702. Testing Facilities (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2202.01, 36-2209(A)(2) and (B)(8))**

**A. General Requirements. A testing facility shall:**

1. Hold a current contract with the Department.
2. Provide testing representatives and proctors.
3. Ensure that a proctor is not a program director, instructor, or student for training programs certified pursuant to A.A.C. Title 9, Chapter 25, Articles 3 and 4.
4. Ensure that a testing representative is not a program director, instructor, or student in the training program for which the representative is testing.
5. Ensure that all examinations are administered in accordance with this Article.
6. Ensure physical security of all examination booklets and materials, including:
  - a. Examination booklets shall be secured in a maximum of three storage sites per region.
    - i. Examination booklets shall be secured in a safe or file cabinet that is locked and access is restricted to only those individuals designated in a letter of authorization sent by the testing facility or regional council by certified mail to the Director by July 15 of each year.
    - ii. The storage site shall be in accordance with the standards of the National Registry of Emergency Medical Technicians Policy and Procedures Manual, previously incorporated by reference at R9-25-504(A).
  - b. Examination booklets shall be logged in and out. The log shall contain the date removed and returned, examination booklet number, locations of examination booklets, and the printed name and signature of the proctor.
7. Conduct a quarterly inventory of the examination booklets, including verification of each examination booklet number and a physical inspection of each examination booklet for alterations, defects, and damage.
8. Collect all required fees pursuant to R9-25-707(D) related to test administration, including an optional fee not to exceed \$15.00 for EMT-Basic testing.

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9. Submit a signed and verified written statement to the Director by July 15 each year affirming that the testing facility has complied with the requirements of this section.
10. Schedule written examinations for EMT-Basics.
- B. Approval. A testing facility shall be approved by the Director upon receipt of a written request for approval that contains a verified statement that each written examination shall be held in a facility that provides:
  1. Restrooms within the building or campus, accessible or key available in the class room during each testing session;
  2. A drinking fountain and parking facilities;
  3. A minimum of 1 chair and desk or table space per candidate, arranged so that no candidate sits immediately next to another candidate who is taking the same level examination;
  4. A temperature between 65 degrees Fahrenheit and 85 degrees Fahrenheit;
  5. Lighting that evenly illuminates the room in which the test is being administered;
  6. Ventilation that maintains circulation of air;
  7. An environment that is reasonably free of visual and auditory distractions;
  8. A wall clock which is visible to all candidates to assist with pacing, or a board on which the proctor can announce and post the time remaining in the examination at one hour, one-half hour, and fifteen minute intervals;
  9. A pencil sharpener and a table or desk for registering candidates, packaging test materials as each candidate completes the examination, and proctoring the examination process; and
  10. Security for the examination materials during the examination.
- C. Test sites. The testing facility may conduct examinations at any location which meets the requirements described in R9-25-702(B).
- D. Examination booklets: The Department and the testing facility shall have, in writing, an agreed upon number of State examination booklets which shall be supplied to the testing facility. These examination booklets shall remain the property of the Department and shall be returned immediately to the Department upon written request.
- E. National Registry of Emergency Medical Technicians examination booklets: The testing facility shall be responsible for obtaining the necessary number of examination booklets from the National Registry for each National Registry Basic examination it conducts and shall follow the examination request procedures described in the National Registry of Emergency Medical Technicians Policies and Procedures Manual, section II, page 48 and page 49, previously incorporated by reference at R9-25-504(A). The testing facility shall be responsible for obtaining the necessary number of examination booklets from the National Registry of Emergency Medical Technicians for each National Registry Advanced Level examination it conducts. The testing facility shall follow the examination request procedures described in the National Registry of Emergency Medical Technicians Advanced Level Examination Coordinator's Manual, page 4 and page 5, previously incorporated by reference at R9-25-404 (B)(10). However, when the contents of these manuals are inconsistent with this Article, the provisions of this Article shall govern.

- F. Applicants With Disabilities. A testing facility shall comply with the requirements of R9-25-507 and R9-25-607 for applicants with disabilities.

R9-25-703. Testing Representatives for Advanced Level Examinations (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2202.01, 36-2209(A)(2), and (B)(8)) An applicant for appointment or reappointment as an advanced level testing representative shall meet the following requirements:

- A. Be a paramedic certified pursuant to A.A.C. Title 9, Chapter 25, Article 6; a registered nurse licensed pursuant to A.R.S. Title 32, Chapter 15; a nurse practitioner licensed pursuant to A.R.S. Title 32, Chapter 15; a physician licensed pursuant to A.R.S. Title 32, Chapters 13 or 17; or a physician's assistant licensed pursuant to A.R.S. Title 32, Chapter 25.
- B. Agree to conduct ten pre-scheduled tests, and to test on at least two other dates, on an as needed basis, from Monday through Saturday between 7 A.M. and 11 P.M., each calendar year.
- C. Have a letter from a testing facility that affirms the testing facility's contract with the applicant as a testing representative upon appointment by the Director.

R9-25-704. Appointment of Testing Representatives. (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2202.01, 36-2209(A)(2) and (B)(8))

- A. An applicant for testing representative shall submit a written request to the Medical Director, requesting appointment as a National Registry of Emergency Medical Technicians testing representative. The letter shall include the following:
  1. The applicant's name, mailing address, and telephone number;
  2. Evidence of compliance with the requirements listed in R9-25-703; and
  3. A signed, verified statement from the applicant that affirms that the applicant has been approved by The National Registry as a testing representative.
- B. Following consultation with the Medical Director, the Director shall appoint, as a testing representative, an applicant who complies with this section.

R9-25-705. Duration, Renewal, Appointments and Approval of Testing Facilities and Testing Representatives (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2202.01, 36-2209(A)(2) and (B)(8))

- A. An approval of testing facilities and an appointment of testing representatives shall be valid for a period of 36 months.
- B. Testing facilities and testing representatives may seek renewal of approval or appointment by complying with the requirements of R9-25-702 through R9-25-704. The renewal of approval or appointment shall be valid for a period of 36 months.

R9-25-706. Suspension and Revocation of Testing Facility Approval and Testing Representative Appointments (Authorized by A.R.S. §§ 41-1061, through 41-1066, 36-2202(A)(4), 36-2202.01, 36-2209(A)(2) and (B)(8)).

The Director may suspend or revoke the approval of a testing facility, or suspend or revoke the appointment of a testing representative, if the testing facility or testing representative has failed to comply with the requirements of this Article.

R9-25-707. Procedure for EMT-Basic examinations: (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2202.01, 36-

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**2209(A)(2) and (B)(8))**

- A.** A training program director shall submit a request for an examination to the testing facility at least 30 days prior to the requested test date. The request shall include:
1. A class roster on a form as shown in exhibit G;
  2. The training program director's name and phone number; and
  3. The training program medical director's name and phone number.
- B.** The testing representative shall confirm, in writing, to the training program director, the examination date, time, and location for the test, so as to be received by the training program director, at least 15 days prior to the scheduled test date.
- C.** Applicants for recertification or retests shall contact the testing facility to schedule an examination.
- D.** Prior to administrating the National Registry of Emergency Medical Technicians examination, the testing representative or proctor shall collect from each student a complete National Registry of Emergency Medical Technicians application, as shown in exhibit T, including the required testing fee.

**R9-25-708. Procedure for EMT-Intermediate and EMT-Paramedic Examinations: (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2202.01, 36-2209(A)(2) and (B)(8))**

- A.** The training program director shall submit a request for an examination to the testing representative so as to be received by the National Registry testing representative at least 45 days prior to the test date. The request shall include:
1. A class roster on a form as shown in exhibit G;
  2. The course coordinator's name and phone number; and

3. The course medical director's name and phone number.
- B.** A testing facility or training program may require or may subcontract with a testing representative to provide the physical facilities, equipment, and evaluators for an advanced level examination.
- C.** The testing facility or training program may collect additional fees or may subcontract for the costs incurred in the testing process. The additional fees or subcontract shall not exceed \$100.00 per candidate.
- D.** A testing facility shall use a testing representative to conduct each advanced level examination.
- E.** The testing representative shall ensure that only candidates listed on the testing roster provided by the National Registry are allowed to take the examination.
- F.** The testing representative shall comply with the National Registry of Emergency Medical Technicians Advanced Level Examination Coordinators Manual, page 1, and page 8, previously incorporated by reference at R9-25-404(B)(10), when scheduling and conducting examinations. However, when the contents of this manual are inconsistent with this Article, the provisions of this Article shall govern.

**R9-25-709. Oversight of Examinations (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2202.01, 36-2209(A)(2) and (B)(8))**

The Department may conduct site visits for the purpose of monitoring compliance with this Article. The testing facility and testing representatives shall make available any documents or records, and make copies, if requested, for the Department of Health Services during any such site visits.

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EXHIBIT T



The National Registry  
of  
Emergency  
Medical  
Technicians®

**EMT — BASIC**  
**APPLICATION**

Please complete all non-shaded areas

<b>No.</b>
DATE RECEIVED
WRITTEN EXAM <input type="checkbox"/> PASS <input type="checkbox"/> FAIL

Send to:  
The National Registry of  
Emergency Medical Technicians  
P.O. Box 29233  
Columbus, Ohio 43229

HAVE YOU EVER APPLIED FOR REGISTRATION BEFORE?	
<input type="checkbox"/> YES	<input type="checkbox"/> NO

I am scheduled to test at \_\_\_\_\_, on \_\_\_\_\_ DATE

EXAMINATION SITE AND STATE

SOCIAL SECURITY NUMBER	MONTH	DAY	YEAR	BIRTHDATE	EXAM DATE

NAME LAST	FIRST	INITIAL	SEX
			<input type="checkbox"/> MALE <input type="checkbox"/> FEMALE

HOME ADDRESS

CITY	STATE	ZIP CODE	SITE

PRIMARY OCCUPATION	EMPLOYED BY

**Type of EMT Service - (check one only) - Please check one of the following types of service in which you are or will be affiliated with as an EMT-Basic.**

<b>A</b> Fire Dept.	<b>B</b> Private	<b>C</b> Hospital-Based	<b>D</b> 3rd Service	<b>E</b> Volunteer	<b>F</b> U. S. Government
<b>G</b> Army	<b>H</b> Navy	<b>I</b> Air Force	<b>J</b> Coast Guard	<b>K</b> Other _____ (Please List)	

<b>Ethnic Origin</b>
<input type="checkbox"/> Native American
<input type="checkbox"/> Asian
<input type="checkbox"/> Black
<input type="checkbox"/> Hispanic
<input type="checkbox"/> White
<input type="checkbox"/> Other

Will you be paid for your services as an EMT-Basic? Yes  No  Not Yet Affiliated

**EDUCATION** circle highest grade completed Elem. 5 6 7 8 H.S. 1 2 3 4 College 1 2 3 4

**APPROVED EMT COURSE** - Applicant must have completed an approved EMT Basic Training program that includes all of the objectives of the current National Standard Basic EMT curriculum. (Attach copy of training certificate and/or card.) If EMT Basic Training was completed beyond two (2) years, verification (card or certificate) of completion of a National Standard EMT Basic Refresher course and verification of state certification must be attached.

EMT COURSE NAME	LENGTH IN HOURS	DATE COMPLETED	CITY	INSTRUCTOR/COURSE COORDINATOR
EMT BASIC COURSE				
REFRESHER COURSE				

<b>HAVE YOU EVER BEEN CONVICTED OF A FELONY? YES _____ NO _____ IF YES: Please submit with this application documentation that fully describes the offense, copies of relevant court documents, disposition, and current status.</b>
--

I understand that my application will not be accepted for processing until it has been completed in its entirety and I hereby affirm and declare that the above information is true and correct and that any fraudulent entry may be considered a sufficient cause for rejection or subsequent revocation. I further agree to abide by all the rules and regulations of the National Registry of EMTs as promulgated by the Board of Directors, and I hereby authorize the National Registry of EMTs to release my examination scores to the teaching institution/agency and the state office of Emergency Medical Services.

Registration fee of \$15.00 (money order) enclosed.

(Payments or contributions to the National Registry of Emergency Medical Technicians, Inc. are not deductible as charitable contributions for Federal Income Tax purposes. Payments may be deductible as a business expense. If in doubt, please consult your tax advisor.)

DATE OF APPLICATION	APPLICANT'S SIGNATURE

SEE OTHER SIDE

PAGE 1 of 2

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EXHIBIT T

**SECTION I CPR CREDENTIAL**

Attach a photocopy of your current and valid CPR card (either American Heart Association BLS-C or equivalent American Red Cross). This credential must be current at the time of testing. Successful completion of a CPR course within the past two (2) years may be verified by signature of the EMT-Basic Training Program Director or service Director of training/operations.

<p align="center"><b>Front side of card</b> - Or -</p> <p>I hereby verify the applicant has been examined and performed satisfactorily so as to be deemed competent in each of the following:</p> <ul style="list-style-type: none"> <li>• Adult 1 &amp; 2 Rescuer CPR</li> <li>• Adult Obstructed Airway</li> <li>• Child 1 &amp; 2 Rescuer CPR</li> <li>• Child Obstructed Airway</li> <li>• Infant CPR</li> <li>• Infant Obstructed Airway</li> </ul> <p>_____ Verifying Signature <span style="float:right">Date</span></p>	<p align="center">Back side of card</p> <p align="center">_____ Expiration date of current CPR certification</p>
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**SECTION II STATEMENT OF COMPETENCY IN EMT-BASIC SKILLS**

As the EMT-Basic Training Program Director or Service Director of Training/Operations,

I hereby verify that \_\_\_\_\_ has been examined and

CANDIDATE'S NAME

performed satisfactorily so as to be deemed competent in each of the following skills:

- |   |  |
|---|--|
| <ul style="list-style-type: none"> <li>• Patient Assessment / Management - Trauma</li> <li>• Patient Assessment / Management - Medical</li> <li>• Spinal Immobilization Supine Patient</li> <li>• Bleeding Control / Shock Management</li> <li>• Joint Dislocation Immobilization</li> <li>• Upper Airway Adjuncts and Suction</li> <li>• Supplemental Oxygen Administration</li> </ul> | <ul style="list-style-type: none"> <li>• Cardiac Arrest Management / AED</li> <li>• Spinal Immobilization Seated Patient</li> <li>• Bag-Valve-Mask (Apneic Patient)</li> <li>• Long Bone Immobilization</li> <li>• Traction Splinting</li> <li>• Mouth-to-Mask with Supplemental Oxygen</li> </ul> |
|---|--|

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name (please print): \_\_\_\_\_

Title: \_\_\_\_\_ Phone: ( ) \_\_\_\_\_

**SECTION III EMT-BASIC PRACTICAL EXAMINATION VERIFICATION**

The practical examination must be completed within a 12 month period prior to sitting for the written examination and submission of an acceptable application.

This is to verify that on \_\_\_\_\_ completed a

DATE

CANDIDATE'S NAME

state-approved practical examination at \_\_\_\_\_

EXAMINATION SITE AND STATE

equal to or exceeding the criteria established by the NREMT and performed satisfactorily so as to be deemed competent in the following skills:

- |  |  |
|--|--|
| <ul style="list-style-type: none"> <li>• Patient Assessment / Management - Trauma</li> <li>• Patient Assessment / Management - Medical</li> <li>• Cardiac Arrest Management / AED</li> </ul> | <ul style="list-style-type: none"> <li>• Bag-Valve-Mask (Apneic Patient)</li> <li>• Spinal Immobilization (Seated or Supine Patient)</li> <li>• Random Skill Verification _____</li> </ul> |
|--|--|

SKILL TESTED

As the Physician Director of training/service, or the agent or assignee of the Physician Director, I do hereby affix my name and signature attesting to the credibility and objectivity of the total examination experience, and that the above mentioned statements are true and correct.

PHYSICIAN'S NAME (TYPE OR PRINT)	AGENT OR ASSIGNEE'S NAME (TYPE OR PRINT)
PHYSICIAN'S SIGNATURE	AGENT OR ASSIGNEE'S SIGNATURE
LICENSE #	TITLE

**CHARACTER REFERENCE**

NAME	STREET	CITY	STATE	ZIP
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NOTICE OF PROPOSED RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 28. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)  
ARIZONA LONG-TERM CARE SYSTEM

PREAMBLE

1. 

<u>Sections Affected</u> R9-28-1001 R9-28-1002 R9-28-1003 R9-28-1004	<u>Rulemaking Action</u> Amend Repeal Repeal Repeal
--	---
  
2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):  
Authorizing statute: A.R.S. § 36-2932(P)  
Implementing statute: A.R.S. § 36-2957
  
3. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:  
Name: Cheri Tomlinson  
  
Address: Arizona Health Care Cost Containment System  
801 East Jefferson, MD4200  
Phoenix, Arizona 85034  
  
Telephone: (602) 417-4198  
Fax: (602) 256-6756
  
4. An explanation of the rule, including the agency's reasons for initiating the rule:  
The 4 Sections (R9-28-1001 through R9-28-1004) in 9 A.A.C., Chapter 28, Article 10 which define the process for determining the amount of civil monetary penalties and assessments and the rights of parties involved have been combined into 1 Section, R9-28-1001. The changes:
  - Delete existing language and reference the Article to ALTCS-related statute (A.R.S. § 36-2957) and acute care rule (A.A.C., Title 9, Chapter 22, Article 11)
  - Comply with recommendations made in the March 1995 5-Year-Rule Review Report.
  
5. 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.
  
6. The preliminary summary of the economic, small business, and consumer impact:  
A nominal economic impact is anticipated from the proposed changes which are designed to provide clarity and consistency to the language and make it easier for the following parties to use:
  - ALTCS contractors;
  - ALTCS providers;
  - ALTCS members; and
  - AHCCCS Administration.Other entities considered, but which will not be directly impacted by the changes include:
  - Other governmental entities and political subdivisions; and
  - The general public, including taxpayers and private individuals.
  
7. 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: Cheri Tomlinson  
  
Address: Arizona Health Care Cost Containment System  
801 East Jefferson, MD4200  
Phoenix, Arizona 85034  
  
Telephone: (602) 417-4198

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Fax: (602) 256-6756

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

Date: March 20, 1998

Time: 9 a.m.

Location: Arizona Health Care Cost Containment System - Administration  
701 East Jefferson, 2nd Floor, Hearing Room A  
Phoenix, Arizona

Nature: Public Hearing

A person may submit written comments on the proposed rules. The written comments should be submitted no later than 5 p.m., March 25, 1998, to the person listed in question #7.

9. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:  
Not applicable.

10. Incorporations by reference and their location in the rules:  
None.

11. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

CHAPTER 28. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)  
ARIZONA LONG-TERM CARE SYSTEM

ARTICLE 10. CIVIL MONETARY PENALTIES AND  
ASSESSMENTS

Section

- R9-28-1001. ~~Basis for civil monetary penalties and assessments for fraudulent claims~~ Basis for Civil Monetary Penalties and Assessments for Fraudulent Claims
- R9-28-1002. ~~Determinations Regarding the Amount of the Penalty and Assessment~~ Repealed
- R9-28-1003. ~~Notice of Proposed Determination and Rights of Parties~~ Repealed
- R9-28-1004. ~~Issues and Burden of Proof~~ Repealed

ARTICLE 10. CIVIL MONETARY PENALTIES AND  
ASSESSMENTS

~~R9-28-1001. Basis for civil monetary penalties and assessments for fraudulent claims~~ Basis for Civil Monetary Penalties and Assessments for Fraudulent Claims

- ~~A. The Director's determination that the person knew that payment for claimed medical items or services could not be made by the System shall be made in the following circumstances:~~
- ~~1. The person knew that the individual receiving claimed services was not a member on the date that the claimed items or services were provided; or~~
  - ~~2. The claimed items or services were substantially in excess of the needs of the patient as determined by a medical panel convened by the Director; or~~
  - ~~3. The claimed items or services were deficient in quality compared with professionally recognized standards of health care as determined by a medical panel convened by the Director.~~
- ~~B. The Director's determination of whether a person knew that medical items or services were claimed in violation of an agreement with the Administration or the program contractor may be based on the terms of the agreement.~~
- A. The Director or designee shall impose a penalty and assessment under the circumstances described in A.R.S. § 36-2957.

The Administration shall use the procedures detailed in 9 A.A.C. Chapter 22, Article 11 for the determination and collection of civil penalties and assessments.

~~R9-28-1002. Determinations Regarding the Amount of the Penalty and Assessment~~

- ~~A. In determining the amount of any penalty or assessment, the Director or designee shall take into account, in accordance with this Section:~~
- ~~1. The nature of the claim or request for payment and the circumstances under which it was presented;~~
  - ~~2. The degree of culpability of the person submitting the claim or request for payment;~~
  - ~~3. The history of prior offenses of the person submitting the claim or request for payment; and~~
  - ~~4. The financial condition of the person presenting the claim or request for payment.~~
- ~~B. Guidelines for determining the amount of a penalty or assessment. As guidelines for taking into account the factors listed in subsection (A), the following circumstances shall be considered:~~
- ~~1. Nature and circumstances of the claim. It shall be considered a mitigating circumstance if all the items or services subject to a penalty and assessment under this Article were of the same type and occurred within a short period of time, there were few such items or services, and the total amount claimed for such items or services was less than \$1,000. It shall be considered an aggravating circumstance if such items or services were of several types, occurred over a lengthy period of time, there were many such items or services or the nature and circumstances indicate a pattern of claims for such items or services, or the total amount claimed for such items or services was \$1,000 or more.~~
  - ~~2. Degree of culpability. It shall be considered a mitigating circumstance if the claim for the item or service was the result of an unintentional and unrecognized error in the process the person followed in presenting claims, and~~

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corrective steps were taken promptly after the error was discovered. It shall be considered an aggravating circumstance if the person knew the item or service was not provided as claimed, or if the person knew that no payment could be made because he had been excluded from System reimbursement or because payment would violate the terms of an agreement between the person and this state or the Administration.

3. ~~Prior offenses. It shall be considered an aggravating circumstance if at any time prior to the presentation of any claim which included an item or service subject to a penalty and assessment under this Article, the person was held liable for criminal, civil, or administrative sanctions in connection with a Medicaid or Medicare program or any other public or private program of reimbursement for medical services.~~
4. ~~Financial condition. It shall be considered a mitigating circumstance if imposition of the penalty or assessment without reduction will jeopardize the ability of the person to continue as a health care provider. The resources available to the person may be considered when determining the amount of the penalty and assessment.~~
5. ~~Other matters as justice may require. Other circumstances of an aggravating or mitigating nature shall be taken into account if, in the interest of justice, they require either a reduction of the penalty or assessment or an increase in order to assure the achievement of the purposes of this Article.~~

C. ~~Unless there are extraordinary mitigating circumstances, the aggregate amount of the penalty and assessment shall never be less than double the approximate amount of damages sustained by this state or the Administration, as a result of claims subject to the penalty and assessment.~~

**R9-28-1003. Notice of Proposed Determination and Rights of Parties**

A. ~~If the Director or designee proposes to impose a penalty or assessment in accordance with this Article, the Director or~~

~~designee shall deliver or send by certified mail, return receipt requested, to the person, written notice of intent to impose a penalty or assessment. The notice shall include reference to the statutory basis for the penalty and assessment, description of the claims, and requests for payment with respect to which the penalty and assessment are proposed, the reason why such claims and requests for payment subject the person to such penalty and assessment, and the amount of the proposed penalty and assessment.~~

- B. ~~Within 35 days of the date of receipt of the notice, the person may submit:~~
1. ~~A written statement accepting imposition of the penalty and assessment; or~~
  2. ~~A written request for a compromise of the penalty and assessment stating any reasons which the person contends should result in a reduction or modification of the penalty and assessment. If such a request is submitted, the time period for filing an appeal and request for hearing pursuant to subsection (C) shall be tolled until the Director's decision on the request for compromise; or 3. An appeal and request for hearing in accordance with the provider grievance provision set forth in Article 8.~~
- C. ~~If the person does not request a hearing within the time prescribed by paragraph (B)(2) or (3), the Director or designee may impose the proposed penalty and assessment or any less severe penalty and assessment. The person has no right to appeal a penalty and assessment with respect to which the person has not timely requested a hearing.~~

**R9-28-1004. Issues and Burden of Proof**

~~In any hearing conducted pursuant to this Article, the Director shall prove by a preponderance of the evidence that the person who requested the hearing presented or caused to be presented claims in violation of R9-28-1001. The person who requested the hearing shall bear the burden of producing and proving by a preponderance of the evidence any circumstances that would justify reducing the amount of the penalty or assessment.~~

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 12. NATURAL RESOURCES**

**CHAPTER 7. OIL AND GAS CONSERVATION COMMISSION**

PREAMBLE

1. Sections Affected

R12-7-117  
R12-7-121  
R12-7-125

Rulemaking Action

Amend  
Amend  
Amend

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

Authorizing statutes: A.R.S. §§ 27-516(A) and 27-656

Implementing statutes: A.R.S. §§ 27-516(A)(1), (2), and (9); 27-652(A), 27-655, and 27-661

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

Name: Steven L. Rauzi, Oil and Gas Program Administrator

Address: Arizona Geological Survey  
416 West Congress, Suite 100  
Tucson, Arizona 85701-1315

Telephone: (520) 770-3500

Fax: (520) 770-3505

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4. **An explanation of the rule, including the agency's reasons for initiating the rule:**  
R12-7-117 specifies requirements for stimulating wells. R12-7-121 specifies completion and reporting requirements for wells. R12-7-125 specifies requirements when drilling, testing, injection, or production operations are suspended for 60 or more day. These rules are being amended because a regulated company recently advised the Oil and Gas Conservation Commission that the rules were vague and not specific about reporting requirements.
5. **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.
6. **The preliminary summary of the economic, small business, and consumer impact:**  
These rules directly impact companies drilling for oil, gas, and geothermal resources. The rules are mostly procedural in nature and will not significantly impact the economy or have a significant impact upon small business or consumers. The proposed rulemaking will benefit the regulated community by clarifying reporting requirements.
7. **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: Steven L. Rauzi, Oil and Gas Program Administrator  
Address: Arizona Geological Survey  
416 West Congress, Suite 100  
Tucson, Arizona 85701-1315  
Telephone: (520) 770-3500  
Fax: (520) 770-3505
8. **The time, place, and location of the proceedings for the amendment of the rule:**  
Date: March 27, 1998  
Time: 10 a.m.  
Location: 1700 West Washington, Room 500  
Phoenix, Arizona 85007  
Nature: Oral proceeding to adopt amended rules
9. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**  
Not applicable.
10. **Incorporations by reference and their location in the rules:**  
None.
11. **The full text of the rules follows:**

**TITLE 12. NATURAL RESOURCES**

**CHAPTER 7. OIL AND GAS CONSERVATION COMMISSION**

**ARTICLE 1. OIL, GAS, HELIUM, AND GEOTHERMAL RESOURCES**

- Section  
R12-7-117. Artificial Stimulation of Wells  
R12-7-121. Well Completion and Filing Requirements  
R12-7-125. Temporary Abandonment

**ARTICLE 1. OIL, GAS, HELIUM, AND GEOTHERMAL RESOURCES**

**R12-7-117. Artificial Stimulation of Wells**

- A. The operator shall report the artificial stimulation of any well to the Commission in writing within 15 days of the stimulation showing the type of stimulation, the amounts and types of materials used, stimulation pressures applied, and the flow and pressure results before and after stimulation, and the pressures applied.
- B. If the artificial stimulation of a well results in any damage to the producing formation, a freshwater formation, casing, or casingseat that permits or may permit communication between fluid-bearing zones, the operator shall immediately

notify the Commission and proceed with diligence to use appropriate means to correct the damage. If the artificial stimulation results in irreparable damage to the well, the operator shall plug and abandon the well in compliance with R12-7-127.

**R12-7-121. Well Completion and Filing Requirements**

- A. ~~For the purpose of this rule only, a~~ A well shall be determined to be completed when it is capable of production, has been temporarily abandoned as provided for in R12-7-125, or has been plugged and abandoned as provided for in R12-7-126 and R12-7-127.
- B. The operator shall file a completion report with the Commission within 30 days after the completion of a well. The completion report shall contain a description of the well and lease, the casing record, the tubing record, the liner record, the perforation record, the stimulation and cement squeeze record, and data on the initial production. The operator shall submit other well data including all lithologic, mud, and wireline logs; directional surveys; formation fluid analyses; individual core descriptions and analyses; stratigraphic and faunal determinations; individual formation tests including

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results before and after stimulation; and all other similar information and surveys to the Arizona Geological Survey as soon as the records are available or within 30 days of removing the drilling rig from the hole. Other well data, including all logs, tests, and surveys shall be filed with the completion report or within 30 days after the completion of the well.

- C. The operator shall furnish samples of all cores and cuttings, at a maximum interval ten feet, to the Commission within 30 days of removing the drilling rig from the hole. All samples for the Commission shall be handled as follows:
1. All samples shall be washed and dried.
  2. Approximately three tablespoons of each sample shall be placed in an envelope showing the identification of the well from which the sample originated, the location of the well, the Commission's permit number, and the depth at which the sample was taken.
  3. Samples shall be packaged in boxes for protection and shall be shipped prepaid to: Oil and Gas Program Administrator, Arizona Geological Survey, 416 West Congress, Suite 100, Tucson, Arizona 85701.
  4. Core samples may be furnished in chips and packed and shipped as specified in paragraphs (2) and (3).
- D. Upon written request by the operator, the Commission shall keep any well information required in this Section confidential for a period of 1 year after removing the drilling rig from the hole, not to exceed six months from the completion date of a stratigraphic or exploratory hole and for a period not to exceed two years from the completion date of a geothermal resources well.

**R12-7-125. Temporary Abandonment**

- A. When drilling, injection, or production operations have been suspended for 60 days, the well shall be plugged and abandoned as required in R12-7-126 and R12-7-127 unless the operator obtains written permission for temporary abandonment from the Commission. On drilling wells, the drilling rig shall not be removed from the hole until written permission for temporary abandonment is obtained from the Commission. Permission granted shall be for a period not to exceed one year. One year extensions may be granted.
- B. When requesting temporary abandonment, the operator shall file with the Commission (1) a written explanation of why temporary abandonment is necessary including time-frame, and (2) a description of the mechanical condition of the well including casing, cementing, and perforation record and a current corrosion, caliper, or cement bond log. The Commission shall not approve temporary abandonment or an extension unless the operator can show that the mechanical condition of the well will prevent damage to the producing zone, prevent contamination of fresh waters or other natural resources, and prevent leakage of any substance at the surface. The Commission may require a mechanical integrity test of the casing before approving or extending temporary abandonment.
- C. Upon expiration of the period of temporary abandonment or an extension, the well shall be plugged and abandoned, unless the operator can demonstrate to the Commission why the well should not be plugged and abandoned, and a further extension issued.
- D. Before reentering any temporarily abandoned well, the operator shall give the Commission at least ten days written notice detailing the proposed activity.

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 15. REVENUE**

**CHAPTER 10. DEPARTMENT OF REVENUE - GENERAL ADMINISTRATION**

**PREAMBLE**

- | <b><u>1. Sections Affected</u></b> | <b><u>Rulemaking Action</u></b> |
|------------------------------------|---------------------------------|
| R15-10-301                         | Amend                           |
| R15-10-303                         | Amend                           |
| R15-10-304                         | Amend                           |
| R15-10-305                         | Amend                           |
| R15-10-306                         | Amend                           |
| R15-10-307                         | Amend                           |
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
- Authorizing statute: A.R.S. § 42-105
- Implementing statute: A.R.S. § 42-137.02
- 3. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
- Name: Christie Comanita, Tax Analyst
- Address: Tax Research and Analysis Section  
Arizona Department of Revenue  
1600 West Monroe  
Phoenix, Arizona 85007
- Telephone: (602) 542-4672
- Fax: (602) 542-4680

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

In 1992, the Arizona Legislature enacted A.R.S. § 42-137.02 providing for the payment of tax by electronic funds transfer or other immediately available monies. The statute grants the Department of Revenue authority to require, by rule, the payment of any tax (except property and individual income tax) by electronic funds transfer if the taxpayer had a liability for such tax in the preceding tax year of twenty thousand dollars or more. Initially, the department was directed to require payment by electronic funds transfer, of withholding tax and corporate estimated income tax. The initial threshold for these taxes was an average quarterly withholding tax liability of one hundred thousand dollars or more; or a corporate estimated income tax liability of one hundred thousand dollars or more in the prior tax year. The department is authorized to prescribe, by rule, new taxpayers or threshold amounts. Taxpayers that do not meet the liability thresholds may voluntarily participate in the EFT program.

The proposed rule action amends the rules to allow payroll services to act on behalf of taxpayers in making certain tax payments by electronic funds transfer. The proposed amendments also allow taxpayers who have a luxury tax liability to elect to participate in the EFT Program, effective January 1, 1999.

**5. 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.

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

Identification of the Rulemaking:

The rules allow payroll services to act on behalf of taxpayers in making certain tax payments by electronic funds transfer. The rules also allow taxpayers who have a luxury tax liability to elect to participate in the EFT Program, effective January 1, 1999.

Summary of Information in the Economic, Small Business, and Consumer Impact Statement:

Data used in preparation of the economic, small business, and consumer impact statement includes figures based on current EFT filers and the projected increase in the number of filers due to the addition of luxury taxpayers. Benefits will accrue to the state general fund. Compliance by entities requesting to voluntarily remit by means of electronic funds transfer will necessitate a change in payment methods and may involve changes in processing and accounting systems. It is expected that the benefits of the rule will be greater than the costs.

**7. 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: Christie Comanita, Tax Analyst  
Address: Tax Research and Analysis Section  
Arizona Department of Revenue  
1600 West Monroe  
Phoenix, Arizona 85007  
Telephone: (602) 542-4672  
Fax: (602) 542-4680

**8. The time, place, and location of the proceedings for the amendment of the rule:**

The department has not scheduled any oral proceedings. Written comments on the proposed rules or preliminary economic, small business, and consumer impact statements may be submitted to the person listed above. Pursuant to A.R.S. § 41-1023(C), the department will schedule oral proceedings if 5 or more people file written requests for oral proceedings within 30 days after the publication of this notice.

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

Not applicable.

**10. Incorporations by reference and their location in the rules:**

None.

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

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TITLE 15. REVENUE

CHAPTER 10. DEPARTMENT OF REVENUE - GENERAL ADMINISTRATION

ARTICLE 3. AUTHORIZED TRANSMISSION OF FUNDS

Section

- R15-10-301. Definitions
- R15-10-303. Voluntary Participation
- R15-10-304. Authorization Agreement
- R15-10-305. Methods of Electronic Funds Transfer
- R15-10-306. Procedures for Payment
- R15-10-307. Timely Payment

ARTICLE 3. AUTHORIZED TRANSMISSION OF FUNDS

R15-10-301. Definitions

The following definitions apply for purposes of this Article the rules in Article 3 - Authorized Transmission of Funds:

1. "ACH" means an automated clearing house that is a central distribution and settlement point for the electronic clearing of debits and credits between financial institutions.
2. "ACH credit" means the electronic funds transfer generated by the payor taxpayer, cleared through the ACH for deposit to the Department account.
3. "ACH debit" means the electronic transfer of funds from the payor's taxpayer's account, as indicated on the signed authorization agreement, which is generated at upon the payor's taxpayer's instruction and cleared through the ACH for deposit to the Department account.
4. "Addenda record" means the information required by the Department in an ACH credit transfer or wire transfer, in the approved electronic format prescribed in A.A.C. R15-10-306(B).
5. "Authorized means of transmission" means the deposit of funds into the Department account by electronic funds transfer.
6. "Cash Concentration or Disbursement plus" or "CCD plus" means the standardized data format approved by the National Automated Clearing House Association for remitting tax payments electronically.
7. "Data Collection Center" means the third party who, under contract with the Department, collects and processes electronic funds transfer payment information from payors taxpayers.
8. "Department" means the Arizona Department of Revenue.
9. "EFT Program" means the payment of taxes by electronic funds transfer as specified by these rules."
910. "Electronic Funds Transfer" or "EFT" means any transfer of funds initiated through an electronic terminal, telephonic telephone instrument, computer, or magnetic tape, where the person initiating the transfer orders, instructs, or authorizes so as to order, instruct, or authorize a financial institution to debit or credit an account using the methods specified in these rules.
1011. "Financial institution" means a state or national bank, a trust company, a state or federal savings and loan association, a mutual savings bank, or a state or federal credit union.
1112. "Payment information" means the data which the Department requires of a taxpayer-payor making an electronic funds transfer payment.
1213. "Payor" means the taxpayer or payroll service.

1314. "Payor information number" means a confidential code assigned to each taxpayer which identifies the payor and allows the payor to communicate payment information to the Data Collection Center.

15. "Payroll service" means a third party, under contract with the taxpayer to provide tax payment services on behalf of the taxpayer.

1516. "State Servicing Bank" means the bank designated under pursuant to A.R.S. Title 35, Chapter 2, Article 2.

1617. "Tax type" means a tax which is subject to electronic funds transfer, each of which shall be considered a separate category of payment.

1718. "Wire transfer" or "Fedwire" means an instantaneous electronic funds transfer initiated generated by the taxpayer.

R15-10-303. Voluntary Participation

- A. For tax periods beginning on or after January 1, 1993, a taxpayer who, during the prior tax year, had a corporate income tax liability or an average quarterly withholding tax liability of less than one hundred thousand dollars may elect to participate in the EFT Program by submitting to the Department an electronic funds transfer authorization agreement that complies with R15-10-304.
- B. For tax periods beginning on or after January 1, 1994, a taxpayer who, during the prior tax year, had a corporate income tax liability or an average quarterly withholding tax liability of less than fifty thousand dollars may elect to participate in the EFT Program by submitting to the Department an electronic funds transfer authorization agreement that complies with R15-10-304.
- C. For tax periods beginning on or after January 1, 1997, a taxpayer who, during the prior tax year, had a corporate income tax liability or an average quarterly withholding tax liability of less than twenty thousand dollars may elect to participate in the EFT Program by submitting to the Department an electronic funds transfer authorization agreement that complies with R15-10-304.
- D. For tax periods beginning on or after July 1, 1997, a taxpayer who, under A.R.S. Title 42, Chapters 8, 8.1, 8.2, 8.3, 9.1 and 9.2 had an annual tax liability during the prior calendar year, of less than one million dollars may elect to participate in the EFT Program by submitting to the Department an electronic funds transfer authorization agreement that complies with R15-10-304.
- E. For tax periods beginning from and after January 1, 1999, any taxpayer who has a luxury tax liability may elect to participate in the EFT Program by submitting to the Department an electronic funds transfer authorization agreement that complies with R15-10-304.
- F. A taxpayer authorized to participate in the EFT Program shall provide at least 30 days prior written notice to the Department if the taxpayer elects to cease voluntary participation in the EFT Program.

R15-10-304. Authorization Agreement ~~agreement~~

- A. The payor taxpayer shall complete an electronic funds transfer authorization agreement in the form prescribed by the Department at least 30 days prior to initiation of the first applicable transaction. The form shall include the following information:
  1. Name and address of the taxpayer:

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2. Federal identification number ~~ID~~ Number of the taxpayer;
3. Withholding number Number of the taxpayer, if applicable;
4. Transaction privilege tax license number of taxpayer, if applicable;
45. Type of action being taken;
56. Tax type;
6. Type of user;
7. Method of payment;
8. Name and phone number of taxpayer's EFT contact person;
9. Name and address of any payroll service, if applicable;
10. Name and phone number of the payroll service's EFT contact person;

911. Financial institution name and address;

1012. Type of bank account;

1113. Name on bank account;

1214. Bank account number; and,

1315. Bank routing transit number.

- B. A payor taxpayer shall submit a revised authorization agreement to the Department provide at least 30 days days' prior written notice of to any change of in the required information required in subsection (A) by submitting a revised authorization agreement to the Department.

**R15-10-305. Methods of Electronic Funds Transfer**

- A. ~~Payers shall use the~~ The ACH debit transfer method shall be used by taxpayers to remit payment by electronic funds transfer unless the Department grants permission to use the ACH credit method.

1. ~~The taxpayer shall submit a written request to the Department which demonstrates the existence of a valid business purpose for using the ACH credit method in lieu of the ACH debit method.~~

2. ~~A taxpayer who is already using the ACH credit method, or whose business operations make its use necessary or appropriate, shall be deemed to have a valid business purpose for using the ACH credit method to remit payments of Arizona taxes.~~

- B. The department may authorize the use of the ACH credit method for payors desiring to use this method. A payor taxpayer requesting that chooses to use of the ACH credit method shall provide the payment information as provided required in R15-10-306(B)(2).

- C. The Department may withdraw permission to use the ACH credit method of payment if the actions of the taxpayer shows show disregard for the requirements and specifications of these rules by failing to:

1. Make timely electronic funds transfer payments;
2. Provide Timely provide payment information timely;
3. Provide the required addenda record with the electronic funds transfer payment; or
4. Make correct payment.

- D. ~~Payers Taxpayers~~ who, for reasons beyond their control, are unable to use their established method of payment may request that the department accept deposits to transmit payments of tax to the Department account via wire transfer in accordance with the following:

1. ~~Prior to initiating the transmission, the~~ The payor taxpayer shall contact the Department, state the reason which prevents timely compliance under either the ACH debit method or ACH credit method, and obtain verbal approval to wire transfer the tax payment to the Department account prior to initiating the transmission.

2. Approved wire transfers shall be accompanied by an addenda record, ~~which shall include that includes~~ the same information required for ACH credit transfers as specified in under R15-10-306(B)(2).

**R15-10-306. Procedures for Payment**

- A. ~~Payers Taxpayers~~ using the ACH Debit Method shall report payment information to the Data Collection Center, ~~by an approved means of communication, no later than the time prescribed by the State Servicing Bank on the last business day before the due date of the payment.~~

1. ~~Approved means of communication shall be one of the following Payment information shall be communicated by one of the following means:~~

- a. Operator-assisted communication of payment information made orally by rotary or touch-tone telephone,
- b. Touch-tone communication of payment information made by entering data via key pad of a touch-tone telephone, or
- c. Computer terminal linked with the Data Collection Center.

2. ~~Payers Taxpayers~~ shall communicate the following payment information to the Data Collection Center:

- a. Payor information number,
- b. Taxpayer identification number,
- c. Tax type,
- d. Payment amount,
- e. Tax period,
- f. Payment due date, and
- g. Payment sequence number.

- B. ~~Payers Taxpayers~~ authorized to use the ACH credit method shall initiate payment transactions directly with a financial institution in a timely manner to ensure that the payment is deposited to the Department account on or before the payment due date ~~to the Department account, pursuant to A.R.S. § 42-137.02 and A.A.C. Title 15, Chapter 10, Article 3.~~

1. All ACH credit transfers shall be in the CCD-plus addenda format.
2. The addenda format, as specified in subsection (B)(1) above, shall include the following information:
  - a. Taxpayer identification number,
  - b. Tax type,
  - c. Payment amount,
  - d. Tax period,
  - e. Payment sequence number,
  - f. Taxpayer verification number,
  - g. Department account number, and
  - h. American Bank Association nine-digit number of the receiving bank.

**R15-10-307. Timely Payment**

- A. ~~Payers Taxpayers~~ remitting tax payments through electronic funds transfer shall initiate the transfer so that the payment is deposited to the Department account on or before the payment due date.

- B. If a tax due date falls on a Saturday, a Sunday, or on a legal holiday, the deposit by electronic funds transfer shall be made no later than 5:00 p.m. on the next first banking day thereafter.

- C. Taxpayers required to, or who voluntarily elect to, participate in the EFT Program shall be subject to the penalty prescribed by A.R.S. § 42-136(D) if payments are not deposited to the Department account on or before the payment due date.