

NOTICES OF EXEMPT RULEMAKING

The Administrative Procedure Act requires the *Register* publication of the rules adopted by the state's agencies under an exemption from all or part of the Administrative Procedure Act. Some of these rules are exempted by A.R.S. §§ 41-1005 or 41-1057; other rules are exempted by other statutes; rules of the Corporation Commission are exempt from Attorney General review pursuant to a court decision as determined by the Corporation Commission.

NOTICE OF EXEMPT RULEMAKING

TITLE 7. EDUCATION

CHAPTER 3. COMMISSION FOR POSTSECONDARY EDUCATION

PREAMBLE

- 1. Sections Affected**
R7-3-505
- Rulemaking Action**
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. § 15-1852(C)
Implementing statute: A.R.S. § 15-1873 et seq.
- 3. The effective date of the rules:**
November 26, 2001
- 4. A list of all previous notices appearing in the Register addressing the proposed rule:**
Notice of Rulemaking Docket Opening: 7 A.A.R. 3047, July 13, 2001
Notice of Proposed Rulemaking: 7 A.A.R. 4310, October 5, 2001
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Verna L. Allen, Executive Director
Address: 2020 N. Central Avenue, Suite 550
Phoenix, AZ 85004
Telephone: (602) 258-2435
Fax: (602) 258-2483
- 6. An explanation of the rule, including the agency's reasons for initiating the rule:**
The Commission for Postsecondary Education needs to bring the Arizona Family College Savings Program (Program) Rules into conformity with the evolving IRS Code § 529 Guidelines as regards Account Balance Limitations. The current Arizona Family College Savings Program rules state that "Any excess balances with respect to a designated beneficiary shall be promptly withdrawn as non-qualified withdrawal or transferred to another account in accordance with A.R.S. § 15-1875 (F)." This program rule amendment will change "Any excess balances ..." to "Any excess contributions ...". This program rule amendment will satisfy the evolving Internal Revenue Code § 529 guidelines.
- 7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable
- 8. The summary of the economic, small business, and consumer impact:**
 - a. An identification of the proposed rulemaking: Arizona Family College Savings Plan, R7-3-505, adopted pursuant to A.R.S. § 15-1873 et seq.
 - b. An identification of the persons who will be directly affected by, bear the costs of, or directly benefit from the proposed rulemaking: Persons directly affected are account owners.

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- c. An analysis of the probable costs and benefits from the implementation and enforcement of the proposed rulemaking on the Commission, and on any political subdivision or business directly affected by the proposed rulemaking: The Commission will bear administrative costs in keeping track of the information received from the financial institutions and enforcing the penalties for non-qualified withdrawals. The financial institution's will bear the burden of ensuring that substantiation is provided for both qualified and non-qualified withdrawals.
- d. The probable impact of the proposed rulemaking on employment in business, agencies, and political subdivisions of this state affected by the proposed rulemaking: None.
- e. A statement of the probable impact of the proposed rulemaking on small business: Some financial institutions are small businesses and will need to bear administrative costs in implementing and maintaining the Program.
- f. A statement of the probable effect on state revenues: No effect is anticipated as this Program is self-supported.
- g. A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed rulemaking: Due to the nature of the various statutory requirements, less intrusive or less costly alternatives are not available.

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

Not applicable

10. A summary of the principal comments and the agency response to them:

On June 6, 2001, the Commission had discussions and approved the Notice of Rulemaking Docket Opening for the AFCSP Program Rules amendments for Account Balance Limitations (R7-3-505). On August 20, 2001, the AFCSP Oversight Committee held discussions and made a recommendation to the Commission on amendment language. Receiving input from the AFCSP financial providers and the recommended AFCSP program rules amendment language from the AFCSP Oversight Committee, the Commission held a public meeting on September 7, 2001 during one of its regular business meetings. On November 9, 2001, the Commission held another public meeting on the final amendment language for the AFCSP program rules and approved the final language on that same date.

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

Not applicable

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

Not applicable

13. Was this rule previously adopted as an emergency rule?

Not applicable

14. The full text of the rules follows:

TITLE 7. EDUCATION

CHAPTER 3. COMMISSION FOR POSTSECONDARY EDUCATION

ARTICLE 5. ARIZONA FAMILY COLLEGE SAVINGS PROGRAM

Section

R7-3-505. Account Balance Limitations

ARTICLE 5. ARIZONA FAMILY COLLEGE SAVINGS PROGRAM

R7-3-505. Account Balance Limitations

- A. For each designated beneficiary, the balance in all qualified state tuition programs, as defined in § 529 of the Code, shall not exceed the lesser of:
 - 1. The product (rounded down to the nearest multiple of \$1000) of 7 and the average 1 year's undergraduate tuition, fees, room and board at independent 4 year higher education institutions as measured and last published by the College Board's Independent College 500 Index; or
 - 2. The cost in current dollars of qualified higher education expenses the account holder reasonably anticipates the designated beneficiary will incur.
- B. No person shall make any contribution to a qualified tuition program during an account year that would cause the sum of the account balances in all qualified tuition programs of the designated beneficiary as of the first day of the account

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year plus contributions made during the account year less withdrawals during the account year to or from any such account to exceed the maximum allowable balance set forth in subsection (A). Any excess balances contributions with respect to a designated beneficiary shall be promptly withdrawn as a non-qualified withdrawal or transferred to another account in accordance with A.R.S. § 15-1875(F).

C. No financial institution shall accept for deposit in any account a contribution if the contribution would cause the sum of the values (as of the beginning of an account year) of all qualified tuition programs of the designated beneficiary that are managed by the financial institution and contributions to such accounts less withdrawals from such accounts during the account year to exceed the maximum allowable balance set forth in subsection A.

~~**C.D.**~~ Each year, the Commission shall review the amounts set forth in ~~(A)(1) and (2)~~ subsection (A).

~~**D.E.**~~ Persons making a contribution to an account shall certify that as to the account's designated beneficiary, and to the best of the contributor's knowledge, the contribution shall not cause the balances in all qualified state tuition programs, ~~as defined in § 529 of the Code,~~ to exceed the account balance limitations described in ~~subsections (A)(1) and (2)~~ subsection (A).

E. If the Commission determines that contributions have been made to program accounts in violation of subsection (B) or (C), it shall notify the designated beneficiary and the account owners of all accounts of such designated beneficiary. The account owners shall have 60 days after receipt of such notice to reduce the balances of the qualified tuition programs through distributions and/or changes in beneficiaries to a level less than or equal to the maximum account balance described in subsection (A). If the balances are not appropriately reduced, the Commission will disqualify such accounts in reverse order of their date of opening until the sum of the balances in the accounts does not exceed the maximum allowable balance set forth in subsection (A). This subsection shall not apply to any contribution made at a time when such contributions did not cause the account balance limits to be exceeded.

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TITLE 9. HEALTH SERVICES

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

ADMINISTRATION

PREAMBLE

1. Sections Affected

R9-22-101
R9-22-102
R9-22-206
R9-22-217
R9-22-1434
R9-22-1701

Rulemaking Action

Amend
Amend
Amend
Amend
New Section
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. § 36-2903.01(F)

Implementing statute: Laws 2001, 1st S.S., Ch.1

3. The effective date of the rules:

December 1, 2001

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

Notice of Rulemaking Docket Opening: 7 A.A.R. 4291, October 19, 2001

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

Name: Cheri Tomlinson, Federal and State Policy Administrator

Address: AHCCCS
Office of Policy Analysis and Coordination
801 E. Jefferson, Mail Drop 4200
Phoenix, AZ 85034

Telephone: (602) 417-4198

Fax: (602) 256-6756

6. An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from the regular rulemaking procedures:

AHCCCS is filing rules to implement a State Emergency Services Program (SESP) that was adopted by the legislature in Special Session on September 26, 2001. The changes enable AHCCCS to pay claims for emergency medical conditions for undocumented persons who are not eligible for Medicaid and who have income up to 40% of the federal poverty level (FPL).

7. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:

Not applicable

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

Not applicable

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

Not applicable

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

Not applicable

11. A summary of the principal comments and the agency response to them:

Not applicable

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

Not applicable

13. Incorporations by reference and their location in the rules:

Not applicable

14. Was this rule previously adopted as an emergency rule?

Not applicable

15. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

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

ADMINISTRATION

ARTICLE 1. DEFINITIONS

Section

R9-22-101. Location of Definitions

R9-22-102. Scope of Services Related Definitions

ARTICLE 2. SCOPE OF SERVICES

Section

R9-22-206. Organ and Tissue Transplant Services

R9-22-217. Services Included in the State and Federal Emergency Services Programs

ARTICLE 14. AHCCCS MEDICAL COVERAGE FOR FAMILIES AND INDIVIDUALS

Section

R9-22-1434. ~~Repealed~~ State Emergency Services Program (SESP)

ARTICLE 17. ENROLLMENT

Section

R9-22-1701. Enrollment of a Member with an AHCCCS Contractor

ARTICLE 1. DEFINITIONS

R9-22-101. Location of Definitions

A. Location of definitions. Definitions applicable to this Chapter are found in the following:

Definition	Section or Citation
“Accommodation”	R9-22-107
“Act”	R9-22-114
“Active case”	R9-22-109
“Acute mental health services”	R9-22-112
“ADHS”	R9-22-112
“Administration”	A.R.S. § 36-2901
“Administrative law judge”	R9-22-108
“Administrative review”	R9-22-108
“Adverse action”	R9-22-114
“Affiliate corporate organization”	R9-22-106
“Aged”	42 U.S.C. 1382c(a)(1)(A) and R9-22-115
“Aggregate”	R9-22-107
“AHCCCS”	R9-22-101
“AHCCCS inpatient hospital day or days of care”	R9-22-107
“Ambulance”	R9-22-102
“Ancillary department”	R9-22-107
“Annual assessment period”	R9-22-109
“Annual assessment period report”	R9-22-109
“Annual enrollment choice”	R9-22-117
“Appellant”	R9-22-114
“Applicant”	R9-22-101
“Application”	R9-22-101
“Assignment”	R9-22-101
“Authorized representative”	R9-22-114
“Auto-assignment algorithm”	R9-22-117
“Baby Arizona”	R9-22-114
“Behavior management services”	R9-22-112
“Behavioral health evaluation”	R9-22-112
“Behavioral health medical practitioner”	R9-22-112
“Behavioral health professional”	R9-22-112
“Behavioral health service”	R9-22-112
“Behavioral health technician”	R9-22-112
“Behavior management services”	R9-22-112
“BHS”	R9-22-114
“Billed charges”	R9-22-107
“Blind”	R9-22-115
“Board-eligible for psychiatry”	R9-22-112
“Burial plot”	R9-22-114
“Capital costs”	R9-22-107
“Capped fee-for-service”	R9-22-101
“Caretaker relative”	R9-22-114
“Case”	R9-22-109
“Case record”	R9-22-101 and R9-22-109
“Case review”	R9-22-109
“Cash assistance”	R9-22-114
“Categorically-eligible”	R9-22-101
“Certified psychiatric nurse practitioner”	R9-22-112
“Clean claim”	A.R.S. § 36-2904
“Clinical supervision”	R9-22-112
“CMDP”	R9-22-117
“CMS”	R9-22-101
“Complainant”	R9-22-108
“Continuous stay”	R9-22-101
“Contract”	R9-22-101
“Contractor”	A.R.S. § 36-2901

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“Copayment”	R9-22-107
“Corrective action plan”	R9-22-109
“Cost-to-charge ratio”	R9-22-107
“Covered charges”	R9-22-107
“Covered services”	R9-22-102
“CPT”	R9-22-107
“CRS”	R9-22-114
“Date of notice”	R9-22-108
“Day”	R9-22-101
“DCSE”	R9-22-114
“De novo hearing”	R9-22-112
“Dentures”	R9-22-102
“Department”	A.R.S. § 36-2901
“Dependent child”	R9-22-114
“DES”	R9-22-101
“Diagnostic services”	R9-22-102
“Director”	R9-22-101
“Disabled”	R9-22-115
“Discussions”	R9-22-106
“Disenrollment”	R9-22-117
“District”	R9-22-109
“DME”	R9-22-102
“DRI inflation factor”	R9-22-107
“E.P.S.D.T. services”	R9-22-102
“Eligible person”	A.R.S. § 36-2901
“Emergency medical condition”	42 U.S.C. 1396b(v) <u>Section 1903(v) of the Social Security Act</u>
“Emergency medical services”	R9-22-102
“Encounter”	R9-22-107
“Enrollment”	R9-22-117
“Enumeration”	R9-22-101
“Equity”	R9-22-101
“Error”	R9-22-109
“FAA”	R9-22-114
“Facility”	R9-22-101
“Factor”	R9-22-101
“FBR”	R9-22-101
“FESP”	R9-22-101
“Finding”	R9-22-109
“First-party liability”	R9-22-110
“Foster care maintenance payment”	41 U.S.C. 675(4)(A)
“FPL”	A.R.S. § 1-215
“FQHC”	R9-22-101
“Grievance”	R9-22-108
“GSA”	R9-22-101
“Health care practitioner”	R9-22-112
“Hearing”	R9-22-108
“Hearing aid”	R9-22-102
“Home health services”	R9-22-102
“Homebound”	R9-22-114
“Hospital”	R9-22-101
“ICU”	R9-22-107
“IHS”	R9-22-117
“IMD”	R9-22-112
“Income”	R9-22-114
“Inmate of a public institution”	42 CFR 435.1009
“Interested party”	R9-22-106
“License” or “licensure”	R9-22-101
“Mailing date”	R9-22-114
“Management evaluation review”	R9-22-109

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“Medical education costs”	R9-22-107
“Medical expense deduction”	R9-22-114
“Medical record”	R9-22-101
“Medical review”	R9-22-107
“Medical services”	R9-22-101
“Medical supplies”	R9-22-102
“Medical support”	R9-22-114
“Medically necessary”	R9-22-101
“Medicare claim”	R9-22-107
“Medicare HMO”	R9-22-101
“Member”	R9-22-101
“Mental disorder”	R9-22-112
“New hospital”	R9-22-107
“NF”	R9-22-101
“NICU”	R9-22-107
“Noncontracting provider”	A.R.S. § 36-2901
“Nonparent caretaker relative”	R9-22-114
“Notice of Findings”	R9-22-109
“OAH”	R9-22-108
“Occupational therapy”	R9-22-102
“Offeror”	R9-22-106
“Operating costs”	R9-22-107
“Outlier”	R9-22-107
“Outpatient hospital service”	R9-22-107
“Ownership change”	R9-22-107
“Partial Care”	R9-22-112
“Party”	R9-22-108
“Peer group”	R9-22-107
“Performance measures”	R9-22-109
“Pharmaceutical service”	R9-22-102
“Physical therapy”	R9-22-102
“Physician”	R9-22-102
“Post-stabilization services”	42 CFR 438.114
“Practitioner”	R9-22-102
“Pre-enrollment process”	R9-22-114
“Preponderance of evidence”	R9-22-109
“Prescription”	R9-22-102
“Primary care provider”	R9-22-102
“Primary care provider services”	R9-22-102
“Prior authorization”	R9-22-102
“Private duty nursing services”	R9-22-102
“Proposal”	R9-22-106
“Prospective rates”	R9-22-107
“Prospective rate year”	R9-22-107
“Prudent layperson standard”	42 U.S.C. 1396u-2
“Psychiatrist”	R9-22-112
“Psychologist”	R9-22-112
“Psychosocial rehabilitation services”	R9-22-112
“ <u>Qualified Alien</u> ”	<u>A.R.S. § 36-2903.03</u>
“Quality management”	R9-22-105
“Radiology services”	R9-22-102
“Random sample”	R9-22-109
“RBHA”	R9-22-112
“Rebasing”	R9-22-107
“Referral”	R9-22-101
“Rehabilitation services”	R9-22-102
“Reinsurance”	R9-22-107
“Resources”	R9-22-114
“Respiratory therapy”	R9-22-102

“Respondent”	R9-22-108
“Responsible offeror”	R9-22-106
“Responsive offeror”	R9-22-106
“Review”	R9-22-114
“Review period”	R9-22-109
“RFP”	R9-22-106
“Scope of services”	R9-22-102
“SDAD”	R9-22-107
“Section 1115 Waiver”	A.R.S. § 36-2901
“Service location”	R9-22-101
“Service site”	R9-22-101
“SESP”	<u>R9-22-101</u>
“S.O.B.R.A.”	R9-22-101
“Specialist”	R9-22-102
“Specified relative”	R9-22-114
“Speech therapy”	R9-22-102
“Spendthrift restriction”	R9-22-114
“Spouse”	R9-22-101
“SSA”	P.L. 103-296, Title I
“SSI”	R9-22-101
“SSN”	R9-22-101
“Sterilization”	R9-22-102
“Subcontract”	R9-22-101
“Summary report”	R9-22-109
“SVES”	R9-22-114
“Third-party”	R9-22-110
“Third-party liability”	R9-22-110
“Tier”	R9-22-107
“Tiered per diem”	R9-22-107
“Title IV-D”	R9-22-114
“Title IV-E”	R9-22-114
“Title XIX”	42 U.S.C. 1396
“Title XXI”	42 U.S.C. 1397aa
“Tolerance level”	R9-22-109
“Total inpatient hospital days”	R9-22-107
“Utilization management”	R9-22-105

B. General definitions. In addition to definitions contained in A.R.S. § 36-2901, the words and phrases in this Chapter have the following meanings unless the context explicitly requires another meaning:

“AHCCCS” means the Arizona Health Care Cost Containment System, which is composed of the Administration, contractors, and other arrangements through which health care services are provided to a member.

“Applicant” means a person who submits or whose authorized representative submits, a written, signed, and dated application for AHCCCS benefits.

“Application” means an official request for AHCCCS medical coverage made under this Chapter.

“Assignment” means enrollment of a member with a contractor by the Administration.

“Capped fee-for-service” means the payment mechanism by which a provider of care is reimbursed upon submission of a valid claim for a specific AHCCCS-covered service and equipment provided to a member. A payment is made in accordance with an upper, or capped, limit established by the Director.

“Case record” means the file and all documents in the file that are used to establish eligibility.

“Categorically-eligible” means a person who is eligible under A.R.S. §§ 36-2901(i), (ii), or (iii) and 36-2934.

“CMS” means the Centers for Medicare and Medicaid Services.

“Continuous stay” means the period during which a member receives inpatient hospital services without interruption beginning with the date of admission and ending with the date of discharge or date of death.

“Contract” means a written agreement entered into between a person, an organization, or other entity and the Administration to provide health care services to a member under A.R.S. Title 36, Chapter 29, and these rules.

“Day” means a calendar day unless otherwise specified in the text.

“DES” means the Department of Economic Security.

“Director” means the Director of the Administration or the Director’s designee.

“Eligible person” means the person defined in A.R.S. § 36-2901.

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“Enumeration” means the assignment of a specific nine-digit identification number to a person by the Social Security Administration.

“Equity” means the county assessor full cash or market value of a resource minus valid liens, encumbrances, or both.

“Facility” means a building or portion of a building licensed or certified by the Arizona Department of Health Services as a health care institution, under A.R.S. Title 36, Chapter 4, to provide a medical service, a nursing service, or other health care or health-related services.

“Factor” means an organization, a collection agency, a service bureau, or a person who advances money to a provider for accounts receivable that the provider assigns, sells, or otherwise transfers, including transfers through the use of a power of attorney, to the organization, the collection agency, the service bureau, or the person that receives an added fee or a deduction of a portion of the face value of the accounts receivable in return for the advanced money. The term “factor” does not include a business representative, such as a bailing agent or an accounting firm described within these rules, or a health care institution.

“FBR” means Federal Benefit Rate, the maximum monthly Supplemental Security Income payment rate for a member or a married couple.

“FESP” means federal emergency services program ~~that is designed to provide emergency medical services covered under 42 U.S.C. 1396b(v); R9-22-217 to treat an emergency medical condition for a categorically eligible member who is determined eligible under A.R.S. § 36-2903.03.~~ A.R.S. § 36-2903.03(D).

“FQHC” means federally qualified health center.

“GSA” means a geographical service area designated by the Administration within which a contractor of record provides, directly or through a subcontract, a covered health care service to a member enrolled with that contractor of record.

“Hospital” means a health care institution that is licensed as a hospital by the Arizona Department of Health Services under A.R.S. Title 36, Chapter 4, Article 2, and certified as a provider under Title XVIII of the Social Security Act, as amended, or is currently determined to meet the requirements of certification.

“Inmate of a public institution” means a person defined by 42 CFR 435.1009.

“License” or “licensure” means a nontransferable authorization that is based on established standards in law, is issued by a state or a county regulatory agency or board, and allows a health care provider to render a health care service lawfully.

“Medical record” means all documents that relate to medical and behavioral health services provided to a member by a physician or other licensed practitioner of the healing arts and that are kept at the site of the provider.

“Medical services” means health care services provided to a member by a physician, a practitioner, a dentist, or by a health professional and technical personnel under the direction of a physician, a practitioner, or a dentist.

“Medically necessary” means a covered service provided by a physician or other licensed practitioner of the healing arts and within the scope of practice under state law to prevent disease, disability, and other adverse health conditions or their progression; or prolong life.

“Medicare HMO” means a health maintenance organization that has a current contract with Centers for Medicare and Medicaid for participation in the Medicare program under 42 CFR 417(L).

“Member” is defined in A.R.S. § 36-2901.

“NF” means a nursing facility defined in 42 U.S.C. 1396r(a).

“Noncontracting provider” is defined in A.R.S. § 36-2901.

“Referral” means the process by which a member is directed by a primary care provider or an attending physician to another appropriate provider or resource for diagnosis or treatment.

“Service location” means any location at which a member obtains any health care service provided by a contractor of record under the terms of a contract.

“Service site” means a location designated by a contractor of record as the location at which a member is to receive health care services.

“SESP” means state emergency services program covered under R9-22-217 to treat an emergency medical condition for a qualified alien or noncitizen who is determined eligible under A.R.S. § 36-2901.06.

“S.O.B.R.A.” means Section 9401 of the Sixth Omnibus Budget Reconciliation Act, 1986, amended by the Medicare Catastrophic Coverage Act of 1988, 42 U.S.C. 1396a(a)(10)(A)(i)(IV), 42 U.S.C. 1396a(a)(10)(A)(i)(VI), and 42 U.S.C. 1396a(a)(10)(A)(i)(VII).

“Spouse” means the husband or wife who has entered into a contract of marriage, recognized as valid by Arizona.

“SSA” means Social Security Administration under P.L. 103-296, Title I.

“SSI” means Supplemental Security Income under Title XVI of the Social Security Act, as amended.

“SSN” means social security number.

“Subcontract” means an agreement entered into by a contractor with any of the following:

- A provider of health care services who agrees to furnish covered services to a member;
- A marketing organization; or

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Any other organization or person who agrees to perform any administrative function or service for a contractor specifically related to securing or fulfilling the contractor's obligation to the Administration under the terms of a contract.

R9-22-102. Scope of Services Related Definitions

In addition to definitions contained in A.R.S. § 36-2901, the words and phrases in this Chapter have the following meanings unless the context explicitly requires another meaning:

- 1- "Ambulance" means a medical transport vehicle that is registered by and part of an ambulance service licensed by the Arizona Department of Health Services according to A.R.S. Title 36, Chapter 21.1, and 19 A.A.C. 13; and includes ground, air, and water ambulances that are staffed and equipped as a basic life support (BLS) vehicle or an advanced life support (ALS) vehicle. Ambulances may be used to provide:
 - a- Emergency transportation for eligible persons or members requiring emergency medical services; or
 - b- Medically necessary transportation from ~~+~~ one medical facility to another; and
 - e- Any necessary emergency medical services that a certified emergency medical technician (EMT), an Intermediate EMT or paramedic, a registered nurse or a physician assistant, provides before, during, or after transportation.
- 2- "Covered services" means the health and medical services described in Articles 2 and 12.
- 3- "Dentures" means a partial or complete set of artificial teeth and services that are determined to be medically necessary, and the primary treatment of choice, or an essential part of an overall treatment plan, designed to alleviate a medical condition as determined by the primary care provider in consultation with the dental service provider.
- 4- "Diagnostic services" means services provided for the purpose of determining the nature and cause of a condition, illness, or injury.
- 5- "DME" means durable medical equipment, which is an item or appliance that can withstand repeated use, is designed to serve a medical purpose, and is not generally useful to a person in the absence of a medical condition, illness, or injury.
- 6- ~~"Emergency medical condition" has meaning in 42 U.S.C. 1396b(v).~~
- 7- "Emergency medical services" means services provided after the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity, (including severe pain), that the absence of immediate medical attention could reasonably be expected to result in:
 - a. Placing the patient's health in serious jeopardy;
 - b. Serious impairment to bodily functions; or
 - c. Serious dysfunction of any bodily organ or part.
- 8- "E.P.S.D.T. services" means early and periodic screening, diagnosis, and treatment services for eligible persons or members less than 21 years of age. For the purpose of these rules:
 - a- "Early" means, in the case of an eligible person less than 21 years of age, as early as possible in the person's life or, in other cases, as soon as the person becomes eligible;
 - b- "Periodic" means at appropriate intervals established by the Administration for screening to ensure that a condition, illness, or injury is not incipient or present;
 - e- "Screening" means the use of quick, simple procedures carried out among large groups of people to distinguish apparently well persons from those who may have a condition, illness, or injury and the identification of those in need of more definitive study. For the purposes of AHCCCS, screening and diagnosis are not synonymous;
 - d- "Diagnosis" means the determination of the nature or cause of a condition, illness, or injury through the combined use of health history, physical, developmental and psychological examination, laboratory tests, X-rays; and
 - e- "Treatment" means any type of health care or service recognized under the state Plan submitted according to Title XIX of the Social Security Act to prevent or ameliorate a condition, illness, or injury or prevent or correct abnormalities detected by screening or diagnostic procedures.
- 9- "Hearing aid" means a wearable instrument or device designed for, or represented as aiding or compensating for impaired or defective human hearing, and any parts, attachments, or accessories of the instrument or device.
- 10- "Home health services" means the services that are provided by a home health agency that coordinates in-home intermittent services for curative, habilitative care. This includes home-health aide services, licensed nurse services, and medical supplies, equipment, and appliances.
- 11- "Medical supplies" means consumable items that are designed specifically to meet a medical purpose.
- 12- "Occupational therapy" means the medically prescribed treatment provided by or under the supervision of a licensed occupational therapist, to restore or improve an individual's ability to perform tasks required for independent functioning.
- 13- "Pharmaceutical service" means medically necessary medications that are prescribed by a physician, practitioner, or dentist, and are dispensed by a licensed pharmacist through a registered pharmacy.
- 14- "Physical therapy" means treatment services to restore or improve muscle tone, joint mobility, or physical function provided by or under the supervision of a registered physical therapist.

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15. "Physician" means a person licensed as an allopathic or osteopathic physician according to A.R.S. Title 32, Chapter 13 or Chapter 17.
16. "Practitioner" means a physician assistant licensed under A.R.S. Title 32, Chapter 25, or a certified nurse practitioner licensed under A.R.S. Title 32, Chapter 15.
17. "Prescription" means an order to provide covered services, which is signed or transmitted by a provider authorized to prescribe or order services.
18. "Primary care provider" means an individual who meets the requirements of A.R.S. § 36-2901, and who is responsible for the management of a member's or eligible person's health care.
19. "Primary care provider services" means healthcare services provided by and within the scope of practice, as defined by law, of a licensed physician, certified nurse practitioner, or licensed physician assistant.
20. "Prior authorization" means the process by which the Administration or contractor, whichever is applicable, authorizes, in advance, the delivery of covered services contingent on their medical necessity.
21. "Private duty nursing services" means nursing services provided to a member or eligible person who requires more individual and continuous care than is available from a visiting nurse, or routinely provided by the nursing staff of a nursing facility or ICF-MR, and that are provided by a registered nurse or licensed practical nurse.
22. "Radiology" means professional and technical services rendered to provide medical imaging, radioisotope services, and radiation oncology.
23. "Rehabilitation services" means physical, occupational, and speech therapies, and items to assist in improving or restoring a person's functional level.
24. "Respiratory therapy" means treatment services to restore, maintain, or improve respiratory functions and is provided by, or under the supervision of, a respiratory therapist licensed according to A.R.S. Title 32, Chapter 35.
25. "Scope of services" means the covered, limited, and excluded services under Articles 2 and 12 of these rules.
26. "Specialist" means a Board eligible or certified physician who declares himself or herself as a specialist and practices a specific medical specialty.
27. "Speech therapy" means medically prescribed diagnostic and treatment services provided by, or under the supervision of, a certified speech therapist.
28. "Sterilization" means a medically necessary procedure, not for purpose of family planning, to render an eligible person or member barren in order to:
 - a. Prevent the progression of disease, disability, or adverse health conditions; or
 - b. Prolong life and promote physical health.

ARTICLE 2. SCOPE OF SERVICES

R9-22-206. Organ and Tissue Transplant Services

- A. ~~As specified in Under A.R.S. § 36-2907, organ and tissue transplant services shall be~~ are covered for a member if prior authorized and coordinated with the member's contractor, or the Administration.
- ~~B. Organ and tissue transplant services are not covered during the fee for service emergency services only period for an MI/MN or ELIC member except for persons under A.R.S. §§ 36-2907.10 and 36-2907.11. There is no fee for service emergency services only period for an EAC member under A.R.S. § 36-2905.03.~~
- ~~C. Organ and tissue transplant services are not covered for members of SESP qualified aliens or noncitizens under A.R.S. § 36-2905.05 or FESP under A.R.S. § 36-2903.03. members of FESP under A.R.S. § 36-2903.03(D) or members of SESP under A.R.S. § 36-2901.06.~~

R9-22-217. Services Included in the State and Federal Emergency Services Programs

- A. ~~Covered state and federal emergency services to treat an emergency medical condition shall include the following, within limitations specified in this Article:~~
 1. ~~Inpatient general hospital services;~~
 2. ~~Physician services;~~
 3. ~~Emergency dental services;~~
 4. ~~Ancillary services, such as laboratory, radiology, and medical imaging services;~~
 5. ~~Pharmaceutical services;~~
 6. ~~Emergency medical services;~~
 7. ~~Emergency transportation services; and~~
 8. ~~Medical supplies, durable medical equipment subject to the limitations described in subsection (C)(1)(d), and medications.~~

General. For the purposes of this Section, emergency medical condition means a person in the SESP or FESP program is limited to services necessary to treat the sudden onset of a medical condition, including emergency labor and delivery, manifesting itself by acute symptoms of sufficient severity, including severe pain, such that the absence of immediate medical attention could reasonably be expected to result in:

- a. Placing the patient's health in serious jeopardy,
- b. Serious impairment to bodily functions, or

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- c. Serious dysfunction of any bodily organ or part.
- B. Prenatal care services. In addition to emergency services listed in subsection (A), prenatal care shall be provided for persons identified in A.R.S. § 36-2905.05(B).
Services are not covered unless all of the criteria in subsection (A) are met at the time the service is rendered. An emergency medical condition shall be determined on a case-by-case basis.
- ~~C. Limitations and exclusions.~~
 - ~~1. The following limitations shall apply:~~
 - ~~a. Covered services are limited to services that are medically necessary to treat an emergency medical condition under Section 1903(v) of the Social Security Act.~~
 - ~~b. Emergency behavioral health services are limited to emergency services that are medically necessary for crisis stabilization, not to exceed 3 days per episode or for a maximum of 12 days per year, under R9-22-1205.~~
 - ~~c. The continuance of inpatient or outpatient emergency care subsequent to the initial treatment of the emergency medical condition, is not to exceed the acute level of care that is medically necessary.~~
 - ~~d. Durable medical equipment is limited to equipment that is medically necessary and cost effective at the time of discharge.~~
 - ~~2. The following exclusions shall apply:~~
 - ~~a. All services deemed nonemergent by the Administration;~~
 - ~~b. Private duty nursing;~~
 - ~~c. Elective surgery;~~
 - ~~d. Physical, speech, or occupational therapy;~~
 - ~~e. Prevention programs;~~
 - ~~f. Acute rehabilitation services provided in a licensed general hospital rehabilitation unit or rehabilitation specialty center, if the primary purpose of the hospitalization is for rehabilitation;~~
 - ~~g. Nonemergency transportation services;~~
 - ~~h. Hearing aids, prescriptive lenses, or dentures;~~
 - ~~i. Family planning services;~~
 - ~~j. All services provided after the person's Arizona residency has terminated and all services provided outside the boundaries of the United States;~~
 - ~~k. All organ and tissue transplantation and related services; and~~
 - ~~l. Long term care services.~~
- ~~D. Prior authorization of federal and state emergency services.~~
 - ~~1. With the exception of emergency room services, emergency transportation services, and emergency dental services, all services listed under subsection (A) require prior authorization from the Administration.~~
 - ~~2. Failure to obtain prior authorization constitutes cause for denial of payment by the Administration.~~
- ~~E. All service requirements, exclusions, and limitations specified in this Article shall apply to services provided through the federal or state emergency services program.~~

ARTICLE 14. AHCCCS MEDICAL COVERAGE FOR FAMILIES AND INDIVIDUALS

R9-22-1434. ~~Repealed State Emergency Services Program (SESP)~~

- A. General Information.**
 - 1. The Department shall determine an applicant's eligibility for SESP when an applicant is not eligible under R9-22-1418 and:
 - a. Meets the eligibility criteria under subsection (B), and R9-22-1405, R9-22-1406, R9-22-1410, R9-22-1416, and R9-22-1417, or
 - b. Meets the MED eligibility criteria under R9-22-1427 through R9-22-1431.
 - 2. The following rules shall also apply under this Section: R9-22-1401 through R9-22-1404, R9-22-1407 through R9-22-1409, R9-22-1411(A), R9-22-1413 through R9-22-1415, R9-22-1419 and R9-22-1433.
- B. Income standard.**
 - 1. The family unit's countable income under this Section shall not exceed 40 percent FPL adjusted annually based on the number of persons in the family unit under A.R.S. § 36-2901.06.
 - 2. The Department shall consider the following to be a family unit for purposes of this Section:
 - a. A single person without children.
 - b. A married couple without children, or
 - c. A MED family unit under R9-22-1428.
 - 3. The Department shall calculate income under R9-22-1419 or R9-22-1429.
- C. Notice for Approval or Denial. The Department shall send an applicant a written notice of the eligibility decision under this Section. This notice shall include a statement of the intended action, and:**
 - 1. If approved under SESP, the notice shall also contain:
 - a. The effective date of eligibility;

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- b. A statement detailing the reason for the denial of full services;
 - c. The legal authority supporting the decision;
 - d. Where the legal authority supporting the decision can be found;
 - e. An explanation of the right to request a hearing; and
 - f. The date by which a request for hearing shall be received by the Department.
2. If denied, the notice shall contain:
- a. The effective date of the denial;
 - b. The reason for the denial, including specific financial calculations and the financial eligibility standard if applicable;
 - c. Legal authority supporting the decision;
 - d. Where the legal authority supporting the decision can be found;
 - e. An explanation of the right to request a hearing; and
 - f. The date by which a request for hearing shall be received by the Department.

ARTICLE 17. ENROLLMENT

R9-22-1701. Enrollment of a Member with an AHCCCS Contractor

- A. General Enrollment Requirements.**
- 1. Except as provided in subsections (A)(3), (A)(4), and (C), a member, determined eligible under this Chapter and residing in an area served by more than one contractor, shall have freedom of choice in the selection of a contractor serving the member's GSA within 16 days from the date of the initial interview. A Native American member may select IHS or another available contractor.
 - 2. If the member does not make a choice, the Administration shall auto-assign the member to IHS if the member is a Native American living on a reservation, a contractor based on family continuity, or the auto-assignment algorithm.
 - 3. The Administration shall enroll a member with the member's most recent contractor of record, if available, if the member's period of ineligibility and disenrollment from the contractor of record is for a period of less than 90 days except if:
 - a. The member no longer resides in the contractor's ~~GSA~~; GSA;
 - b. The contractor's contract is suspended or ~~terminated~~; terminated;
 - c. The member was previously enrolled with CMDP but at the time of re-enrollment the member is not a foster care ~~child~~; child;
 - d. The member chooses another contractor or chooses IHS, if available to the member, during the annual enrollment choice ~~period~~; period; or
 - e. The member was previously enrolled with a contractor but at the time of re-enrollment the member is a foster care child.
 - 4. The Administration shall not enroll a member with a contractor if a member:
 - a. Is eligible for the ~~FESP~~; FESP under R9-22-1418 or SESP under R9-22-1434;
 - b. Is eligible for a period less than 30 days from the date the Administration receives notification of a member's eligibility, except for a member who is enrolled with CMDP or IHS;
 - c. Is eligible only for a retroactive period of eligibility, except for a member who is enrolled with IHS;
 - d. Is not a Native American and resides in an area not served by a contractor; or
 - e. Is a Native American and resides in an area not served by a contractor or IHS.
- B. Fee-for-service coverage.** A member not enrolled with a contractor under subsection (A)(4) shall obtain covered medical services from an AHCCCS-registered provider on a fee-for-service basis under ~~9 A.A.C. 22~~; Article 7:
- C. Foster care child.** The Administration shall enroll a member with CMDP if the member is a foster care child under A.R.S. § 8-512.
- D. Family Planning Services Extension Program.** A member eligible for the Family Planning Services Extension Program, as under R9-22-1424, shall remain enrolled with the member's contractor of record, or IHS.
- E. Contractor or IHS enrollment change for a member.**
- 1. The Administration shall change a member's enrollment if the member requests a change to an available contractor or IHS during an annual enrollment period. A Native American may change from an available contractor to IHS or from IHS to an available contractor at any time.
 - 2. The Administration shall approve ~~transfer~~ a change for an enrolled member under this Article, or as determined by the Director.
 - 3. The Administration shall approve a change in enrollment for any member if the change is a result of the final outcome of a grievance under ~~9 A.A.C. 22~~; Article 8.
 - 4. A member may choose a different contractor if the member moves into a GSA not served by the current contractor or if the contractor is no longer available. If the member does not select a contractor, the Administration shall auto-assign the member as provided in subsection (A)(2).

NOTICE OF EXEMPT RULEMAKING

TITLE 12. NATURAL RESOURCES

CHAPTER 8. ARIZONA STATE PARKS BOARD

PREAMBLE

- | | |
|------------------------------------|---------------------------------|
| 1. <u>Sections Affected</u> | <u>Rulemaking Action</u> |
| Exhibit A | 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. § 41-511.05(8)
Implementing statute: A.R.S. § 41-511.05(8)

- 3. The effective date of the rules:**
January 1, 2002 (The Board traditionally has the Agency's Fee Schedule go into effect at the beginning of every calendar year.)

- 4. A list of all previous notices appearing in the Register addressing the exempt rule:**
Notice of Exempt Rulemaking: 3 A.A.R. 46, January 3, 1997
Notice of Exempt Rulemaking: 4 A.A.R. 35, January 2, 1998
Notice of Exempt Rulemaking: 4 A.A.R. 749, March 20, 1998
Notice of Exempt Rulemaking: 4 A.A.R. 4179, December 18, 1998
Notice of Exempt Rulemaking: 5 A.A.R. 2173, July 9, 1999

- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Vicky Trevino
Address: 1300 W. Washington
Phoenix, AZ 85007

Telephone: (602) 542-2155
Fax: (602) 542-6949
E-mail: vtrevino@pr.state.az.us

or
Name: Rich Evans
Address: 1300 W. Washington
Phoenix, AZ 85007

Telephone: (602) 542-7151
Fax: (602) 542-4180
E-mail: revans@pr.state.az.us

- 6. An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from the regular rulemaking procedures:**
R12-8-109, Fees and Permits set the fees for visitor use and commercial use at Arizona State Parks. Each year, the Arizona State Parks Board reviews its fee structure and approves adjustments for the ensuing calendar year. In its analysis, Arizona State Parks reviews fee structures of surrounding states; reviews operating and development costs of the State Park System; reviews the public demand for park services and subsequent impacts of visitor use on park resources. State Parks actively pursues public input into the fee structure through regional meetings throughout the State.

At the October 18, 2001 Board meeting, the Agency's 2002 Fee Schedule with the proposed fee changes was presented to the Board for consideration. The Board approved the changes as recommended.

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7. **A reference to any study that the agency relied on its evaluation of or justification for the rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**
 Not applicable
8. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**
 Not applicable
9. **The summary of the economic, small business, and consumer impact:**
 Not applicable
10. **A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**
 See item #6.
11. **A summary of the principal comments and the agency response to them:**
 Some members of the public were concerned that the fees were too high, while others thought they were too low. The agency responded by explaining the need to charge fees that were commensurate with development costs and ongoing operating costs.
12. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**
 Not applicable
13. **Incorporations by reference and their location in the rules:**
 Not applicable
14. **Was this rule previously adopted as an emergency rule?**
 No
15. **The full text of the rules follows:**

TITLE 12. NATURAL RESOURCES

CHAPTER 8. ARIZONA STATE PARKS BOARD

ARTICLE 1. GENERAL PROVISIONS

Section

Exhibit A. ~~Year 1999~~ 2002 Regular Fee Schedule

ARTICLE 1. GENERAL PROVISIONS

Exhibit A. ~~Year 1999~~ 2002 Regular Fee Schedule

**ARIZONA STATE PARKS
~~YEAR 1999~~ 2002 REGULAR FEE SCHEDULE
 Effective ~~7/1/99~~ 1/1/02**

HISTORIC & CONSERVATION PARKS PARK FEES

	AGE GROUPS		
	Ages 0-6	Ages 7-13	Ages 14 & Up
Boyce Thompson	(Separate Fee Schedule)		
Oracle Fort Verde	(\$4/Vehicle or Special Program Fees) free	1.00	2.00
Homolovi Ruins	(See Recreation Parks Below)		
Fort Verde Jerome	free	1.00	2.00 2.50

*** GROUP DISCOUNTS (Adult Fees)**

7-12 <u>7-13</u> Ages Persons	13-18 <u>14</u> Ages Persons & up	19 <u>20</u> Persons & Up
0.80 <u>0.80</u>	1.60 <u>1.60</u>	1.40 <u>1.40</u>

OTHER REGULAR FEES (all parks)

Group Day Use Reserv.:	\$40.00 <u>\$50.00</u>
Group Camping Reserv.:	\$25.00 <u>\$50.00</u>
Overnight Parking:	\$3.00 <u>\$3.00</u>
5-Visit Permit	\$20.00 <u>\$20.00</u>
5-Visit Pass Annual Permit (Lim.):	\$15.00 <u>\$35.00</u>
Overnight Parking: Annual Permit (Unl.):	\$3.00 <u>\$65.00</u>
Annual Permit (Unlimited): Commercial Retail Permit	\$65.00 <u>\$250.00</u>
Annual Permit (Limited): Commercial Rental Permit	\$35.00 <u>\$300.00</u>
Commercial Permit: Rental 2nd Commercial Permit: Rental: 2nd Pass	\$300.00 <u>\$100.00</u>

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Jerome Kartchner Caverns (tour)	free	1.00 4.00	2.50 12.00	2.25	2.00	1.75	Commercial Permit: Retail: \$250.00 Commercial Permit: Retail: 2nd Pass: \$100.00
McFarland	free (by donation)	4.00	2.00 only	4.80 (by donation)	4.60 donation	4.40 only	
Oracle	(See Recreation Parks Below)						
Red Rock	(See Recreation Parks Below)						
Riordan Mansion	free	2.50	4.00 6.00	3.60 2.00	3.20 4.80	2.80	SPECIAL USE FEES (all parks)
Tombstone	free	1.00	2.50	2.25 0.80	2.00	4.75	Non-commercial: 25.00
Tubac Presidio	free	1.00	2.00	4.80 0.80	1.60	4.40	Minimum fees charged per room or area/4 hours Commercial: 25.00
Yuma Territorial Prison	free	2.00	3.00	2.70 1.60	2.40	2.40	Non-Commercial: Damage Deposit: 25.00
Yuma Crossing	free	2.00	3.00	2.70 1.60	2.40	2.40	Commercial: Commercial fees not to exceed \$10,000: \$25.00

* All persons in a group, regardless of age, apply toward a group's number, but only adult fees are discounted. A group is 15 persons or more.

Damage Deposit:	\$25.00
(maximum fees not to exceed \$10,000) PROGRAM FEES (per person):	
INTERPRETIVE FEES (per person) Students / Interp. Program	1.00
Special Interp. Program: RESERVATIONS:	4.00
Interp. Prog. (Yuma Ctr.) Kartchner Tours:	2.00
Group Day-Use Reserv.	10.00-100.00
Group Camping Reserv.	25.00-100.00

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RECREATION PARKS PARK FEES

	DAILY ENTRANCE		NIGHTLY CAMPING			SPECIAL/LONG-TERM & CONDITIONAL RATES		
	Individual/ Bicycle Per Vehicle (1-4 Persons)	Per-Vehicle (1-4 Persons) Individual/ Bicycle	Campsite	Hook-Up Site	Cabana or Boat Site	Campsite Per Week	Hook-Up Site	Cabana/Boat Site
Alamo	4.00 4.00	4.00 1.00	8.00-10.00	45.00 17.00		40.00-50.00	65.00 85.00	
Buckskin Mountain**	4.00 6.00	4.00 / 7.00 1.00		45.00 17.00	20.00	50.00	75.00 85.00	75.00
Buckskin River Island **	4.00 6.00	4.00 / 7.00 1.00	12.00	45.00		60.00	0.00	
Catalina	4.00 5.00	4.00 1.00	10.00	45.00 17.00		50.00	75.00 85.00	
Cattail Cove **	4.00 7.00	4.00 / 7.00 1.00	40.00	45.00 17.00	10.00	50.00	75.00 85.00	50.00
Dead Horse Ranch	4.00 4.00	4.00 1.00	10.00	15.00		50.00	75.00	
Fool Hollow	4.00 5.00	5.00 1.00	10.00	45.00 17.00		50.00	75.00 85.00	
Homolovi Ruins	4.00 4.00	4.00 1.00	10.00	15.00		50.00	75.00	
Kartchner Caverns	10.00	1.00		20.00			100.00	
Lake Havasu**	4.00 7.00	7.00 1.00	40.00 -12.00		40.00	50.00 -60.00	0.00	50.00
Lost Dutchman	4.00 5.00	5.00 1.00	10.00			50.00	0.00	
Lyman Lake	4.00 4.00	4.00 1.00	10.00	15.00		50.00	75.00	
Oracle	5.00	1.00					0.00	
Patagonia Lake	4.00 6.00	5.00 1.00	10.00	45.00 17.00	10.00	50.00	75.00 85.00	50.00
Picacho Peak	4.00 5.00	5.00 1.00	10.00	45.00 17.00		50.00	75.00 85.00	
Red Rock	4.00 5.00	5.00 1.00	(Camping fees Fees charged only for education-related groups: \$10.00 per group of 1-6 persons)					
Roper Lake	4.00 5.00	4.00 1.00	10.00	45.00 17.00		50.00	75.00 85.00	
Slide Rock	4.00 7.00	5.00 1.00						
Tonto Natural Bridge	4.00 5.00	5.00 1.00						

** Denotes parks that charge the higher daily fee on weekends and State-observed holidays.

KARTCHNER CAVERNS

Cave Tours: Age Groups			Daily Entrance			Camping
Ages	Ages	Ages	Kartchner Tour	Per Vehicle	Individual/	Hook-Up
0-6	7-13	14 & Up	Reservation Surcharge	(1-4 Persons)	Bicycle	Sites
Free	\$4.00	\$12.00	\$2.00 Per Ticket	\$10.00	\$1.00	\$15.00

NOTICE OF EXEMPT RULEMAKING

TITLE 15. REVENUE

CHAPTER 2. DEPARTMENT OF REVENUE
INCOME AND WITHHOLDING TAX SECTION
SUBCHAPTER C. INDIVIDUALS

PREAMBLE

1. Sections Affected

- R15-2C-701
- R15-2C-702
- R15-2C-703
- R15-2C-704
- R15-2C-705

Rulemaking Action

- New Section

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. § 42-1005 and Laws 2000, 7th S.S., Ch. 1, § 30
Implementing statute: A.R.S. § 43-1086
3. **The effective date of the rules:**
November 29, 2001
4. **A list of all previous notices appearing in the Register addressing the exempt rule:**
None
5. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Anthony Forschino, Alternative Fuel Program Administrator
Address: Arizona Department of Revenue
1600 W. Monroe
Phoenix, AZ 85007
Telephone: (602) 542-4672
Fax: (602) 542-4680
E-mail: forschinoa@revenue.state.az.us
6. **An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from the regular rulemaking procedures:**
These rules are intended to provide guidance to the Department and to taxpayers that are claiming individual income tax credits for purchasing an alternative fuel vehicle or for converting a conventionally fueled vehicle to operate on alternative fuel. These rules are exempt from the rulemaking requirements of A.R.S. Title 41, Ch. 6 by Laws 2000, 7th S.S., Ch. 1, § 30.
7. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable
8. **The summary of the economic, small business, and consumer impact:**
These rules are exempt from the rulemaking requirements of A.R.S. Title 41, Ch. 6 by Laws 2000, 7th S.S., Ch. 1, § 30.
9. **A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**
Not applicable.
10. **A summary of the principal comments and the agency response to them:**
Not applicable
11. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**
None
12. **Incorporations by reference and their location in the rules:**
None
13. **Was this rule previously adopted as an emergency rule?**
No
14. **The full text of the rules follows:**

TITLE 15. REVENUE

CHAPTER 2. DEPARTMENT OF REVENUE
INCOME AND WITHHOLDING TAX SECTION
SUBCHAPTER C. INDIVIDUALS

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ARTICLE 7. ALTERNATIVE FUEL CREDITS

Section

- R15-2C-701. Credit for Alternative Fuel Vehicles
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R15-2C-704. Requirements for Claiming a Credit for Converting a Conventionally Fueled Vehicle to Operate on Alternative Fuel
R15-2C-705. Recapture or Disallowance Provisions for Alternative Fuel Vehicle Credits

ARTICLE 7. ALTERNATIVE FUEL CREDITS

R15-2C-701. Credit for Alternative Fuel Vehicles

In addition to the definitions provided in A.R.S. § 43-1086(P), the following definitions apply to this Article and to the calculation of alternative fuel vehicle credits under A.R.S. § 43-1086:

“Actual Purchase Price” means the amount paid for the vehicle or the capitalized cost if the vehicle is leased. Includes dealer options and a reasonable dealer prep fee, minus the sum of any customer rebates, factory-to-dealer incentives, document preparation fees, registration fees, title fees, fleet car discounts, amounts paid for extended warranties, aftermarket equipment installed on the vehicle and in the case of a leased vehicle the residual value as shown on the lease. For vehicles over 12,000 pounds gross vehicle weight, this does not include the cost of any attachment not associated with the operation of the vehicle.

“Any attachment not associated with the operation of the vehicle” means an item not required for the normal and basic use of the vehicle, and includes items such as accessories relating to towing, accessories relating to specialized use of a vehicle, and items that are decorative rather than functional.

“Cost” means the amount the taxpayer paid for the vehicle or the capitalized cost if the vehicle is leased minus the sum of any customer rebates, factory-to-dealer incentives, document preparation fees, registration fees, title fees, amounts paid for extended warranties, aftermarket equipment installed on the vehicle, and in the case of a leased vehicle the residual value of the vehicle as shown on the lease. For vehicles over 12,000 pounds gross vehicle weight, this does not include the cost of any attachment not associated with the operation of the vehicle.

“Manufacturer’s Base Retail Price” means the total price on the manufacturer’s invoice minus any destination charges. Does not include any dealer add-ons or other added charges. In addition, in the case of a vehicle with a gross vehicle weight of over 12,000 pounds, it does not include the cost of any attachment not associated with the operation of the vehicle

“Member of the taxpayer’s immediate family” means a spouse, child, grandchild, parent, grandparent, brother, or sister of the whole or half blood and their spouse, and the parent, brother, or sister of the spouse.

“New” means the vehicle was never registered and titled anywhere before its manufacture as an alternative fuel vehicle or conversion to operate on alternative fuel. However, when an applicant contracted to purchase a new vehicle and ordered its conversion at the same time and conversion occurs after the vehicle is registered and titled, the vehicle shall be deemed to be a new vehicle.

“Placed in service” means the date the taxpayer registered the vehicle in Arizona as an alternative fuel vehicle.

R15-2C-702. Requirements for Claiming a Credit for New Alternative Fuel Vehicles

- A.** For taxable years beginning after December 31, 1999 and ending on or before December 31, 2001 a taxpayer that purchases or leases a new alternative fuel vehicle may qualify for a credit under A.R.S. § 43-1086(B), paragraphs (1), (3), (5), (7), (10), or (12) if all of the following apply:
1. The taxpayer either purchases or leases the alternative fuel vehicle before October 20, 2000 or the taxpayer enters into a contract or purchase order for the purchase or lease of the alternative fuel vehicle before October 20, 2000.
 2. The alternative fuel vehicle is either in the taxpayer’s possession before December 1, 2000 or the taxpayer has paid in full for the vehicle before December 1, 2000.
 3. The taxpayer titles and registers the alternative fuel vehicle in Arizona.
 4. The taxpayer has an affidavit for the vehicle issued by the Arizona Department of Commerce pursuant to A.R.S. § 41-1516(E) if the vehicle was purchased. The taxpayer has an alternative fuel vehicle verification issued by the Arizona Department of Commerce if the vehicle is leased. This subsection does not apply to the purchase or lease of neighborhood electric vehicles.
 5. For purposes of qualifying under A.R.S. § 43-1086(B) paragraphs (1), (3), (5) and (7), the vehicle is certified to meet the United States Environmental Protection Agency emission standards for the particular type of vehicle for which the credit is claimed, as prescribed by 40 CFR section 88.104-94 or 88.105-94 in effect as of April 28, 2000.
 6. A motor home as defined in A.R.S. § 28-4301 that is converted to use liquefied petroleum gas shall have a fuel tank for onboard storage of liquefied petroleum gas that holds at least 30 gallons.

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7. The taxpayer has not exercised the opt out option for the vehicle pursuant to Laws 2000, 7th S.S., Ch. 1, § 33.
- B.** This Section applies to new vehicles that operate on alternative fuel at the time of purchase. See R15-2C-704 for vehicles that are converted to operate on alternative fuel after the purchase.
- C.** A taxpayer that purchases or leases a new neighborhood electric vehicle before July 1, 2000 may qualify for a credit under A.R.S. § 43-1086(B)(5) if the taxpayer has fulfilled the requirements in subsection (A)(3) for the vehicle.
- D.** A taxpayer that purchases or leases a new neighborhood electric vehicle on or after July 1, 2000 may qualify for a credit under A.R.S. § 43-1086(B)(13) if:
1. The taxpayer has fulfilled all the requirements of subsections (A)(1), (A)(2), and (A)(3) for the vehicle, and
 2. The taxpayer certifies on forms provided by the Department that the vehicle has not been, and will not be, used on a golf course, except for use as a maintenance vehicle for a golf course.
- E.** A person that purchases an alternative fuel vehicle and then leases the vehicle to another person is not entitled to take a credit for the purchase of the vehicle but may claim a share of the tax credit for the lease of the vehicle as provided in the lease agreement. If the vehicle is leased to a governmental entity, the purchaser may take a tax credit for the purchase of the vehicle.
- F.** If the purchaser receives a grant from the Department of Commerce for the purchase of the alternative fuel vehicle, no credit under A.R.S. § 43-1086(B) is allowed, but a credit for the incremental cost may be claimed under A.R.S. § 43-1086(I).
- G.** Leased vehicles do not qualify for the credit under A.R.S. § 43-1086(I).

R15-2C-703. Requirements for Claiming a Credit for Used Alternative Fuel Vehicles

- A.** For taxable years beginning after December 31, 1999 and ending on or before December 31, 2001 a taxpayer that purchases or leases a used alternative fuel vehicle may qualify for a credit under A.R.S. § 43-1086(B), paragraphs (2), (4), (6), or (8) if all of the following apply:
1. On or before June 30, 2000 the taxpayer either purchased or leased for at least 1 year a used alternative fuel vehicle.
 2. The taxpayer titles and registers the alternative fuel vehicle in Arizona.
 3. The taxpayer has an affidavit for the vehicle issued by the Arizona Department of Commerce pursuant to A.R.S. § 41-1516(E) if the vehicle was purchased. The taxpayer has an alternative fuel vehicle verification issued by the Arizona Department of Commerce if the vehicle is leased.
 4. For purposes of qualifying under A.R.S. § 43-1086(B) paragraphs (2), (4), (6) and (8), the vehicle is certified to meet the United States Environmental Protection Agency emission standards for the particular type of vehicle for which the credit is claimed, as prescribed by 40 CFR section 88.104-94 or 88.105-94 in effect as of April 28, 2000.
 5. A motor home as defined in A.R.S. § 28-4301 that is converted to use liquefied petroleum gas shall have a fuel tank for onboard storage of liquefied petroleum gas that holds at least 30 gallons.
 6. The taxpayer has not exercised the opt out option for the vehicle pursuant to Laws 2000, 7th S.S., Ch. 1, § 33.
- B.** This Section applies to used vehicles that operate on alternative fuel at the time of purchase. See R15-2C-704 for vehicles that are converted to operate on alternative fuel after the purchase.
- C.** The purchase or lease of a used neighborhood electric vehicle does not qualify for a tax credit.
- D.** A person that purchases an alternative fuel vehicle and then leases the vehicle to another person is not entitled to take a credit for the purchase of the vehicle but may claim a share of the tax credit for the lease of the vehicle as provided in the lease agreement. If the vehicle is leased to a governmental entity, the purchaser may take a tax credit for the purchase of the vehicle.
- E.** If the purchaser receives a grant from the Department of Commerce for the purchase of the alternative fuel vehicle, no credit under A.R.S. § 43-1086(B) is allowed, but a credit for the incremental cost may be claimed under A.R.S. § 43-1086(I).
- F.** Leased vehicles do not qualify for the credit under A.R.S. § 43-1086(I).

R15-2C-704. Requirements for Claiming a Credit for Converting a Conventionally Fueled Vehicle to Operate on Alternative Fuel

- A.** For taxable years beginning after December 31, 1999 and ending on or before December 31, 2001 a taxpayer that converts a conventionally fueled vehicle to operate on alternative fuel may qualify for a credit under A.R.S. § 43-1086(B), paragraphs (9), (11), and (14) if all of the following apply:
1. The taxpayer incurs an expense for converting the conventionally fueled vehicle to operate on alternative fuel before October 20, 2000 or the taxpayer enters into a contract or purchase order for the conversion before October 20, 2000.
 2. The vehicle to be converted is either in the taxpayer's possession before December 1, 2000 or the taxpayer has paid in full for the vehicle before December 1, 2000.
 3. The taxpayer titles and registers the alternative fuel vehicle in Arizona.
 4. The taxpayer has an affidavit for the vehicle issued by the Arizona Department of Commerce pursuant to A.R.S. § 41-1516(E).

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5. A motor home as defined in A.R.S. § 28-4301 that is converted to use liquefied petroleum gas shall have a fuel tank for onboard storage of liquefied petroleum gas that holds at least 30 gallons.
6. The taxpayer has not exercised the opt out option for the vehicle pursuant to Laws 2000, 7th S.S., Ch. 1, § 33.
- B.** This Section applies to vehicles that are converted to operate on alternative fuel after the purchase. See R15-2C-602 and R15-2C-603 for vehicles that are converted to operate on alternative fuel before the purchase.
- C.** This Section does not apply to neighborhood electric vehicles.
- D.** If the taxpayer who has a conventionally fueled vehicle converted receives a grant under A.R.S. § 41-1516 for the conversion, no credit is allowed.

R15-2C-705. Recapture or Disallowance Provisions for Alternative Fuel Vehicle Credits

- A.** If any of the following occur within 36 months after the alternative fuel vehicle is placed in service and registered in Arizona, the credit will be subject to recapture or disallowance:
 1. The taxpayer transfers the vehicle to any person other than a member of the taxpayer's immediate family or a person who resides in the same household as the taxpayer. The transfer will not trigger a recapture if the vehicle is demolished or the taxpayer dies.
 2. The vehicle ceases to be registered in Arizona.
 3. The vehicle fails to comply with emissions inspection requirements for alternative fuel vehicles prescribed in A.R.S. Title 49, Chapter 3, Article 5.
 4. The vehicle is a bi-fuel vehicle that operates on liquefied petroleum gas and taxpayer fails to provide proof that at least 50% of the fuel used is liquefied petroleum gas. The determination regarding the percentage of fuel used is made at the end of each 12-month period.

For example: the taxpayer places the vehicle in service on February 15, 2000. For the period from February 15, 2000 through February 14, 2001, the taxpayer used 200 gallons of gasoline and 200 gallons of liquefied petroleum gas. The taxpayer's fuel usage for the first 12-month period meets the minimum 50% (200/400) requirement and will not cause a recapture of the credit.
 5. The vehicle is a bi-fuel vehicle that operates on compressed natural gas and taxpayer fails to provide proof that at least:
 - a. 25% of the fuel used in the 1st 12-month period is compressed natural gas.
 - b. 33 and 1/3% of the fuel used in the 2nd 12-month period is compressed natural gas.
 - c. 50% of the fuel used in the 3rd 12-month period is compressed natural gas.
- B.** A taxpayer that transfers an alternative fuel vehicle to a member of the taxpayer's immediate family or a person who resides in the same household as the taxpayer will not cause the credit to be recaptured or disallowed. However, the taxpayer that claimed the credit will remain liable for any recapture that occurs under subsection (A). The taxpayer that claimed the credit is responsible for maintaining documentation to prove that the credit is not subject to recapture.
- C.** The amount of the recapture or disallowance pursuant to subsection (A) is calculated by multiplying the credit by the following percentages:
 1. 100% if the date of the event that causes the recapture is within 12-months after the date the vehicle was placed in service.
 2. 66 and 2/3% if the date of the event that causes the recapture is after the 12th month but before the 25th month after the date the vehicle was placed in service.
 3. 33 and 1/3% if the date of the event that causes the recapture is after the 24th month but before the 37th month after the date the vehicle was placed in service.
 4. 0% if the date of the event that causes the recapture is after the 36th month after the date the vehicle was placed in service.
- D.** If the credit to be recaptured or disallowed under subsection (C) is a nonrefundable credit for the purchase or lease of a neighborhood electric vehicle, the recapture or disallowance is based on the total credit. The unused portion of the credit is disallowed before any of the amounts previously allowed are recaptured.

Example 1: Mr. Taxpayer purchased and placed in service a new neighborhood electric vehicle on February 15, 2000 for \$6,000. On April 15, 2001, Mr. Taxpayer filed his individual income tax return for the 2000 tax year and claimed a \$6,000 credit for the neighborhood electric vehicle. Mr. Taxpayer used \$2,000 of the credit on the 2000 tax return and \$2,500 on the 2001 tax return. On March 5, 2002, Mr. Taxpayer sold the neighborhood electric vehicle and is subject to a recapture or disallowance of 33 and 1/3% of the credit. The amounts to be recaptured or disallowed are determined as follows:

a.	<u>Total credit claimed</u>	<u>\$6,000</u>
b.	<u>Total used on 2000 tax return</u>	<u>\$2,000</u>
c.	<u>Total used on 2001 tax return</u>	<u>\$2,500</u>
d.	<u>Total amount to be recaptured (line a x 33 and 1/3%)</u>	<u>\$2,000</u>
e.	<u>Subtract lines b through d from line a</u>	<u>\$ (500)</u>

Because the amount determined on line e is negative, all of the taxpayer's unused credit shall be disallowed and \$500 of the amount already used shall be recaptured.

Example 2: Same facts as example 1 except that the taxpayer only used \$1,500 on the 2001 return. The amounts to be recaptured or disallowed are determined as follows:

a. Total credit claimed	\$6,000
b. Total used on 2000 tax return	\$2,000
c. Total used on 2001 tax return	\$1,500
d. Total amount to be recaptured (line a x 33 and 1/3%)	\$2,000
e. Subtract lines b through d from line a	\$ 500

Because the amount determined on line e is positive, \$2,000 of the taxpayer's unused credit shall be disallowed and the taxpayer shall have \$500 of unused credit to carryforward to future tax years.

- E. A taxpayer may be eligible for equitable relief from the provisions in subsection (A) if A.R.S. § 43-1086(F) applies.
F. In addition to the recapture or disallowance provisions in subsection (A), the credit for a neighborhood electric vehicle purchased on or after July 1, 2000 is subject to a 100% recapture if the vehicle is used on a golf course other than as a maintenance vehicle.

NOTICE OF EXEMPT RULEMAKING

TITLE 15. REVENUE

CHAPTER 2. DEPARTMENT OF REVENUE INCOME AND WITHHOLDING TAX SECTION SUBCHAPTER D. CORPORATIONS

PREAMBLE

- 1. Sections Affected**
- | | |
|-------------|---------------------------------|
| R15-2D-1101 | <u>Rulemaking Action</u> |
| R15-2D-1102 | New Section |
| R15-2D-1103 | New Section |
| R15-2D-1104 | New Section |
| R15-2D-1105 | New Section |
- 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. § 42-1005 and Laws 2000, 7th S.S., Ch. 1, § 30
Implementing statute: A.R.S. § 43-1174
- 3. The effective date of the rules:**
November 29, 2001
- 4. A list of all previous notices appearing in the Register addressing the exempt rule:**
None
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
- | | |
|------------|--|
| Name: | Anthony Forschino, Alternative Fuel Program Administrator |
| Address: | Arizona Department of Revenue
1600 W. Monroe
Phoenix, AZ 85007 |
| Telephone: | (602) 542-4672 |
| Fax: | (602) 542-4680 |
| E-mail: | forschinoa@revenue.state.az.us |
- 6. An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from the regular rulemaking procedures:**
These rules are intended to provide guidance to the Department and to taxpayers that are claiming corporate income tax credits for purchasing an alternative fuel vehicle or for converting a conventionally fueled vehicle to operate on alternative fuel. These rules are exempt from the rulemaking requirements of A.R.S. Title 41, Ch. 6 by Laws 2000, 7th S.S., Ch. 1, § 30.

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- 7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable
- 8. The summary of the economic, small business, and consumer impact:**
These rules are exempt from the rulemaking requirements of A.R.S. Title 41, Ch. 6 by Laws 2000, 7th S.S., Ch. 1, § 30.
- 9. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**
Not applicable
- 10. A summary of the principal comments and the agency response to them:**
Not applicable
- 11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**
None
- 12. Incorporations by reference and their location in the rules:**
None
- 13. Was this rule previously adopted as an emergency rule?**
No
- 14. The full text of the rules follows:**

TITLE 15. REVENUE

**CHAPTER 2. DEPARTMENT OF REVENUE
INCOME AND WITHHOLDING TAX SECTION
SUBCHAPTER D. CORPORATIONS
ARTICLE 11. ALTERNATIVE FUEL CREDITS**

Section

- R15-2D-1101. Credit for Alternative Fuel Vehicles
R15-2D-1102. Requirements for Claiming a Credit for New Alternative Fuel Vehicles
R15-2D-1103. Requirements for Claiming a Credit for Used Alternative Fuel Vehicles
R15-2D-1104. Requirements for Claiming a Credit for Converting a Conventionally Fueled Vehicle to Operate on Alternative Fuel
R15-2D-1105. Recapture or Disallowance Provisions for Alternative Fuel Vehicle Credits

ARTICLE 11. ALTERNATIVE FUEL CREDITS

R15-2D-1101. Credit for Alternative Fuel Vehicles

In addition to the definitions provided in A.R.S. § 43-1086(P), the following definitions apply to this Article and to the calculation of alternative fuel vehicle credits under A.R.S. § 43-1174:

“Actual Purchase Price” means the amount paid for the vehicle or the capitalized cost if the vehicle is leased. Includes dealer options and a reasonable dealer prep fee, minus the sum of any customer rebates, factory-to-dealer incentives, document preparation fees, registration fees, title fees, fleet car discounts, amounts paid for extended warranties, aftermarket equipment installed on the vehicle and in the case of a leased vehicle the residual value as shown on the lease. For vehicles over 12,000 pounds gross vehicle weight, this does not include the cost of any attachment not associated with the operation of the vehicle.

“Any attachment not associated with the operation of the vehicle” means an item not required for the normal and basic use of the vehicle, and includes items such as accessories relating to towing, accessories relating to specialized use of a vehicle, and items that are decorative rather than functional.

“Cost” means the amount the taxpayer paid for the vehicle or the capitalized cost if the vehicle is leased minus the sum of any customer rebates, factory-to-dealer incentives, document preparation fees, registration fees, title fees, amounts paid for extended warranties, aftermarket equipment installed on the vehicle, and in the case of a leased vehicle the residual value of the vehicle as shown on the lease. For vehicles over 12,000 pounds gross vehicle weight, this does not include the cost of any attachment not associated with the operation of the vehicle.

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“Manufacturer’s Base Retail Price” means the total price on the manufacturer’s invoice minus any destination charges. Does not include any dealer add-ons or other added charges. In addition, in the case of a vehicle with a gross vehicle weight of over 12,000 pounds, it does not include the cost of any attachment not associated with the operation of the vehicle

“New” means the vehicle was never registered and titled anywhere before its manufacture as an alternative fuel vehicle or conversion to operate on alternative fuel. However, when an applicant contracted to purchase a new vehicle and ordered its conversion at the same time and conversion occurs after the vehicle is registered and titled, the vehicle shall be deemed to be a new vehicle.

“Placed in service” means the date the taxpayer registered the vehicle in Arizona as an alternative fuel vehicle.

R15-2D-1102. Requirements for Claiming a Credit for New Alternative Fuel Vehicles

- A.** For taxable years beginning after December 31, 1999 and ending on or before December 31, 2001 a taxpayer that purchases or leases a new alternative fuel vehicle may qualify for a credit under A.R.S. § 43-1174(B), paragraphs (1), (3), (5), (7), (10), or (12) if all of the following apply:
1. The taxpayer either purchases or leases the alternative fuel vehicle before October 20, 2000 or the taxpayer enters into a contract or purchase order for the purchase or lease of the alternative fuel vehicle before October 20, 2000.
 2. The alternative fuel vehicle is either in the taxpayer’s possession before December 1, 2000 or the taxpayer has paid in full for the vehicle before December 1, 2000.
 3. The taxpayer titles and registers the alternative fuel vehicle in Arizona.
 4. The taxpayer has an affidavit for the vehicle issued by the Arizona Department of Commerce pursuant to A.R.S. § 41-1516(E) if the vehicle was purchased. The taxpayer has an alternative fuel vehicle verification issued by the Arizona Department of Commerce if the vehicle is leased. This subsection does not apply to the purchase or lease of neighborhood electric vehicles.
 5. For purposes of qualifying under A.R.S. § 43-1174(B) paragraphs (1), (3), (5) and (7), the vehicle is certified to meet the United States Environmental Protection Agency emission standards for the particular type of vehicle for which the credit is claimed, as prescribed by 40 CFR section 88.104-94 or 88.105-94 in effect as of April 28, 2000.
 6. A motor home as defined in A.R.S. § 28-4301 that is converted to use liquefied petroleum gas shall have a fuel tank for onboard storage of liquefied petroleum gas that holds at least 30 gallons.
 7. The taxpayer has not exercised the opt out option for the vehicle pursuant to Laws 2000, 7th S.S., Ch. 1, § 33.
- B.** This Section applies to new vehicles that operate on alternative fuel at the time of purchase. See R15-2D-1104 for vehicles that are converted to operate on alternative fuel after the purchase.
- C.** A taxpayer that purchases or leases a new neighborhood electric vehicle before July 1, 2000 may qualify for a credit under A.R.S. § 43-1174(B)(5) if the taxpayer has fulfilled the requirements in subsection (A)(3) for the vehicle.
- D.** A taxpayer that purchases or leases a new neighborhood electric vehicle on or after July 1, 2000 may qualify for a credit under A.R.S. § 43-1174(B)(13) if:
1. The taxpayer has fulfilled all the requirements of subsections (A)(1), (A)(2), and (A)(3) for the vehicle, and
 2. The taxpayer certifies on forms provided by the Department that the vehicle has not been, and will not be, used on a golf course, except for use as a maintenance vehicle for a golf course.
- E.** A taxpayer that purchases an alternative fuel vehicle and then leases the vehicle to another taxpayer is not entitled to take a credit for the purchase of the vehicle but may claim a share of the tax credit for the lease of the vehicle as provided in the lease agreement. If the vehicle is leased to a governmental entity, the purchaser may take a tax credit for the purchase of the vehicle.
- F.** If the purchaser receives a grant from the Department of Commerce for the purchase of the alternative fuel vehicle, no credit under A.R.S. § 43-1174(B) is allowed, but a credit for the incremental cost may be claimed under A.R.S. § 43-1174(I).
- G.** Leased vehicles do not qualify for the credit under A.R.S. § 43-1174(I).

R15-2D-1103. Requirements for Claiming a Credit for Used Alternative Fuel Vehicles

- A.** For taxable years beginning after December 31, 1999 and ending on or before December 31, 2001 a taxpayer that purchases or leases a used alternative fuel vehicle may qualify for a credit under A.R.S. § 43-1174(B), paragraphs (2), (4), (6), or (8) if all of the following apply:
1. On or before June 30, 2000 the taxpayer either purchased or leased for at least 1 year a used alternative fuel vehicle.
 2. The taxpayer titles and registers the alternative fuel vehicle in Arizona.
 3. The taxpayer has an affidavit for the vehicle issued by the Arizona Department of Commerce pursuant to A.R.S. § 41-1516(E) if the vehicle was purchased. The taxpayer has an alternative fuel vehicle verification issued by the Arizona Department of Commerce if the vehicle is leased.
 4. For purposes of qualifying under A.R.S. § 43-1174(B) paragraphs (2), (4), (6) and (8), the vehicle is certified to meet the United States Environmental Protection Agency emission standards for the particular type of vehicle for which the credit is claimed, as prescribed by 40 CFR section 88.104-94 or 88.105-94 in effect as of April 28, 2000.

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5. A motor home as defined in A.R.S. § 28-4301 that is converted to use liquefied petroleum gas shall have a fuel tank for onboard storage of liquefied petroleum gas that holds at least 30 gallons.
6. The taxpayer has not exercised the opt out option for the vehicle pursuant to Laws 2000, 7th S.S., Ch. 1, § 33.
- B.** This Section applies to used vehicles that operate on alternative fuel at the time of purchase. See R15-2D-1104 for vehicles that are converted to operate on alternative fuel after the purchase.
- C.** The purchase or lease of a used neighborhood electric vehicle does not qualify for a tax credit.
- D.** A taxpayer that purchases an alternative fuel vehicle and then leases the vehicle to another taxpayer is not entitled to take a credit for the purchase of the vehicle but may claim a share of the tax credit for the lease of the vehicle as provided in the lease agreement. If the vehicle is leased to a governmental entity, the purchaser may take a tax credit for the purchase of the vehicle.
- E.** If the purchaser receives a grant from the Department of Commerce for the purchase of the alternative fuel vehicle, no credit under A.R.S. § 43-1174(B) is allowed, but a credit for the incremental cost may be claimed under A.R.S. § 43-1174(I).
- F.** Leased vehicles do not qualify for the credit under A.R.S. § 43-1174(I).

R15-2D-1104. Requirements for Claiming a Credit for Converting a Conventionally Fueled Vehicle to Operate on Alternative Fuel

- A.** For taxable years beginning after December 31, 1999 and ending on or before December 31, 2001 a taxpayer that converts a conventionally fueled vehicle to operate on alternative fuel may qualify for a credit under A.R.S. § 43-1174(B), paragraphs (9), (11), and (14) if all of the following apply:
 1. The taxpayer incurs an expense for converting the conventionally fueled vehicle to operate on alternative fuel before October 20, 2000 or the taxpayer enters into a contract or purchase order for the conversion before October 20, 2000.
 2. The vehicle to be converted is either in the taxpayer's possession before December 1, 2000 or the taxpayer has paid in full for the vehicle before December 1, 2000.
 3. The taxpayer titles and registers the alternative fuel vehicle in Arizona.
 4. The taxpayer has an affidavit for the vehicle issued by the Arizona Department of Commerce pursuant to A.R.S. § 41-1516(E).
 5. A motor home as defined in A.R.S. § 28-4301 that is converted to use liquefied petroleum gas shall have a fuel tank for onboard storage of liquefied petroleum gas that holds at least 30 gallons.
 6. The taxpayer has not exercised the opt out option for the vehicle pursuant to Laws 2000, 7th S.S., Ch. 1, § 33.
- B.** This Section applies to vehicles that are converted to operate on alternative fuel after the purchase. See R15-2D-1102 and R15-2D-1103 for vehicles that are converted to operate on alternative fuel before the purchase.
- C.** This Section does not apply to neighborhood electric vehicles.
- D.** If the taxpayer who has a conventionally fueled vehicle converted receives a grant under A.R.S. § 41-1516 for the conversion, no credit is allowed.

R15-2D-1105. Recapture or Disallowance Provisions for Alternative Fuel Vehicle Credits

- A.** If any of the following occur within 36 months after the alternative fuel vehicle is placed in service and registered in Arizona, the credit will be subject to recapture or disallowance:
 1. The taxpayer transfers the vehicle. The transfer will not trigger a recapture if the vehicle is demolished.
 2. The vehicle ceases to be registered in Arizona.
 3. The vehicle fails to comply with emissions inspection requirements for alternative fuel vehicles prescribed in A.R.S. Title 49, Chapter 3, Article 5.
 4. The vehicle is a bi-fuel vehicle that operates on liquefied petroleum gas and taxpayer fails to provide proof that at least 50% of the fuel used is liquefied petroleum gas. The determination regarding the percentage of fuel used is made at the end of each 12-month period.

For example: the taxpayer places the vehicle in service on February 15, 2000. For the period from February 15, 2000 through February 14, 2001, the taxpayer used 200 gallons of gasoline and 200 gallons of liquefied petroleum gas. The taxpayer's fuel usage for the first 12-month period meets the minimum 50% (200/400) requirement and will not cause a recapture of the credit.
 5. The vehicle is a bi-fuel vehicle that operates on compressed natural gas and taxpayer fails to provide proof that at least:
 - a. 25% of the fuel used in the 1st 12-month period is compressed natural gas.
 - b. 33 and 1/3% of the fuel used in the 2nd 12-month period is compressed natural gas.
 - c. 50% of the fuel used in the 3rd 12-month period is compressed natural gas.
- B.** The amount of the recapture or disallowance pursuant to subsection (A) is calculated by multiplying the credit by the following percentages:
 1. 100% if the date of the event that causes the recapture is within 12-months after the date the vehicle was placed in service.

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2. 66 and 2/3% if the date of the event that causes the recapture is after the 12th month but before the 25th month after the date the vehicle was placed in service.
3. 33 and 1/3% if the date of the event that causes the recapture is after the 24th month but before the 37th month after the date the vehicle was placed in service.
4. 0% if the date of the event that causes the recapture is after the 36th month after the date the vehicle was placed in service.

C. If the credit to be recaptured or disallowed under subsection (B) is a nonrefundable credit for the purchase or lease of a neighborhood electric vehicle, the recapture or disallowance is based on the total credit. The unused portion of the credit is disallowed before any of the amounts previously allowed are recaptured.

Example 1: Taxpayer purchased and placed in service a new neighborhood electric vehicle on February 15, 2000 for \$6,000. On April 15, 2001, Taxpayer filed a corporate income tax return for the 2000 tax year and claimed a \$6,000 credit for the neighborhood electric vehicle. Taxpayer used \$2,000 of the credit on the 2000 tax return and \$2,500 on the 2001 tax return. On March 5, 2002, Taxpayer sold the neighborhood electric vehicle and is subject to a recapture or disallowance of 33 and 1/3% of the credit. The amounts to be recaptured or disallowed are determined as follows:

a.	<u>Total credit claimed</u>	<u>\$6,000</u>
b.	<u>Total used on 2000 tax return</u>	<u>\$2,000</u>
c.	<u>Total used on 2001 tax return</u>	<u>\$2,500</u>
d.	<u>Total amount to be recaptured (line a x 33 and 1/3%)</u>	<u>\$2,000</u>
e.	<u>Subtract lines b through d from line a</u>	<u>\$ (500)</u>

Because the amount determined on line e is negative, all of the taxpayer's unused credit shall be disallowed and \$500 of the amount already used shall be recaptured.

Example 2: Same facts as example 1 except that the taxpayer only used \$1,500 on the 2001 return. The amounts to be recaptured or disallowed are determined as follows:

a.	<u>Total credit claimed</u>	<u>\$6,000</u>
b.	<u>Total used on 2000 tax return</u>	<u>\$2,000</u>
c.	<u>Total used on 2001 tax return</u>	<u>\$1,500</u>
d.	<u>Total amount to be recaptured (line a x 33 and 1/3%)</u>	<u>\$2,000</u>
e.	<u>Subtract lines b through d from line a</u>	<u>\$ 500</u>

Because the amount determined on line e is positive, \$2,000 of the taxpayer's unused credit shall be disallowed and the taxpayer shall have \$500 of unused credit to carryforward to future tax years.

- D.** A taxpayer may be eligible for equitable relief from the provisions in subsection (A) if A.R.S. § 43-1174(F) applies.
- E.** In addition to the recapture or disallowance provisions in subsection (A), the credit for a neighborhood electric vehicle purchased on or after July 1, 2000 is subject to a 100% recapture if the vehicle is used on a golf course other than as a maintenance vehicle.